

TITLE 35A

OPTIONAL MUNICIPAL CODE

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Chapter 35A.01

INTERPRETATION OF TERMS

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- 35A.01.010 Purpose and policy of this title—Interpretation.
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- 35A.01.040 Sufficiency of petition.
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35A.01.010 Purpose and policy of this title—Interpretation. The purpose and policy of this title is to confer upon two optional classes of cities created hereby the broadest powers of local self–government consistent with the Constitution of this state. Any specific enumeration of municipal powers contained in this title or in

any other general law shall not be construed in any way to limit the general description of power contained in this title, and any such specifically enumerated powers shall be construed as in addition and supplementary to the powers conferred in general terms by this title. All grants of municipal power to municipalities electing to be governed under the provisions of this title, whether the grant is in specific terms or in general terms, shall be liberally construed in favor of the municipality. [1967 ex.s. c 119 § 35A.01.010.]

35A.01.020 Noncharter code city. A noncharter code city is one, regardless of population, which has initially incorporated as a noncharter code city, subject to the provisions of this title, or is an incorporated municipality which has elected, under the procedure prescribed in this title, to be classified as a noncharter code city and to be governed according to the provisions of this title under one of the optional forms of government provided for noncharter code cities. [1967 ex.s. c 119 § 35A.01.020.]

35A.01.030 Charter code city. A charter code city is one having at least ten thousand inhabitants at the time of its organization or reorganization which has either initially incorporated as a charter code city and has adopted a charter under the procedure prescribed in this title; or which, as an incorporated municipality, has elected to be classified as a charter code city and to be governed according to the provisions of this title and of its adopted charter. [1967 ex.s. c 119 § 35A.01.030.]

35A.01.035 Code city. The term "code city" means any noncharter code city or charter code city. [1967 ex.s. c 119 § 35A.01.035.]

35A.01.040 Sufficiency of petition. Wherever in this title petitions are required to be signed and filed, the following rules shall govern the sufficiency thereof:

(1) A petition may include any page or group of pages containing an identical text or prayer intended by the circulators, signers or sponsors to be presented and considered as one petition and containing the following essential elements when applicable, except that the elements referred to in subdivisions (d) and (e) hereof are essential for petitions referring or initiating legislative matters to the voters, but are directory as to other petitions:

(a) The text or prayer of the petition which shall be a concise statement of the action or relief sought by petitioners;

(b) If the petition initiates or refers an ordinance, a true copy thereof;

(c) If the petition seeks the annexation, consolidation, incorporation, withdrawal, or reduction of an area for any purpose, an accurate legal description of the area proposed for such action;

(d) Numbered lines for signatures with space provided beside each signature for the date of signing and the address of the signer;

(e) The warning statement prescribed in subsection (2) of this section.

(2) Petitions shall be printed or typed on single sheets of white paper of good quality and each sheet of petition paper having a space thereon for signatures shall contain the text or prayer of the petition and the following warning:

WARNING

Every person who signs this petition with any other than his true name, or who knowingly signs more than one of these petitions, or signs a petition seeking an election when he is not a legal voter, or signs a petition when he is otherwise not qualified to sign, or who makes herein any false statement, shall be guilty of a misdemeanor.

Each signature shall be executed in ink or indelible pencil and shall be followed by the date of signing and the address of the signer.

(3) The term "signer" means any person who signs his own name to the petition.

(4) To be sufficient a petition must contain valid signatures of qualified electors or property owners, as the case may be, in the number required by the applicable statute or ordinance. Within three working days after the filing of a petition, the officer or officers whose duty it is to determine the sufficiency of the petition shall proceed to make such a determination with reasonable promptness and shall file with the officer receiving the petition for filing a certificate stating the date upon which such determination was begun, which date shall be referred to as the terminal date. Additional pages of one or more signatures may be added to the petition by filing the same with the appropriate filing officer prior to such terminal date. Any signer of a filed petition may withdraw his or her signature by a written request for withdrawal filed with the receiving officer prior to such terminal date. Such written request shall so sufficiently describe the petition as to make identification of the person and the petition certain. The name of any person seeking to withdraw shall be signed exactly the same as contained on the petition and, after the filing of such request for withdrawal, prior to the terminal date, the signature of any person seeking such withdrawal shall be deemed withdrawn.

(5) Petitions containing the required number of signatures shall be accepted as prima facie valid until their invalidity has been proved.

(6) A variation on petitions between the signatures on the petition and that on the voter's permanent registration caused by the substitution of initials instead of the first or middle names, or both, shall not invalidate the signature on the petition if the surname and handwriting are the same.

(7) Signatures, including the original, of any person who has signed a petition two or more times shall be stricken.

(8) Signatures followed by a date of signing which is more than six months prior to the date of filing of the petition shall be stricken.

(9) When petitions are required to be signed by the owners of property, the following shall apply:

(a) The signature of a record owner, as determined by the records of the county auditor, shall be sufficient without the signature of his or her spouse;

(b) In the case of mortgaged property, the signature of the mortgagor shall be sufficient, without the signature of his or her spouse;

(c) In the case of property purchased on contract, the signature of the contract purchaser, as shown by the records of the county auditor, shall be deemed sufficient, without the signature of his or her spouse;

(d) Any officer of a corporation owning land within the area involved who is duly authorized to execute deeds or encumbrances on behalf of the corporation, may sign on behalf of such corporation, and shall attach to the petition a certified excerpt from the bylaws of such corporation showing such authority;

(e) When property stands in the name of a deceased person or any person for whom a guardian has been appointed, the signature of the executor, administrator, or guardian, as the case may be, shall be equivalent to the signature of the owner of the property. [1967 ex.s. c 119 § 35A.01.040.]

35A.01.050 The general law. For the purposes of this optional municipal code, "the general law" means any provision of state law, not inconsistent with this title, enacted before or after the enactment of this title, which is by its terms applicable or available to all cities or towns. Except when expressly provided to the contrary, whenever in this optional municipal code reference is made to "the general law", or to specific provisions of the Revised Code of Washington, it shall mean "the general law, or such specific provisions of the Revised Code of Washington as now enacted or as the same may hereafter be amended". [1967 ex.s. c 119 § 35A.01.050.]

35A.01.060 Optional municipal code—This title. References contained in this title to "Optional Municipal Code", "this title", "this code" or to any specific chapter, section, or provision thereof shall refer to the whole or appropriate part of Title 35A RCW, as now or hereafter amended. [1967 ex.s. c 119 § 35A.01.060.]

Chapter 35A.02 PROCEDURE FOR INCORPORATED MUNICIPALITY TO BECOME A NONCHARTER CODE CITY—SELECTION OF PLAN OF GOVERNMENT

Sections

- 35A.02.010 Adoption of noncharter code city classification authorized.
- 35A.02.020 Petition method—Direct.
- 35A.02.025 Referendum.
- 35A.02.030 Resolution method.
- 35A.02.035 Referendum.
- 35A.02.040 Certification of ordinance—Transcript of record to secretary of state.
- 35A.02.050 Election of new officers—Primary.
- 35A.02.060 Petition for election.
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- 35A.02.080 Election of officers upon approval of plan of government by voters.
- 35A.02.090 Alternative plan of government.
- 35A.02.100 Notice of election.

35A.02.110 Canvass of returns—Certificates of election—Transcript of record to secretary of state.

35A.02.120 Effective date of reclassification and reorganization.

35A.02.130 Adoption of classification of noncharter code city without change of governmental plan.

35A.02.140 Petition or resolution pending—Restriction—Exception.

35A.02.010 Adoption of noncharter code city classification authorized. Any incorporated city or town may become a noncharter code city in accordance with, and be governed by, the provisions of this title relating to noncharter code cities and may select one of the plans of government authorized by this title. [1967 ex.s. c 119 § 35A.02.010.]

35A.02.020 Petition method—Direct. When a petition is filed, signed by qualified electors of an incorporated city or town, in number equal to not less than fifty percent of the votes cast at the last general municipal election, seeking the adoption by the city or town of the classification of noncharter code city, either under its existing authorized plan of government or naming one of the plans of government authorized for noncharter code cities, the legislative body of the city or town to which the petition is presented shall direct the city or town clerk to determine the sufficiency of the petition under the rules set forth in RCW 35A.01.040. If the petition is found to be sufficient, the clerk shall file with the legislative body a certificate of sufficiency of the petition. Thereupon the legislative body of such city or town shall, by resolution, declare that the inhabitants of the city or town have decided to adopt the classification of noncharter code city and to be governed under the provisions of this title. If a prayer for reorganization is included in the petition such resolution shall also declare that the inhabitants of the city or town have decided to reorganize under the plan of government specified in the petition. The legislative body shall cause such resolution to be published at least once in a newspaper of general circulation within the city or town not later than ten days after the passage of the resolution. Upon the expiration of the ninetieth day from, but excluding the date of, first publication of the resolution, if no timely and sufficient referendum petition has been filed, as determined by RCW 35A.29.170, the legislative body shall effect the decision of the inhabitants, as expressed in the petition, by passage of an ordinance adopting for the city the classification of noncharter code city, and if the petition sought adoption of one of the plans of government authorized for noncharter code cities, the legislative body shall provide for such reorganization by ordinance. [1967 ex.s. c 119 § 35A.02.020.]

35A.02.025 Referendum. Upon the filing of a referendum petition in the manner provided in RCW 35A.29.170 signed by qualified electors in number equal to not less than ten percent of the votes cast in the last general municipal election, such resolution as authorized by RCW 35A.02.020 shall be referred to the voters for confirmation or rejection in the next general municipal election if one is to be held within one hundred and eighty days from the date of filing of the referendum petition, or at a special election to be called for that

purpose not less than ninety days nor more than one hundred and eighty days from the date of filing such referendum petition. [1967 ex.s. c 119 § 35A.02.025.]

35A.02.030 Resolution method. When a majority of the legislative body of an incorporated city or town determines that it would serve the best interests and general welfare of such municipality to change the classification of such city or town to that of noncharter code city, such legislative body may, by resolution, declare its intention to adopt for the city or town the classification of noncharter code city. If the legislative body so determines, such resolution may also contain a declaration of intention to reorganize the municipal government under one of the plans of government authorized in this title, naming such plan; but it shall also be lawful for the legislative body of any incorporated city or town which is governed under a plan of government authorized prior to the time this title takes effect to adopt for the city or town the classification of noncharter code city while retaining the plan of government under which such city or town is then operating. Within ten days after the passage of the resolution, the legislative body shall cause it to be published at least once in a newspaper of general circulation within the city or town. Upon the expiration of the ninetieth day from, but excluding the date of first publication of the resolution, if no timely and sufficient referendum petition has been filed, as determined by RCW 35A.29.170, the intent expressed in such resolution shall be effected by an ordinance adopting for the city or town the classification of noncharter code city; and, if the resolution includes a declaration of intention to reorganize, the legislative body shall provide for such reorganization by ordinance. [1967 ex.s. c 119 § 35A.02.030.]

35A.02.035 Referendum. Upon the filing of a referendum petition in the manner provided in RCW 35A.29.170 signed by qualified electors of an incorporated city or town in number equal to not less than ten percent of the votes cast in the last general municipal election, such resolution shall be referred for approval or rejection by the voters at an election as specified in RCW 35A.02.025. [1967 ex.s. c 119 § 35A.02.035.]

35A.02.040 Certification of ordinance—Transcript of record to secretary of state. When one or more ordinances are passed under RCW 35A.02.020 or RCW 35A.02.030, the clerk of the city or town shall forward to the secretary of state a certified copy of any such ordinance. Upon the filing in the office of the secretary of state of a certified copy of an ordinance adopting the classification of noncharter code city, such city or town shall thereafter be classified as a noncharter code city; except that if there is also filed with the secretary of state a certified copy of an ordinance providing for reorganization of the municipal government of such city or town, such reclassification and reorganization shall not be effective until the election and qualification under RCW 35A.02.050 as amended of the new officers under the plan of government so adopted. [1970 ex.s. c 52 § 1; 1967 ex.s. c 119 § 35A.02.040.]

35A.02.050 Election of new officers—Primary. The first election of officers under a plan of government adopted in the manner provided in RCW 35A.02.020 or 35A.02.030 shall be at the next general municipal election if one is to be held more than ninety days but not more than one hundred and eighty days after certification of a reorganization ordinance or at a special election to be held for that purpose not less than ninety days nor more than one hundred and eighty days from the certification of such ordinance. In the event that the first election of officers as herein provided is to be held at a general municipal election, such election shall be preceded by a primary election pursuant to RCW 29.13.070. In the event that the first election of officers as herein provided is to be held at a special election, and notwithstanding any provisions of any other law to the contrary, such special election shall be preceded by a primary election to be held not less than forty-five nor more than sixty days prior to the date of the special election: *Provided*, That in the event the ordinances calling for reclassification or reclassification and reorganization under the provisions of Title 35A RCW have been filed with the secretary of state pursuant to RCW 35A.02.040 in an even-numbered year at least ninety days prior to a state general election then the election of new officers shall be concurrent with the state primary and general election and shall be conducted as set forth in chapter 35A.29 RCW: *Provided, further*, That if the election of officers as provided in this section is for a period of time less than a specified two-year term or less than a specified four-year term, such an election shall not be preceded by a primary election. Declarations of candidacy for any primary election held pursuant to this section shall be filed as provided in RCW 35A.29.110 as amended. The terms of the persons holding office at the time of such proceedings shall continue until the new officers are elected and qualified as provided in *this 1970 amendatory act, and the ordinances, bylaws and resolutions adopted under the former plan of government, where not in conflict with state law, shall continue in force until repealed or amended by the legislative body of the reorganized noncharter code city. The former officers shall, upon the election and qualification of new officers, deliver to the proper officers of the reorganized noncharter code city all books of record, documents and papers in their possession belonging to such municipal corporation before the reorganization thereof. Officers elected at the first election of officers held pursuant to this amendatory act shall assume office as soon as the election returns have been certified. [1971 ex.s. c 251 § 1; 1970 ex.s. c 52 § 2; 1967 ex.s. c 119 § 35A.02.050.]

*Reviser's note: "this 1970 amendatory act" [1970 ex.s. c 52 §§ 1-6] consists of the 1970 amendments to RCW 35A.02.040, 35A.02.050, 35A.12.040, 35A.29.110, 35A.29.150, and 35.13.015.

Severability—1971 ex.s. c 251: RCW 35A.90.050.

35A.02.060 Petition for election. When a petition which is sufficient under the rules set forth in RCW 35A.01.040 is filed with the legislative body of an incorporated city or town, signed by qualified electors of such

municipality in number equal to not less than ten percent of the votes cast at the last general municipal election, seeking adoption by the city or town of the classification of noncharter code city and the reorganization of the city or town under one of the plans of government authorized in this title, the clerk of the city or town shall file with the legislative body thereof a certificate of sufficiency of such petition. Thereupon, the legislative body shall cause such proposal to be submitted to the voters at the next general municipal election if one is to be held within one hundred eighty days after certification of the sufficiency of the petition, or at a special election to be held for that purpose not less than ninety days nor more than one hundred and eighty days from such certification of sufficiency. Ballot titles for elections under this chapter shall be prepared by the city attorney as provided in RCW 35A.29.120. [1967 ex.s. c 119 § 35A.02.060.]

35A.02.070 Resolution for election. The legislative body of an incorporated city or town may, by resolution, submit to the voters in the next general municipal election if one is to be held within one hundred and eighty days after passage of the resolution, or in a special election to be called for that purpose not less than ninety days nor more than one hundred and eighty days after passage of the resolution, a proposal that the city or town adopt the classification of noncharter code city and organize under one of the plans of government authorized in this title, naming such plan. [1967 ex.s. c 119 § 35A.02.070.]

35A.02.080 Election of officers upon approval of plan of government by voters. If the majority of votes cast at an election for organization under a plan provided in this title favor the plan, the city or town shall elect in accordance with RCW 35A.02.050 the officers for the positions created. The former officers of the municipality shall, upon the election and qualification of the new officers, deliver to the proper officers of the new noncharter code city all books of record, documents and papers in their possession belonging to such municipal corporation before reorganization. [1971 ex.s. c 251 § 2; 1967 ex.s. c 119 § 35A.02.080.]

Severability—1971 ex.s. c 251: RCW 35A.90.050.

35A.02.090 Alternative plan of government. Proposals for each of the plans of government authorized by this title may be placed on the ballots in the same election by timely petition as provided in this chapter. When the ballot contains alternative proposals for each of the plans of government the ballot shall clearly state that voters may vote for only one of the plans of government. [1971 ex.s. c 251 § 3; 1967 ex.s. c 119 § 35A.02.090.]

Severability—1971 ex.s. c 251: RCW 35A.90.050.

35A.02.100 Notice of election. Notice of elections under this chapter shall be given by publication at least once each week for two weeks prior to the date of election in one or more newspapers of general circulation within the city or town of a notice containing a statement of the plan or plans of government to be voted

upon, the proposal to adopt the classification of noncharter code city, the title of each office, the names and addresses of all candidates for such office, in alphabetical order and without party designation, the day and hours during which the polls will be open and the addresses of each polling place in each precinct. Such notice shall be in lieu of the notice provided by RCW 35A.29.140. [1967 ex.s. c 119 § 35A.02.100.]

35A.02.110 Canvass of returns—Certificates of election—Transcript of record to secretary of state. The election officials, after counting the ballots, shall make their returns to the county auditor upon forms furnished by him within six hours after the closing of the polls; and on the Monday next succeeding the election or as soon as the county auditor has received the returns from all the precincts included therein, the county canvassing board shall canvass the returns in such election and shall forthwith certify in duplicate to the city or town clerk the whole number of votes given at the election, the number of votes in favor of reclassification and the number against it, the number of votes in favor of each plan of government voted upon and the number against it and the number of votes received by each candidate. The clerk shall lay the certificate of election before the legislative body of the city or town at its next regular meeting after the receipt of such certificate by the clerk, and if it appears that the votes cast for adoption of the classification of noncharter code city and in favor of a plan of government named on the ballot were a majority of the votes cast in such election, the council shall thereupon, by resolution, declare that the inhabitants of the city or town have decided on such reclassification and reorganization under the plan of government approved and direct the clerk to forward to the secretary of state a certified copy of the resolution. [1967 ex.s. c 119 § 35A.02.110.]

35A.02.120 Effective date of reclassification and reorganization. Upon the filing of the certified copy of the resolution with the secretary of state, the county auditor shall issue certificates of election to the successful candidates for the offices under the plan of government for which a majority of the votes were cast, and upon the issuance of such certificates, such city or town shall become a noncharter code city governed under the plan of government chosen by the voters, under the provisions of this title and with the powers conferred by this title. [1967 ex.s. c 119 § 35A.02.120.]

35A.02.130 Adoption of classification of noncharter code city without change of governmental plan. Any incorporated city or town governed under a plan of government authorized prior to the time this title takes effect may become a noncharter code city without changing such plan of government by the use of the petition-for-election or resolution-for-election procedures provided in RCW 35A.02.060 and 35A.02.070 to submit to the voters a proposal that such municipality adopt the classification of noncharter code city while retaining its existing plan of government, and upon a favorable vote on the proposal, such municipality shall

be classified as a noncharter code city, such reclassification to be effective upon the filing of the record of such election with the office of the secretary of state. Insofar as the provisions of RCW 35A.02.100 and 35A.02.110 are applicable to an election on such a reclassification proposal they shall apply to such election. [1967 ex.s. c 119 § 35A.02.130.]

35A.02.140 Petition or resolution pending—Restriction—Exception. While proceedings are pending under any petition or resolution relating to reclassification of a municipality or reorganization of the government thereof pursuant to this chapter, no resolution shall be passed for the purpose of initiating other such proceedings or submitting other such proposals to the voters at an election thereunder; and no petition for reclassification or reorganization of such municipality shall be accepted for filing pending such proceedings, except that a timely and sufficient petition seeking to place on the ballot for such election a proposal for an alternative plan of government authorized by this title, as provided in RCW 35A.02.090, may be filed and acted upon. [1967 ex.s. c 119 § 35A.02.140.]

Chapter 35A.03

INCORPORATION AS NONCHARTER CODE CITY

Sections

- 35A.03.010 Incorporation as noncharter code city authorized—Number of inhabitants required—Proviso.
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- 35A.03.030 Petition for incorporation—Contents.
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- 35A.03.075 Population determination.
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- 35A.03.160 Fire protection district and library districts—Continuation of services at option of city.
- 35A.03.170 Franchises within territory incorporated.
- 35A.03.180 Centerlines of streets, roads or highways as corporate boundaries—Prohibition—Use of right of way lines.

35A.03.010 Incorporation as noncharter code city authorized—Number of inhabitants required—Proviso. Any area of a county containing not less than three hundred inhabitants, lying outside the limits of an incorporated city or town, may become incorporated as a noncharter code city under the provisions of this title:

Provided, That no area which lies within five miles of any city having a population of fifteen thousand or more shall be incorporated under the provisions of this title unless the limits of the proposed noncharter code city contain five thousand or more inhabitants. [1967 ex.s. c 119 § 35A.03.010.]

35A.03.020 Petition for incorporation—Signatures. A petition for incorporation must be signed by qualified voters resident within the limits of the proposed noncharter code city equal in number to ten percent of the votes cast in the proposed area at the last general state election and must be presented to the auditor of the county. [1967 ex.s. c 119 § 35A.03.020.]

35A.03.030 Petition for incorporation—Contents. The petition for incorporation shall contain the plan of government under which the noncharter code city is to operate in the event it is incorporated, which plan shall be one of the plans of government authorized by this title; shall set forth and particularly describe the proposed boundaries of the proposed corporation; state the name of the proposed corporation and the number of inhabitants therein, as nearly as may be, and pray that it may be incorporated. [1967 ex.s. c 119 § 35A.03.030.]

35A.03.035 Petition—Auditor's duties. The county auditor within thirty days from the time of receiving said petition shall determine whether the legal description of the area proposed to be incorporated is correct, whether the petition violates the prohibitions contained in RCW 35A.03.010 with regard to number of inhabitants, and whether there is a sufficient number of valid signatures. The county auditor shall within five days after making such determination transmit the petition, accompanied by a certificate of his determination as to sufficiency, to the board of county commissioners. [1967 ex.s. c 119 § 35A.03.035.]

35A.03.040 Publication of petition and notice. Upon receipt of a petition for incorporation together with a certificate of sufficiency by the county auditor, the board of county commissioners shall set a date for the hearing thereon and shall give notice of the hearing upon said petition for incorporation by one publication not more than ten nor less than three days prior to the date set for the hearing, in one or more newspapers of general circulation within the area proposed to be incorporated. The notice shall contain the time and place of hearing. [1967 ex.s. c 119 § 35A.03.040.]

35A.03.050 Presentation of petition. If the petition for incorporation sets forth an estimate of inhabitants of fifteen hundred or more, the chairman of the board of county commissioners, if the board is not in regular session at the time, shall call a special meeting of the board within ten days after receipt of the petition by the board; otherwise the petition may be presented at the next regular meeting of the board if one is to be held within thirty days or at a special meeting of the board to be called within thirty days after receipt of the petition by the board. [1967 ex.s. c 119 § 35A.03.050.]

35A.03.060 Hearing on petition. Upon the day set for hearing the petition for incorporation the board of county commissioners shall begin to hear it and shall consider: (1) what the initial population of the proposed noncharter code city would be under the boundaries set by the petition; (2) whether there is such a diversity of interests and needs among the inhabitants of the proposed area that the proposed noncharter code city would be unable to provide services for the entire area proposed; and (3) whether the objectors, if any, have a strong and justifiable reason for being excluded from the area proposed to be incorporated.

The hearing may be adjourned from time to time, not exceeding two months in all from the date of commencement of the hearing. The board shall set a date for an election on the question of incorporation to be held not more than sixty days after the conclusion of the final hearing. [1967 ex.s. c 119 § 35A.03.060.]

35A.03.070 Findings by board of county commissioners—Factors considered—Establishment of boundaries—Limitation. Within five days after the final hearing on a petition for incorporation the board shall, subject to RCW 35A.03.180, establish and define the boundaries of the proposed noncharter code city, being authorized to decrease, but not increase, the area proposed in the petition when it appears to the board that a change in the boundaries set by the petition would be in the best interests of all the inhabitants of the proposed area, based on the considerations set forth in RCW 35A.03.060. Any such decrease shall not exceed twenty percent of the area proposed. The board must also determine the number of inhabitants within the boundaries so established: *Provided*, That the area shall not be so decreased that the number of inhabitants therein shall be less than required by RCW 35A.03.010 as now or hereafter amended. [1975 1st ex.s. c 220 § 12; 1967 ex.s. c 119 § 35A.03.070.]

Legislative finding, intent—1975 1st ex.s. c 220: See note following RCW 35.02.170.

35A.03.075 Population determination. The determination of population made by the board of county commissioners shall be the official population of the code city, if incorporated, until an actual enumeration is thereafter made. [1967 ex.s. c 119 § 35A.03.075.]

35A.03.080 Election on question and of officers required. Upon the date set by the board of county commissioners as provided in RCW 35A.03.060, an election shall be conducted within the area to determine whether it shall be incorporated as a noncharter code city, and to elect officers under the plan of government proposed in the petition. [1967 ex.s. c 119 § 35A.03.080.]

35A.03.085 Candidates for elective positions—Filing—Withdrawal—Ballot position. Candidates for the elective positions under the plan proposed shall file a declaration of candidacy with the county auditor as provided in RCW 35A.29.110. Any candidate may withdraw his declaration of candidacy as provided in

RCW 35A.29.110. There shall be no fee charged for filing a declaration of candidacy for this incorporation election. All names of candidates to be voted upon shall be printed upon the ballot alphabetically in groups under the designation of the respective titles of offices for which they are candidates. [1967 ex.s. c 119 § 35A.03.085.]

35A.03.090 Election—Conduct—Voters' qualifications. The election shall be conducted in accordance with the provisions of chapter 35A.29 RCW. No person shall be entitled to vote thereat unless he is a qualified elector of the county and has resided within the limits of the proposed noncharter code city for at least thirty days next preceding the date of election. [1967 ex.s. c 119 § 35A.03.090.]

35A.03.100 Notice of election—Contents. The notice of election shall be given by the county auditor as provided in RCW 35A.29.140, and shall also describe the boundaries of the proposed noncharter code city, state the proposed name of the city, the plan of government proposed, and the number of inhabitants ascertained by the board of county commissioners to reside therein. [1967 ex.s. c 119 § 35A.03.100.]

35A.03.110 Ballots. The ballots shall contain the words "For Incorporation as a Noncharter Code City" and "Against Incorporation as a Noncharter Code City"; and the names of the persons to be voted for to fill the elective offices under the plan proposed. Ballot titles shall be prepared by the county prosecuting attorney as provided in RCW 35A.29.120. [1967 ex.s. c 119 § 35A.03.110.]

35A.03.120 Certification of election results—Order of board declaring incorporation. The county canvassing board shall certify the results of the election to the board of county commissioners. If the results reveal that a majority of the votes cast are for incorporation, the board by an order entered upon its minutes shall declare the noncharter code city duly incorporated, with the plan of government approved, naming it by the name proposed in the petition. The board shall cause a certified copy of the order to be filed in the office of the secretary of state. [1967 ex.s. c 119 § 35A.03.120.]

35A.03.130 Effective date of incorporation—Terms of elected officers—First municipal election. The incorporation of the noncharter code city shall be complete upon the filing in the office of the secretary of state of the order of the board of county commissioners declaring it so incorporated. On or before the twentieth day following an election the county auditor shall issue certificates of election to the successful candidates for the offices under the plan of government approved and said newly-elected officers shall assume office on the first Monday following the issuance of the certificate of election and shall continue in office until their successors are elected and qualified at the next general municipal election: *Provided*, That if the date of the next general municipal election is less than seventy-five days after the

incorporation election, the officers elected at the incorporation election shall hold office until their successors are elected and qualified at the second general municipal election following such incorporation election. [1967 ex.s. c 119 § 35A.03.130.]

35A.03.140 Pending final disposition of petition no other incorporation or annexation to be acted upon—Withdrawal or substitution. After the filing of any petition for incorporation with the county auditor, and pending final disposition as provided for in this chapter, no other petition for incorporation or annexation which embraces any of the territory included therein shall be acted upon by the county auditor or the board of county commissioners, or by any city or town clerk, city or town council, or by any other public official or body that might otherwise be empowered to receive or act upon such a petition: *Provided*, That any petition for incorporation may be withdrawn or a new petition embracing other or different boundaries or another plan of government may be substituted therefor, by a majority of the signers thereof, at any time before such petition has been certified by the county auditor to the board of county commissioners, in which case the same proceedings shall be taken as in the case of an original petition. [1967 ex.s. c 119 § 35A.03.140.]

35A.03.151 Road district taxes—Disposition. Whenever in any territory forming a part of an incorporated code city which is part of a road district of the county, and road district taxes have been levied but not collected on any property within such territory, the same shall, when collected by the county treasurer, be paid to such code city and placed in the city street fund by the city: *Provided*, That this section shall not apply to any special assessments due in behalf of such property. [1971 ex.s. c 251 § 4.]

Severability—1971 ex.s. c 251: RCW 35A.90.050.

35A.03.152 Road district taxes—Distributions to be in accordance with RCW 35A.03.151, 35A.14.801. All distributions of road district taxes that have been levied but not collected or that shall hereafter be levied but not collected shall be distributed to code cities in accordance with RCW 35A.03.151 and 35A.14.801. [1971 ex.s. c 251 § 16.]

Severability—1971 ex.s. c 251: RCW 35A.90.050.

35A.03.160 Fire protection district and library districts—Continuation of services at option of city. At the option of the council of a newly-incorporated non-charter code city any fire protection district or library district serving any part of the area so incorporated shall continue to provide services to such area for the period during which such area is included within such special service district for taxing purposes under the provisions of RCW 84.09.030, without compensation from the noncharter code city. [1967 ex.s. c 119 § 35A.03.160.]

35A.03.170 Franchises within territory incorporated. In regard to franchises previously granted for operation

of any public service business or facility within the territory included within the city limits of the newly-incorporated code city, the rights, obligations, and duties of the legislative body of the code city and of the franchise holder shall be as provided in RCW 35.02.160, and such a franchise shall be canceled and a new franchise issued as therein provided. [1967 ex.s. c 119 § 35A.03.170.]

35A.03.180 Centerlines of streets, roads or highways as corporate boundaries—Prohibition—Use of right of way lines. After September 8, 1975, centerlines of public streets, roads or highways shall not be used to define any part of a boundary of a city or town in an incorporation or annexation proceeding. The right of way line of any public street, road or highway, or any segment thereof, may be used to define a part of a corporate boundary in an incorporation or annexation proceeding. [1975 1st ex.s. c 220 § 11.]

Legislative finding, intent—1975 1st ex.s. c 220: See note following RCW 35.02.170.

Centerlines of streets, roads or highways as corporate boundaries—Revision by substituting right of way lines: RCW 35A.21.210.

Chapter 35A.04 INCORPORATION OF INTERCOUNTY AREA AS A NONCHARTER CODE CITY

Sections

- 35A.04.010 Definitions.
- 35A.04.020 Incorporation as noncharter code city authorized—
Number of inhabitants required—Exception.
- 35A.04.030 Petition for incorporation.
- 35A.04.040 Duties of county auditors—Certificates of sufficiency.
- 35A.04.050 Publication of petition and notice.
- 35A.04.060 Hearing—Factors considered.
- 35A.04.070 Establishment of boundaries—Limitation—Order.
- 35A.04.080 Determining population.
- 35A.04.090 Election for incorporation and election of officers.
- 35A.04.100 Candidates—Filing—Withdrawal—Ballot position—
Qualification of voters.
- 35A.04.110 Notice of election—Contents.
- 35A.04.120 Ballots.
- 35A.04.130 Certification of election results—Order declaring
incorporation.
- 35A.04.140 Effective date of incorporation—Terms of elected officers—
First municipal election.
- 35A.04.150 Municipal election procedure.
- 35A.04.160 Powers and duties of county officers after incorporation—
Costs.
- 35A.04.170 Finances—Costs.
- 35A.04.180 Consolidation and annexation.
- 35A.04.190 Franchises within territory incorporated.

35A.04.010 Definitions. As used in this chapter, unless the context indicates otherwise, "principal county auditor", "principal board of county commissioners", "principal county canvassing board", "principal county prosecuting attorney", and "principal county officer" mean respectively those officials in the county of that part of the proposed corporation in which the largest number of inhabitants reside as of the date of the incorporation thereof. [1967 ex.s. c 119 § 35A.04.010.]

35A.04.020 Incorporation as noncharter code city authorized—Number of inhabitants required—Exception. Any area lying in two or more counties which is not incorporated as a municipal corporation, may

become incorporated as a noncharter code city under the provisions of this chapter: *Provided*, That when any part of the area to be incorporated lies within five miles of any city having a population of fifteen thousand or more no petition under RCW 35.04.030 shall be valid unless the limits of the proposed city contain five thousand or more inhabitants. [1967 ex.s. c 119 § 35A.04.020.]

35A.04.030 Petition for incorporation. A petition shall first be presented to the principal county auditor signed by qualified voters resident within each area of each county of the proposed noncharter code city equal in number to ten percent of the votes cast in the proposed area at the last general state election. The petition shall name one of the plans of government authorized by this title as the form of government under which the proposed corporation is to operate in the event it is incorporated, the proposed boundaries of the proposed corporation, the number of inhabitants, as nearly as may be, within each area of each county within the proposed corporation, the name of the proposed corporation, and shall pray that the area may be incorporated as a non-charter code city. [1967 ex.s. c 119 § 35A.04.030.]

35A.04.040 Duties of county auditors—Certificates of sufficiency. The principal county auditor, within thirty days after the date of receiving the petition, shall determine whether the legal description of the area to be incorporated in his county is correct, whether the petition violates the prohibition contained in RCW 35A.04.020 with regard to number of inhabitants, and whether there is a sufficient number of valid signatures in his county. Upon such determination, if the petition does not on its face violate the prohibition of RCW 35A.04.020, the principal county auditor shall transmit the petition to the other county auditor, or if more than one is involved, successively to each, and such other auditors shall determine whether the legal description is correct and whether there is a sufficient number of valid signatures from the area within their respective counties. No one county auditor shall be allowed more than thirty days within which to check the petition. Each auditor shall attach a certificate of his determination as to sufficiency and return the petition to the principal county auditor who, in turn, shall, not later than five days after receiving it from the other county auditors, attach thereto a certificate of his determination as to sufficiency for his own county and transmit the petition and certificates to the principal board of county commissioners. [1967 ex.s. c 119 § 35A.04.040.]

35A.04.050 Publication of petition and notice. Within ten days of receipt of a petition for incorporation which has been certified as sufficient by the auditors of the respective counties within the proposed area, the principal board of county commissioners shall meet and fix a date for a hearing on the petition, which shall be not more than thirty-five days after receipt of the petition by the board, and shall give notice of the hearing upon the petition and the time and place thereof by at least one publication not more than ten nor less than three days prior to the date set for the hearing in one or

more newspapers of general circulation within the respective counties in which the proposed corporation is located. Before selecting the date for the hearing, the principal board of county commissioners shall first obtain approval of such date from each board of county commissioners of the other counties involved. [1967 ex.s. c 119 § 35A.04.050.]

35A.04.060 Hearing—Factors considered. The hearing provided for in RCW 35A.04.050 shall be held jointly by all the respective boards of county commissioners under the direction of the principal board of county commissioners. The hearing may be adjourned from time to time not to exceed two months in all from the date of commencement of the hearing. The respective boards shall jointly consider: (1) What the initial population of the proposed noncharter code city would be under the boundaries set by the petition; (2) whether there is such a diversity of interests and needs among the inhabitants of the proposed area that the proposed non-charter code city would be unable to provide services for the entire area proposed; and (3) whether those persons, if any, objecting to being included within the proposed corporation have a strong and justifiable reason for being excluded from the area proposed to be incorporated. [1967 ex.s. c 119 § 35A.04.060.]

35A.04.070 Establishment of boundaries—Limitation—Order. If upon final hearing the respective boards find that any land within their respective counties has been unjustly or improperly included within or excluded from the proposed corporation, based on the considerations stated in RCW 35A.04.060, the respective boards may change and fix the boundary lines of the portion of the proposed corporation within their respective counties in such a manner as they deem reasonable and just and conducive to the public welfare and convenience: *Provided*, That when any part of the area to be incorporated lies within five miles of any city having a population of fifteen thousand or more, the area shall not be so decreased that the number of inhabitants therein shall be less than five thousand. No land shall be so included within the boundaries described in the petition unless each board of county commissioners of that county in which the area sought to be included is located first obtains the written assent of a number of qualified voters resident within each area to be included in the proposed corporation equal in number to not less than twenty percent of the votes cast in that area at the last state election. Within five days after the final hearing each board of county commissioners shall, for the area within its respective county, by order establish and define the boundaries of the proposed corporation consistent with RCW 35A.03.180, determine the number of inhabitants residing therein and affirm the name of the proposed corporation: *Provided*, That for the action required after the final hearing, the boards may act jointly but in such case a majority of each board must vote favorably on such final action and the order shall be entered in the minutes of each board. [1975 1st ex.s. c 220 § 13; 1967 ex.s. c 119 § 35A.04.070.]

Legislative finding, intent—1975 1st ex.s. c 220: See note following RCW 35.02.170.

35A.04.080 Determining population. In determining the number of inhabitants within the boundaries established for the proposed noncharter code city, the population shall be determined as follows:

An actual enumeration shall be made by, or under the direction of, the board of county commissioners of each county in which a portion of the proposed corporation is located, in accordance with practices and policies, and subject to the approval, of the state census board; and the population so determined shall constitute the official population of the proposed corporation. [1967 ex.s. c 119 § 35A.04.080.]

35A.04.090 Election for incorporation and election of officers. Within sixty days after the passage of the order required by RCW 35A.04.070, the principal county auditor shall cause an election to be held within the boundaries so established for the purpose of determining whether the area described shall be incorporated as a noncharter code city and to fill the elective offices under the plan of government proposed in the petition. The election shall be conducted by the principal county auditor in accordance with the provisions of chapter 35A.29 RCW. The principal county officers and principal county canvassing board shall exercise all powers and perform all duties in connection therewith with the assistance of the officers and canvassing board of the other county or counties. If the election is successful, all costs incurred shall be borne by the corporation, but if unsuccessful, all costs incurred shall be borne proportionately by each county in that ratio which the number of inhabitants residing in that part of each county forming a part of the proposed corporation bears to the total number of inhabitants residing within the boundaries of the whole of the proposed corporation. [1967 ex.s. c 119 § 35A.04.090.]

35A.04.100 Candidates—Filing—Withdrawal—Ballot position—Qualification of voters. Candidates for elective positions under the plan of government proposed shall file a declaration of candidacy with the principal county auditor in the manner provided in RCW 35A.29.110. Any candidate may withdraw his declaration as provided in RCW 35A.29.110. There shall be no fee charged for filing a declaration of candidacy for this incorporation election. All names of candidates to be voted upon shall be printed upon the ballot alphabetically in groups under the designation of the respective titles of offices for which they are candidates. No person shall be entitled to vote at such election unless he is a qualified elector of his respective county within the proposed corporation and has resided within the limits of such proposed corporation for at least thirty days next preceding such election. [1967 ex.s. c 119 § 35A.04.100.]

35A.04.110 Notice of election—Contents. The notice of election shall be given by the principal county auditor as provided in RCW 35A.29.140, and shall also describe the boundaries of the proposed noncharter code

city, state the proposed name of the city, the plan of government proposed, and the number of inhabitants, ascertained by the boards of county commissioners to reside therein. [1967 ex.s. c 119 § 35A.04.110.]

35A.04.120 Ballots. The ballots shall contain the words "For Incorporation as a Noncharter Code City" and "Against Incorporation as a Noncharter Code City"; and the names of the persons to be voted for to fill the elective offices under the plan proposed. Ballot titles shall be prepared by the principal county prosecuting attorney as provided in RCW 35A.29.120. [1967 ex.s. c 119 § 35A.04.120.]

35A.04.130 Certification of election results—Order declaring incorporation. The principal county canvassing board shall certify the results of the election to the respective boards of county commissioners. If the results reveal that a majority of the votes cast in each county area are for incorporation, the respective boards of county commissioners acting jointly shall, by order, declare such territory to be incorporated as a noncharter code city, with the plan of government approved, naming it by the name proposed in the petition. Such order shall be entered in the minutes of each board and the principal county auditor shall cause a certified copy of the order to be filed in the office of the secretary of state. [1967 ex.s. c 119 § 35A.04.130.]

35A.04.140 Effective date of incorporation—Terms of elected officers—First municipal election. The incorporation of the noncharter code city shall be complete upon the filing in the office of the secretary of state of the order of the boards of county commissioners declaring it so incorporated. On or before the twentieth day following an election the principal county auditor shall issue certificates of election to the successful candidates for the offices under the plan of government approved and said newly elected officers shall assume office on the first Monday following the issuance of the certificate of election and shall continue in office until their successors are elected and qualified at the next general municipal election: *Provided*, That if the date of the next general municipal election is less than seventy-five days after the incorporation election, the officers elected at the incorporation election shall hold office until their successors are elected and qualified at the second general municipal election following such incorporation election. [1967 ex.s. c 119 § 35A.04.140.]

35A.04.150 Municipal election procedure. After such a noncharter code city has been incorporated, the elections shall be conducted as provided in chapter 35A.29 RCW. Each county auditor in each county in which a part of such noncharter code city is located shall be responsible for closing registration files prior to an election, as provided by law, and performing any duties required by law which relate to registration records, or to election equipment, within his custody or control. [1967 ex.s. c 119 § 35A.04.150.]

35A.04.160 Powers and duties of county officers after incorporation—Costs. After incorporation all purposes essential to the maintenance, operation, and administration of the corporation whenever any action is required or may be performed by any county officer or board, such action shall be performed by the respective officer or board of the county of that part of the noncharter code city in which the largest number of inhabitants reside as of the date of the incorporation thereof, except as provided in RCW 35A.04.150 and 35A.04.170; and all costs incurred shall be borne proportionately by each county in that ratio which the number of inhabitants residing in that part of each county forming a part of the noncharter code city bears to the total number of inhabitants residing within the whole of the noncharter code city. For the purposes of this section the number of inhabitants residing in a portion of a county involved in this incorporation proceeding shall be determined by the figures released at the most recent state or federal census or by a determination of the state census board. [1967 ex.s. c 119 § 35A.04.160.]

35A.04.170 Finances—Costs. In the case of evaluation, assessment, collection, apportionment, and any other allied power or duty relating to taxes in connection with such noncharter code city the action shall be performed by the officer or board of the county for that area of the noncharter code city which is located within his respective county, and all materials, information, and other data and all moneys collected shall be submitted to the proper officer of the county of that part of the noncharter code city in which the largest number of inhabitants reside. Any power which may be, or duty which shall be, performed in connection therewith shall be performed by the officer or board receiving such as though a noncharter code city in only one county were concerned. All moneys collected from such area constituting a part of such noncharter code city that should be paid to such noncharter code city shall be delivered to the corporate treasurer thereof, and all other materials, information, or data relating to the noncharter code city shall be submitted to the appropriate corporate officials.

Any costs or expenses incurred under this section shall be borne proportionately by each county involved. [1967 ex.s. c 119 § 35A.04.170.]

35A.04.180 Consolidation and annexation. Any noncharter code city incorporated as provided in this chapter may consolidate or annex other incorporated or unincorporated territory outside the existing boundaries of such noncharter code city but contiguous thereto, whether or not the territory lies in one or more counties, by following the procedure provided in this title for such cases when only a single county is involved. [1967 ex.s. c 119 § 35A.04.180.]

35A.04.190 Franchises within territory incorporated. The provisions of RCW 35A.03.170 shall apply with regard to franchises within territory included in an intercounty incorporation under this chapter. [1967 ex.s. c 119 § 35A.04.190.]

Chapter 35A.05
CONSOLIDATION OF TWO OR MORE
CONTIGUOUS MUNICIPAL CORPORATIONS AS A
NONCHARTER CODE CITY

Sections

- 35A.05.010 Consolidation authorized—Contiguous defined.
- 35A.05.020 Resolution for election on consolidation.
- 35A.05.030 Proposal for assumption of indebtedness.
- 35A.05.040 Petition for consolidation—Election.
- 35A.05.050 Notice to other municipal corporations affected—Designation of election date.
- 35A.05.060 Election of officers upon approval of consolidation and plan of government by the voters.
- 35A.05.070 Notice of election.
- 35A.05.080 Ballots.
- 35A.05.090 Canvass of returns—Joint convention—Abstract of votes, contents, filing.
- 35A.05.100 Effective date of consolidation and incorporation of noncharter code city.
- 35A.05.110 Terms of elected officers—First municipal election.
- 35A.05.120 Cost of election.
- 35A.05.130 Disposition of property.
- 35A.05.140 Assets and liabilities of component corporations—Taxation to pay claims.
- 35A.05.150 Continuation of ordinances.
- 35A.05.160 Taxation of component cities.

35A.05.010 Consolidation authorized—Contiguous defined. Two or more contiguous municipal corporations located in the same or different counties may consolidate into one corporation to form a noncharter code city by proceedings in conformity with the provisions of this chapter. When municipal corporations are separated by water and/or tide or shore lands they shall be deemed contiguous for all the purposes of this chapter and, upon a consolidation of such corporations under the provisions of this chapter, any such intervening water and/or tide or shore lands shall become a part of the consolidated corporation. [1967 ex.s. c 119 § 35A.05.010.]

35A.05.020 Resolution for election on consolidation. The legislative bodies of two or more contiguous municipal corporations may, by a joint resolution requiring a majority vote of each legislative body, provide for submission to the voters of each of such corporations of a proposal for consolidation of such contiguous municipal corporations as a noncharter code city, setting forth in the resolution the name proposed for the consolidated city and the proposed plan of government, which shall be one of the plans of government authorized by this title. The resolution shall provide for submission of the question to the voters at the next general municipal election, if one is to be held within one hundred and eighty days, or shall call for a special election to be held for that purpose not less than ninety days nor more than one hundred eighty days after the passage of such joint resolution. [1967 ex.s. c 119 § 35A.05.020.]

35A.05.030 Proposal for assumption of indebtedness. A resolution under RCW 35A.05.020 or a petition under RCW 35A.05.040 may contain a proposal that a general obligation indebtedness of one or more of the corporations proposed to be consolidated shall be assumed by the proposed consolidated noncharter code city, in which event, the resolution or petition shall specify the

improvement or service for which such general obligation indebtedness was incurred, state the amount of any such indebtedness then outstanding, and the rate of interest payable thereon. The proposal may contain the limitation that upon consolidation only such properties as were within the city previously obligated and such additional properties within the proposed noncharter code city as will be generally benefited by such improvement or service shall thereafter be taxed to pay such assumed indebtedness. [1967 ex.s. c 119 § 35A.05.030.]

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 ninety nor more than one hundred and eighty 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. [1967 ex.s. c 119 § 35A.05.040.]

35A.05.050 Notice to other municipal corporations affected—Designation of election date. The principal legislative body receiving a petition for consolidation shall send a written notice thereof to the legislative body of each of the municipal corporations affected, naming the plan of government proposed in the petition, stating the elective offices provided under such plan and the name proposed in the petition for the proposed consolidated city, and designating the day upon which the question of consolidation shall be submitted to the voters in each of the corporations proposed to be consolidated as a noncharter code city. If a proposal for assumption of indebtedness is included in the petition, the notice shall state such proposition. [1967 ex.s. c 119 § 35A.05.050.]

35A.05.060 Election of officers upon approval of consolidation and plan of government by the voters. When a proposal to consolidate one or more contiguous municipal corporations as a noncharter code city is to be submitted to the electors as provided in this chapter, candidates for the offices which would be created if the plan of government proposed in the petition or resolution were approved by the voters shall file a declaration of candidacy with the county auditor not more than forty-five nor less than thirty days prior to such election and their names shall be placed upon the ballot under the

designation of the respective titles of offices for which they are candidates. If a majority of those voting on the measures approve the proposed consolidation as a noncharter code city under the plan of government proposed and the name proposed, the persons elected to offices under such plan shall, upon their qualification as provided by law, become the first officers of the new noncharter code city. [1967 ex.s. c 119 § 35A.05.060.]

35A.05.070 Notice of election. Upon the giving and receiving of the notice required by RCW 35A.05.050 or upon the passage of a joint resolution as provided in RCW 35A.05.020, the legislative body of each of the municipal corporations proposed to be consolidated shall cause an election to be held in such corporation upon the date designated in the resolution or in the notice, and shall publish notice thereof at least once each week for two weeks prior to the date of election in one or more newspapers of general circulation within such corporation. Such notice of election shall state the names of the municipal corporations proposed to be consolidated as a noncharter code city, the name of the proposed noncharter code city, the plan of government proposed in the petition or resolution, the title of each office under such plan, the names and addresses of all candidates for each office, in alphabetical order under the title of the office for which they are candidates and without party designation, the days and hours during which the polls will be open and the address of each polling place in each precinct. If the resolution or petition includes a proposal for assumption of indebtedness, the notice of election shall distinctly state such proposal and shall specify the improvement or service for which the general obligation indebtedness proposed to be assumed was incurred, state the amount of any such indebtedness outstanding or pending at the date of the first publication of the notice and the rate of interest thereon. [1967 ex.s. c 119 § 35A.05.070.]

35A.05.080 Ballots. Ballot titles shall be prepared as provided in RCW 35A.29.120. If a proposal for assumption of indebtedness is to be submitted to the voters, the proposal shall be separately stated and the ballots shall contain, as a separate proposition to be voted on, the words "For Assumption of Indebtedness" and "Against Assumption of Indebtedness" or words equivalent thereto. The names of all candidates for offices under the plan of government proposed shall be arranged on the ballot in groups under the designation of the title of the office for which they are candidates, in alphabetical order and without party designation. The ballot shall clearly direct the voter to cast his votes for officers under the plan of government proposed, regardless of how he may vote on the proposition, to indicate his choice among the candidates in the event the proposition is approved by a majority of those voting thereon. [1967 ex.s. c 119 § 35A.05.080.]

35A.05.090 Canvass of returns—Joint convention—Abstract of votes, contents, filing. The election officials in each county involved, after counting the ballots, shall make their returns to their county auditor

upon forms furnished by him within six hours after the closing of the polls; and on the Monday next succeeding the election or as soon as the county auditor has received the returns from all the precincts included therein, the county canvassing board in each county involved shall canvass the returns in such election. The votes cast in each of such corporations shall be canvassed separately, and the statement shall show the whole number of votes cast, the number of votes cast in each corporation for consolidation as a noncharter code city under the proposed plan of government, and the number in each corporation cast against such consolidation, and the number of votes received by each candidate. If a proposal for assumption of indebtedness was voted upon, the statement shall show the number of votes cast in each corporation for assumption of indebtedness and the number against assumption of indebtedness. A certified copy of such statement shall be filed with the legislative body of each of the corporations affected. If it shall appear from such statement of canvass that a majority of the votes cast in each of the corporations were in favor of consolidation, the legislative bodies of each of such corporations shall meet in joint convention at the usual place of meeting of the legislative body of that one of the corporations having the largest population as shown by the most recent state or federal census, on the second Monday next succeeding the receipt of the statement of canvass to prepare an abstract of votes cast, incorporating therein the information contained in the statement of canvass and declaring the consolidation as a noncharter code city to be adopted, stating the plan of government and the name of the new city approved at such election. A duly certified copy of such abstract shall be filed with the legislative body of each of the corporations affected and recorded upon its minutes, and the clerk of each such legislative body shall transmit to the secretary of state a duly certified copy of the record of such abstract. [1967 ex.s. c 119 § 35A.05.090.]

35A.05.100 Effective date of consolidation and incorporation of noncharter code city. Upon the filing of the record of the abstract of election with the office of the secretary of state by the clerk of each such legislative body, such corporations shall be consolidated into one corporation which shall be classified as a noncharter code city under the name and with the plan of government approved by the voters at such election, and shall be governed under the provisions of this title, with the powers conferred hereby. [1967 ex.s. c 119 § 35A.05.100.]

35A.05.110 Terms of elected officers—First municipal election. Upon the filing of the record of the abstract of election with the secretary of state, the county auditor shall issue certificates of election to the persons receiving a majority of the votes cast for each office at such election. The newly elected officers, upon their qualification as provided by law, shall assume office on the first Monday following the issuance of the certificate of election and shall continue in office until their successors are elected and qualified at the next general municipal election: *Provided*, That if the date of the next

general municipal election is less than seventy-five days after the consolidation election, the officers elected at the consolidation election shall hold office until their successors are elected and qualified at the second general municipal election following such incorporation election. [1967 ex.s. c 119 § 35A.05.110.]

35A.05.120 Cost of election. If the majority vote at an election under this chapter is in favor of consolidation, the costs of such election shall be borne by the new noncharter code city formed by such consolidation. If the majority vote at such election was against consolidation, the costs of election shall be borne proportionately by each corporation affected, in that ratio which the number of inhabitants residing in such corporation bear to the total number of inhabitants residing in the total area in which the election was held, as shown by the figures released at the most recent state or federal census or by a determination of the state census board. [1967 ex.s. c 119 § 35A.05.120.]

35A.05.130 Disposition of property. Upon the consolidation of two or more municipal corporations as provided in this chapter, the title to all property owned by, or held in trust for, such former corporations shall vest in the consolidated corporation: *Provided*, That if any such former corporation shall be indebted, the proceeds of the sale of any such property not required for the use of such consolidated corporation shall be applied to the payment of such indebtedness, if any exists at the time of such sale. [1967 ex.s. c 119 § 35A.05.130.]

35A.05.140 Assets and liabilities of component corporations—Taxation to pay claims. Such consolidation shall in no wise affect or impair the validity of any claim or chose in action existing in favor of, or against, any such former corporation so consolidated, or the area theretofore comprising such former corporation, or any proceeding pending in relation thereto, but such consolidated noncharter code city shall collect such claim in favor of such former corporation and shall apply the proceeds to the payment of any just claims against them respectively, and shall, when necessary, levy and collect taxes against the taxable property within any such former corporation sufficient to pay all just claims against it. [1967 ex.s. c 119 § 35A.05.140.]

35A.05.150 Continuation of ordinances. All ordinances in force within each former corporation at the time of consolidation not in conflict with the laws governing the consolidated noncharter code city, shall remain in full force and effect within the area of the consolidated city to which such ordinances formerly applied until superseded or repealed by the legislative body of the consolidated noncharter code city, and shall be enforced by the new city, but all ordinances of such former corporations in conflict with ordinances of the consolidated noncharter code city shall be deemed repealed upon the effective date of a conflicting or repealing ordinance of the noncharter code city. Nothing in this section shall be construed to discharge any person from any liability, civil or criminal, for any violation of

any ordinance of such former corporation incurred prior to such consolidation. [1967 ex.s. c 119 § 35A.05.150.]

35A.05.160 Taxation of component cities. No property within any former corporation so consolidated under the provisions of this chapter shall be taxed to pay any portion of any general obligation indebtedness of any other of such former corporations contracted or incurred prior to the date of such consolidation; except that, when the petition or resolution initiating such consolidation proceedings proposes that a general obligation indebtedness of one or more of the corporations proposed to be consolidated shall be assumed by the proposed consolidated noncharter code city and such proposal is approved by sixty percent of the voters voting thereon in each former corporation, then the legislative body of the new noncharter code city shall be authorized to apportion the burden of taxation to pay such indebtedness or to meet such obligation. [1967 ex.s. c 119 § 35A.05.160.]

Chapter 35A.06

PROVISIONS APPLICABLE TO ADOPTION AND ABANDONMENT OF NONCHARTER CODE CITY CLASSIFICATION OR PLAN OF GOVERNMENT

Sections

- 35A.06.010 Each optional plan of government declared complete form of government.
- 35A.06.020 Laws applicable to noncharter code cities.
- 35A.06.030 Abandonment of plan of government of a noncharter code city.
- 35A.06.040 Abandonment—Resolution or petition for election.
- 35A.06.050 Abandonment—Election.
- 35A.06.060 Abandonment—Reorganization under plan adopted—Effective date.
- 35A.06.070 Abandonment of noncharter code city classification without reorganization.
- 35A.06.080 After reclassification or adoption of plan of government no subsequent vote on change for six years.

35A.06.010 Each optional plan of government declared complete form of government. Each of the optional plans of government authorized by chapter 35A.12 RCW and chapter 35A.13 RCW, with any amendments thereto, is declared to be a complete and separate plan of government authorized by the legislature for submission to the voters of a municipality or for adoption by resolution of the legislative body thereof in the manner provided herein, and is additional to the plans of government existing prior to the time this title takes effect. [1967 ex.s. c 119 § 35A.06.010.]

35A.06.020 Laws applicable to noncharter code cities. The classifications of municipalities which existed prior to the time this title goes into effect—first class, second class, third class and fourth class—and the restrictions, limitations, duties, and obligations specifically imposed by law upon such classes of cities and towns, shall have no application to noncharter code cities, but every noncharter code city, by adopting such classification, has elected to be governed by the provisions of this title, with the powers granted hereby. [1967 ex.s. c 119 § 35A.06.020.]

35A.06.030 Abandonment of plan of government of a noncharter code city. By use of the resolution for election or petition for election methods described in RCW 35A.06.040, any noncharter code city which has operated for more than six years under one of the optional plans of government authorized by this title, may abandon such organization and may either adopt another plan of government authorized for noncharter code cities, or may adopt a plan of government authorized by the general law for municipalities of the highest class for which the population of such city qualifies it, or authorized for the class to which such city belonged immediately prior to becoming a noncharter code city, if any. When a noncharter code city adopts a plan of government other than those authorized for noncharter code cities, such city ceases to be governed under this optional municipal code and shall be classified as a city or town of the class selected in the proceeding for adoption of such new plan, with the powers granted to such class under the general law. Any city is authorized to adopt any plan of government provided for noncharter code cities any time after one year from the date of becoming a noncharter code city. [1971 ex.s. c 251 § 13; 1967 ex.s. c 119 § 35A.06.030.]

Severability—1971 ex.s. c 251: RCW 35A.90.050.

35A.06.040 Abandonment—Resolution or petition for election. Upon the passage of a resolution of the legislative body of a noncharter code city, or upon the filing of a sufficient petition with the city clerk signed by qualified electors in number equal to not less than ten percent of the votes cast at the last general municipal election therein, proposing abandonment by the city of the plan of government under which it is then operating and adoption of another plan, naming such plan, the sufficiency of the petition for abandonment shall be determined, an election ordered and conducted, and the results declared generally as provided in chapter 35A.02 RCW insofar as such provisions are applicable. If the resolution or petition proposes a plan of government other than those authorized in chapters 35A.12 RCW and 35A.13 RCW of this title, the resolution or petition shall specify the class under which such city will be classified upon adoption of such plan. [1967 ex.s. c 119 § 35A.06.040.]

35A.06.050 Abandonment—Election. The proposal for abandonment of the plan of government under which a noncharter code city has operated for more than six years and for adoption of the plan named in the resolution or petition shall be voted upon at the next general municipal election if one is to be held within one hundred and eighty days or at a special election called for that purpose not less than ninety days, nor more than one hundred and eighty days after the passage of the resolution or the certification of sufficiency of the petition. The ballot title and statement of the proposition shall be prepared by the city attorney as provided in RCW 35A.29.120. If the plan proposed in the petition is not a plan authorized for noncharter code cities by this title, the ballot statement shall clearly set forth that

adoption of such plan by the voters would require abandonment of the classification of noncharter code city and government under the general law relating to cities of the class specified in the resolution or petition. If the plan proposed in the petition is a plan authorized for noncharter code cities the ballot statement shall clearly set forth that adoption of such plan by the voters would not affect the eligibility of the noncharter code city to be governed under this optional municipal code. [1967 ex.s. c 119 § 35A.06.050.]

35A.06.060 Abandonment—Reorganization under plan adopted—Effective date. If a majority of votes cast at the election favor abandonment of the plan of government under which the noncharter code city is then organized and reorganization under the plan proposed in the resolution or petition, the officers elected at the next succeeding general municipal election shall be those prescribed by the plan of government so adopted. Upon the election and qualification of such officers the reorganization of the government of such municipality shall be complete and such municipality shall thereafter be governed under such plan. If the plan so adopted is not a plan authorized for noncharter code cities, upon the election and qualification of such officers the municipality shall cease to be a noncharter code city governed under the provisions of this optional municipal code and shall revert to the classification selected at such election and shall be governed by the general laws relating to municipalities of such class with the powers conferred by law upon municipalities of such class. Such change of classification shall not affect the then existing property rights or liabilities of the municipal corporation. [1967 ex.s. c 119 § 35A.06.060.]

35A.06.070 Abandonment of noncharter code city classification without reorganization. By means of the procedures set forth in this chapter, insofar as they apply, any noncharter code city which has been governed under the provisions of this title for more than six years may abandon the classification of noncharter code city and elect to be governed under the general law relating to cities or towns of the classification held by such city immediately prior to becoming a noncharter code city, if any, or relating to cities or towns of the highest class for which it is qualified by population, with the powers conferred by law upon such class, while retaining the plan of government under which it is then organized. A change of classification approved by a majority of the voters voting on such proposition shall become effective upon the filing of the record of such election with the office of the secretary of state. [1967 ex.s. c 119 § 35A.06.070.]

35A.06.080 After reclassification or adoption of plan of government no subsequent vote on change for six years. The voters of any municipality which has adopted a plan of government or changed the classification of the municipality under the provisions of this title may not vote on the question of adopting another plan of government or again changing classification for six years thereafter; except that this limitation shall not apply to a

noncharter code city seeking to adopt a charter and become a charter code city, governed under the plan of government specified in its charter. [1967 ex.s. c 119 § 35A.06.080.]

Chapter 35A.07

PROCEDURE FOR CITY OPERATING UNDER CHARTER TO BECOME A CHARTER CODE CITY

Sections

- 35A.07.010 Adoption of charter code city classification authorized.
- 35A.07.020 Petition method—Direct.
- 35A.07.025 Referendum.
- 35A.07.030 Resolution method.
- 35A.07.035 Referendum.
- 35A.07.040 Certification of ordinance—Transcript of record to secretary of state.
- 35A.07.050 Petition for election.
- 35A.07.060 Resolution for election.
- 35A.07.070 Election on reclassification—Effective date of reclassification upon favorable vote.

35A.07.010 Adoption of charter code city classification authorized. Any city having ten thousand inhabitants which is governed under a charter may become a charter code city by a procedure prescribed in this chapter and be governed under this title, with the powers conferred hereby. [1967 ex.s. c 119 § 35A.07.010.]

35A.07.020 Petition method—Direct. When a petition is filed, signed by qualified electors of a charter city in number equal to not less than fifty percent of the votes cast at the last general municipal election, seeking the adoption by the charter city of the classification of charter code city the legislative body of such city shall direct the city clerk to determine the sufficiency of the petition under the rules set forth in RCW 35A.01.040. If the petition is found to be sufficient, the clerk shall file with the legislative body a certificate of sufficiency of the petition. Thereupon the legislative body of the charter city shall, by resolution, declare that the inhabitants of such city have decided to adopt the classification of charter code city and to be governed under this title. The legislative body shall cause such resolution to be published at least once in a newspaper of general circulation within the city not later than ten days after the passage of the resolution. Upon the expiration of the ninetieth day from, but excluding the date of first publication of the resolution, if no timely and sufficient referendum petition has been filed, as determined by RCW 35A.29.170, the legislative body shall effect the decision of the inhabitants, as expressed in the petition, by passage of an ordinance adopting for the city the classification of charter code city. [1967 ex.s. c 119 § 35A.07.020.]

35A.07.025 Referendum. Upon the filing of a referendum petition in the manner provided in RCW 35A.29.170 signed by qualified electors in number equal to not less than ten percent of the votes cast in the last general municipal election, the resolution authorized by RCW 35A.07.020 shall be referred to the voters for confirmation or rejection in the next general municipal election, if one is to be held within one hundred and eighty days from the date of filing of the referendum

petition, or at a special election to be called for that purpose not less than ninety days nor more than one hundred and eighty days from the filing of such referendum petition. [1967 ex.s. c 119 § 35A.07.025.]

35A.07.030 Resolution method. When a majority of the legislative body of a charter city determines that it would serve the best interests and general welfare of such city to become a charter code city, such legislative body may, by resolution, declare its intention to adopt for the city the classification of charter code city and to be governed under the provisions of this title, with the powers conferred hereby. Within ten days after the passage of the resolution, the legislative body shall cause it to be published at least once in a newspaper of general circulation within the city. Upon the expiration of the ninetieth day from, but excluding the date of first publication of the resolution, if no timely and sufficient referendum petition has been filed, as determined by RCW 35A.29.170, the intent expressed in such resolution shall be effected by passage of an ordinance adopting for the city the classification of charter code city. [1967 ex.s. c 119 § 35A.07.030.]

35A.07.035 Referendum. Upon the filing of a referendum petition in the manner provided in RCW 35A.29.170 signed by qualified electors in number equal to not less than ten percent of the votes cast in the last general municipal election, the resolution authorized by RCW 35A.07.030 shall be referred to the voters for approval or rejection at an election as specified in RCW 35A.07.025. [1967 ex.s. c 119 § 35A.07.035.]

35A.07.040 Certification of ordinance—Transcript of record to secretary of state. When an ordinance is passed as provided in RCW 35A.07.020 or 35A.07.030, the clerk of the charter city shall forward to the secretary of state a certified copy thereof. Upon the filing of the certified copy of the ordinance in the office of the secretary of state, such city shall be classified as a charter code city and shall thereafter be governed under the provisions of this optional municipal code and have the powers conferred hereby. [1967 ex.s. c 119 § 35A.07.040.]

35A.07.050 Petition for election. When a petition which is sufficient under the rules set forth in RCW 35A.01.040 is filed with the legislative body of a charter city, signed by qualified electors of such city in number equal to not less than ten percent of the votes cast at the last general municipal election, seeking adoption by the city of the classification of charter code city, the city clerk shall file with the legislative body thereof a certificate of sufficiency of such petition. Thereupon the legislative body shall cause such proposal to be submitted to the voters at the next general municipal election if one is to be held within one hundred eighty days, or at a special election to be held for that purpose not less than ninety days nor more than one hundred and eighty days after the filing of such petition. Ballot titles for such

election shall be prepared by the city attorney as provided in RCW 35A.29.120. [1967 ex.s. c 119 § 35A.07.050.]

35A.07.060 Resolution for election. The legislative body of a charter city may, by resolution, submit to the voters at an election held within the time period specified in RCW 35A.07.050 a proposal that the city adopt the classification of charter code city and be governed under the provisions of this title with the powers conferred hereby. [1967 ex.s. c 119 § 35A.07.060.]

35A.07.070 Election on reclassification—Effective date of reclassification upon favorable vote. Notice of elections under this chapter shall be given, the election conducted, and the result declared generally as provided in chapter 35A.02 RCW, insofar as such provisions are applicable. If a majority of votes cast on the proposition are in favor of adoption of the classification of charter code city, upon the certification of the record of election to the office of the secretary of state, such city shall become a charter code city and shall be governed under the provisions of this title and have the powers conferred on charter code cities. [1967 ex.s. c 119 § 35A.07.070.]

Chapter 35A.08 PROCEDURE FOR ADOPTION OF CHARTER AS CHARTER CODE CITY

Sections

- 35A.08.010 Adoption of charter authorized.
- 35A.08.020 Determining population.
- 35A.08.030 Resolution or petition for election.
- 35A.08.040 Election on question—Election of freeholders.
- 35A.08.050 Organization of charter commission—Vacancies—Duties.
- 35A.08.060 Expenses of commission members—Consultants and assistants.
- 35A.08.070 Public hearing.
- 35A.08.080 Submission of charter—Election of officers—Publication.
- 35A.08.090 Conduct of elections.
- 35A.08.100 Ballot titles.
- 35A.08.110 Certificates of election to officers—Effective date of becoming charter code city.
- 35A.08.120 Authentication of charter.

35A.08.010 Adoption of charter authorized. Any city having a population of ten thousand or more inhabitants may become a charter code city and be governed under the provisions of this title by adopting a charter for its own government in the manner prescribed in this chapter. Once any city, having ten thousand population, has adopted such a charter, any subsequent decrease in population below ten thousand shall not affect its status as a charter code city. [1967 ex.s. c 119 § 35A.08.010.]

35A.08.020 Determining population. For the purposes of this chapter, the population of a city shall be the number of residents shown by the figures released for the most recent official state or federal census, by a population determination made under the direction of the state census board, or by a city census conducted in the following manner:

(1) The legislative authority of any such city may provide by ordinance for the appointment by the mayor thereof, of such number of persons as may be designated in the ordinance to make an enumeration of all persons residing within the corporate limits of the city. The enumerators so appointed, before entering upon their duties, shall take an oath for the faithful performance thereof and within five days after their appointment proceed, within their respective districts, to make an enumeration of all persons residing therein, with their names and places of residence.

(2) Immediately upon the completion of the enumeration, the enumerators shall make return thereof upon oath to the legislative authority of the city, who at its next meeting or as soon thereafter as practicable, shall canvass and certify the returns.

(3) If it appears therefrom that the whole number of persons residing within the corporate limits of the city is ten thousand or more, the mayor and clerk under the corporate seal of the city shall certify the number so ascertained to the secretary of state, who shall file it in his office. This certificate when so filed shall be conclusive evidence of the population of the city. [1967 ex.s. c 119 § 35A.08.020.]

35A.08.030 Resolution or petition for election. The legislative body of any city having ten thousand or more inhabitants may, by resolution, provide for submission to the voters of the question whether the city shall become a charter code city and be governed in accordance with a charter to be adopted by the voters under the provisions of this title. The legislative body must provide for such an election upon receipt of a sufficient petition therefor signed by qualified electors in number equal to not less than ten percent of the votes cast at the last general municipal election therein. The question may be submitted to the voters at the next general municipal election if one is to be held within one hundred and eighty days or at a special election held for that purpose not less than ninety nor more than one hundred and eighty days after the passage of the resolution or the filing of the certificate of sufficiency of the petition. At such election provision shall also be made for the election of fifteen freeholders who, upon a favorable vote on the question, shall constitute the charter commission charged with the duty of framing a charter for submission to the voters. [1967 ex.s. c 119 § 35A.08.030.]

35A.08.040 Election on question—Election of freeholders. The election on the question whether to adopt a charter and become a charter code city and the nomination and election of the members of the charter commission shall be conducted, and the result declared, according to the laws regulating and controlling elections in the city. Candidates for election to the charter commission must be nominated by petition signed by ten qualified electors of the city and residents therein for a period of at least two years preceding the election. A nominating petition shall be filed within the time allowed for filing declarations of candidacy and shall be verified by an affidavit of one or more of the signers to the effect that the affiant believes that the candidate and all of the

signers are qualified electors of the city and he signed the petition in good faith for the purpose of endorsing the person named therein for election to the charter commission. A written acceptance of the nomination by the nominee shall be affixed to the petition when filed with the city clerk. Nominating petitions need not be in the form prescribed in RCW 35A.01.040. Any nominee may withdraw his nomination by a written statement of withdrawal filed at any time not later than five days before the last day allowed for filing nominations. The positions on the charter commission shall be designated by consecutive numbers one through fifteen, and the positions so designated shall be considered as separate offices for all election purposes. A nomination shall be made for a specific numbered position. [1967 ex.s. c 119 § 35A.08.040.]

35A.08.050 Organization of charter commission—Vacancies—Duties. Within ten days after its election the charter commission shall hold its first meeting, elect one of the members as chairman, and adopt such rules for the conduct of its business as it may deem advisable. In the event of a vacancy in the charter commission, the remaining members shall fill it by appointment thereto of some properly qualified person. A majority shall constitute a quorum for transaction of business but final charter recommendations shall require a majority vote of the whole membership of the commission. The commission shall study the plan of government of the city, compare it with other available plans of government, and determine whether, in its judgment, the government of the city could be strengthened, made more responsive or accountable to the people, or whether its operation could be made more economical or more efficient by amendment of the existing plan or adoption of another plan of government. The commission shall consider the plans of government described in this title but shall not be limited to such plans in its recommendations for the government of the city and may frame a charter for any plan it deems suitable for the good government of the city; except that the provisions of such charter shall not be valid if inconsistent with the Constitution of this state, the provisions of this title, or the general laws of the state, insofar as they are applicable to cities governed under this title. [1967 ex.s. c 119 § 35A.08.050.]

35A.08.060 Expenses of commission members—Consultants and assistants. Members of the charter commission shall serve without compensation but shall be reimbursed by the city from any funds for their necessary expenses incurred in the performance of their duties. The legislative body may, in its discretion, make a reasonable appropriation of the city funds to provide for public information and discussion concerning the purposes and progress of the commission's work and/or to provide technical or clerical assistance to the commission in its work. Within the limits of any such appropriation and privately contributed funds and services as may be available to it, the charter commission may appoint one or more consultants and clerical or other assistants to serve at the pleasure of the commission and

may fix a reasonable compensation to be paid such consultants and assistants. [1967 ex.s. c 119 § 35A.08.060.]

35A.08.070 Public hearing. The charter commission shall hold at least one public hearing in the course of its deliberations, may hold committee meetings and may sponsor public forums and promote public education and discussion respecting its work. [1967 ex.s. c 119 § 35A.08.070.]

35A.08.080 Submission of charter—Election of officers—Publication. Within one hundred and eighty days from the date of its first meeting, the charter commission, or a majority thereof, shall frame a charter for the city and submit the charter to the legislative body of the city, which, within five days thereafter shall initiate proceedings for the submission of the proposed charter to the qualified electors of the city at the next general election if one is to be held within one hundred and eighty days or at a special election to be held for that purpose not less than ninety nor more than one hundred and eighty days after submission of the charter to the legislative body. The legislative body shall cause the proposed charter to be published in a newspaper of general circulation in the city at least once each week for four weeks next preceding the day of submitting the same to the electors for their approval. At this election the first officers to serve under the provisions of the proposed charter shall also be elected. If the election is from wards, the division into wards as specified in the proposed charter shall govern; in all other respects the then existing laws relating to such elections shall govern. The notice of election shall specify the objects for which the election is held and shall be given as required by law. [1967 ex.s. c 119 § 35A.08.080.]

35A.08.090 Conduct of elections. The election upon the question of becoming a charter code city and framing a charter and the election of the charter commission, and the election upon the adoption or rejection of the proposed charter and the officers to be elected thereunder, the returns of both elections, the canvassing thereof, and the declaration of the result shall be governed by the laws regulating and controlling elections in the city. [1967 ex.s. c 119 § 35A.08.090.]

35A.08.100 Ballot titles. Ballot titles for elections under this chapter shall be prepared by the city attorney as provided in RCW 35A.29.120. The ballot statement in the election for adopting or rejecting the proposed charter shall clearly state that, upon adoption of the proposed charter, the city would be governed by its charter and by this title. [1967 ex.s. c 119 § 35A.08.100.]

35A.08.110 Certificates of election to officers—Effective date of becoming charter code city. If a majority of the votes cast at the election upon the adoption of the proposed charter favor it, certificates of election shall be issued to each officer elected at that election. Within ten days after the issuance of the certificates of election, the newly elected officers shall qualify as provided in the

charter, and on the tenth day thereafter at twelve o'clock noon of that day or on the next business day if the tenth day is a Saturday, Sunday or holiday, the officers so elected and qualified shall enter upon the duties of the offices to which they were elected and at such time the charter shall be authenticated, recorded, attested and go into effect, and the city shall thereafter be classified as a charter code city. When so authenticated, recorded and attested, the charter shall become the organic law of the city and supersede any existing charter and amendments thereto and all special laws inconsistent therewith. [1967 ex.s. c 119 § 35A.08.110.]

35A.08.120 Authentication of charter. The authentication of the charter shall be by certificate of the mayor in substance as follows:

"I, _____, mayor of the city of _____, do hereby certify that in accordance with the provisions of the Constitution and statutes of the state of Washington, the city of _____ caused fifteen freeholders to be elected on the _____ day of _____, 19__ as a charter commission to prepare a charter for the city; that due notice of that election was given in the manner provided by law and that the following persons were declared elected to prepare and propose a charter for the city, to wit: _____

That thereafter on the _____ day of _____, 19__ the charter commission returned a proposed charter for the city of _____ signed by the following members thereof: _____

That thereafter the proposed charter was published in _____ (indicate name of newspaper in which published), for at least once each week for four weeks next preceding the day of submitting the same to the electors for their approval.
(Indicate dates of publication.)

That thereafter on the _____ day of _____, 19__, at an election duly called and held, the proposed charter was submitted to the qualified electors thereof, and the returns canvassed resulting as follows: For the proposed charter _____ votes; against the proposed charter, _____ votes; majority for the proposed charter, _____ votes; whereupon the charter was declared adopted by a majority of the qualified electors voting at the election.

I further certify that the foregoing is a full, true and complete copy of the proposed charter so voted upon and adopted as aforesaid.

IN TESTIMONY WHEREOF, I hereunto set my hand and affix the corporate seal of the said city at my office this _____ day of _____, 19__.

Mayor of the city of _____

Attest:

Clerk of the city of _____ (corporate seal)."

Immediately after authentication, the authenticated charter shall be recorded by the city clerk in a book provided for that purpose known as the charter book of the city of _____ and when so recorded shall be

attested by the clerk and mayor under the corporate seal of the city. All amendments shall be in like manner recorded and attested.

All courts shall take judicial notice of a charter and all amendments thereto when recorded and attested as required in this section. [1967 ex.s. c 119 § 35A.08.120.]

Chapter 35A.09
AMENDMENT OR REVISION OF CHARTERS OF
CHARTER CODE CITIES

Sections

35A.09.010 Amendment of charter—Initiated by legislative body.

35A.09.020 Petition for submission of charter amendment.

35A.09.030 New or revised charter—Petition—Charter commission.

35A.09.040 Submission of new or revised charter—Election.

35A.09.050 Publication of proposed charter.

35A.09.060 Conduct of elections.

35A.09.070 Effect of favorable vote.

35A.09.010 Amendment of charter—Initiated by legislative body. The charter of a charter code city may be amended by proposals therefor submitted by resolution of the legislative authority of such city to the electors thereof at any general election, after publication of such proposed charter amendment in the manner provided in chapter 35A.08 RCW for publication of a proposed charter, and upon notice of election as provided by law. If such proposed charter amendment is ratified by a majority of the qualified electors voting thereon it shall become a part of the charter organic law governing such charter code city. [1967 ex.s. c 119 § 35A.09.010.]

35A.09.020 Petition for submission of charter amendment. Upon the filing with the city clerk of a sufficient petition signed by qualified electors of a charter code city, in number equal to at least ten percent of the votes cast at the last general municipal election, seeking the adoption of a specified charter amendment set forth in the petition, providing for any matter within the realm of local affairs, or municipal business, or structure of municipal government, offices, and departments, said amendment shall be submitted to the voters 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 held for that purpose not less than ninety days, nor more than one hundred and eighty days after the filing of the certificate of sufficiency of the petition. The proposed charter amendment shall be published as provided in RCW 35A.09.050. Upon approval by a majority of the qualified electors voting thereon, such amendment shall become a part of the charter organic law governing such charter code city. [1967 ex.s. c 119 § 35A.09.020.]

35A.09.030 New or revised charter—Petition—Charter commission. On the petition of a number of qualified electors of a charter code city equal to ten percent of the total votes cast at the last preceding municipal general election, the legislative body of such charter code city shall, or without such petition, may, by resolution, cause an election to be held for the election of a charter commission of fifteen freeholders for the purpose of preparing a new or revised charter for the city by

altering, revising, adding to, or repealing the existing charter including all amendments thereto. The members of the charter commission shall be qualified and nominated as provided by chapter 35A.08 RCW. At such election the proposition of whether or not a charter commission shall be created at all shall be separately stated on the ballots and unless a majority of the votes cast upon that proposition favor it, no further steps shall be taken in the proceedings. [1967 ex.s. c 119 § 35A.09.030.]

35A.09.040 Submission of new or revised charter—Election. Within ten days after the results of the election authorized by RCW 35A.09.030 have been determined, if a majority of the votes cast favor the proposition, the members of the charter commission elected thereat shall convene and prepare a new or revised charter by altering, revising, adding to, or repealing the existing charter including all amendments thereto and within one hundred and eighty days thereafter file it with the city clerk. The charter commission shall be organized, vacancies filled, alternative plans of government considered, and a public hearing held all in the manner provided in sections of chapter 35A.08 RCW relating to charter commissions, and the commission members shall be reimbursed for their expenses and may obtain technical and clerical assistance in the manner provided in chapter 35A.08 RCW. Upon the filing of the proposed new, altered, changed, or revised charter with the city clerk, it shall be submitted to the qualified electors of the charter code city at an election conducted as provided in RCW 35A.09.060. [1967 ex.s. c 119 § 35A.09.040.]

35A.09.050 Publication of proposed charter. The proposed new, altered, or revised charter shall be published in the daily newspaper of largest general circulation published in the city, or if no daily newspaper is published therein, then it shall be published in the newspaper having the largest general circulation within the city at least once each week for four weeks next preceding the day of submitting the same to the electors for their approval. [1967 ex.s. c 119 § 35A.09.050.]

35A.09.060 Conduct of elections. The election of the charter commission and the election upon the proposition of adopting the proposed new, altered, or revised charter, may be general or special elections held within the corresponding time period specified in chapter 35A.08 RCW, and except as herein provided, said elections, the notice specifying the objects thereof, the returns, the canvassing, and the declaration of the result shall be governed by the laws regulating and controlling elections in the charter code city. [1967 ex.s. c 119 § 35A.09.060.]

35A.09.070 Effect of favorable vote. If a majority of the voters voting upon the adoption of the proposed new, altered, or revised charter favor it, it shall become the charter of the charter code city and the organic law thereof, superseding any existing charter; but if any offices are abolished or dispensed with by the new, altered,

or revised charter, and any new offices created thereby, such charter shall not go into effect until the election and qualification of such new officers 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 held for that purpose not less than ninety days, nor more than one hundred and eighty days after approval of such charter by the voters. [1967 ex.s. c 119 § 35A.09.070.]

Chapter 35A.10
PROVISIONS APPLICABLE TO ADOPTION AND
ABANDONMENT OF CHARTER CODE CITY
CLASSIFICATION

Sections

- 35A.10.010 Laws applicable to charter code cities.
35A.10.020 Abandonment of charter code city classification.
35A.10.030 Resolution or petition for change of classification—
Election.
35A.10.040 No subsequent vote for six years.

35A.10.010 Laws applicable to charter code cities. The classifications of municipalities which existed prior to the time this title goes into effect—first class, second class, third class and fourth class—and the restrictions, limitations, duties and obligations specifically imposed by law upon such classes of cities and towns, shall have no application to charter code cities, but every charter code city, by adopting such classification, has elected to be governed by its charter and by the provisions of this title, with the powers thereby granted. [1967 ex.s. c 119 § 35A.10.010.]

35A.10.020 Abandonment of charter code city classification. Any charter code city, which has been so classified under the provisions of this title for more than six years may abandon such classification and elect to be governed according to its charter under the general law relating to charter cities of the classification held by such city immediately prior to becoming a charter code city, if any, or may elect to be governed by the general law relating to charter cities of the highest class, or other class, for which it is qualified by population. [1967 ex.s. c 119 § 35A.10.020.]

35A.10.030 Resolution or petition for change of classification—Election. Upon the passage of a resolution of the legislative body of a charter code city, or upon the filing with the city clerk of a sufficient petition signed by qualified electors of a charter code city in number equal to not less than ten percent of the votes cast at the last general municipal election therein, proposing abandonment of the classification of charter code city and that the city be governed under its charter and the general law relating to cities of the classification named in the petition or resolution, the legislative body thereof shall cause the propositions to be submitted to the voters 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 held for that purpose not less than ninety days nor more than one hundred and eighty days after the passage of the resolution or the filing of the certificate of sufficiency of the petition. Notice of election shall be

given, the election conducted, and results declared generally as provided in chapter 35A.02 RCW, insofar as such provisions are applicable. If a majority of the votes cast upon such proposition are in favor of abandonment of the classification of charter code city, upon the certification of the record of election to the office of the secretary of state, such charter city shall be classified as a city of the class selected and shall be governed by the laws relating thereto. [1967 ex.s. c 119 § 35A.10.030.]

35A.10.040 No subsequent vote for six years. When a proposition for abandonment of the classification of charter code city has been submitted to the voters of the charter code city in an election and has been rejected by a majority of such voters, such proposition shall not again be submitted to the voters for six years thereafter. [1967 ex.s. c 119 § 35A.10.040.]

Chapter 35A.11
LAWS GOVERNING NONCHARTER CODE CITIES
AND CHARTER CODE CITIES—POWERS

Sections

- 35A.11.010 Rights, powers and privileges.
35A.11.020 Powers vested in legislative bodies of noncharter and charter code cities.
35A.11.030 Applicability of general law.
35A.11.040 Intergovernmental cooperation and action.
35A.11.050 Statement of purpose and policy.
35A.11.060 Participation in Economic Opportunity Act programs.
35A.11.070 Tourist promotion.
35A.11.080 Initiative and referendum—Election to exercise—
Restriction or abandonment.
35A.11.090 Initiative and referendum—Effective date of ordinances—
Exceptions.
35A.11.100 Initiative and referendum—Exercise of powers.
35A.11.110 Members of legislative bodies authorized to serve as volunteer firemen.

35A.11.010 Rights, powers and privileges. Each city governed under this optional municipal code, whether charter or noncharter, shall be entitled "City of _____" (naming it), and by such name shall have perpetual succession; may sue and be sued in all courts and proceedings; use a corporate seal approved by its legislative body; and, by and through its legislative body, such municipality may contract and be contracted with; may purchase, lease, receive, or otherwise acquire real and personal property of every kind, and use, enjoy, hold, lease, control, convey or otherwise dispose of it for the common benefit. [1967 ex.s. c 119 § 35A.11.010.]

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 hundred dollars or imprisonment for any term not exceeding six months, 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. [1969 ex.s. c 29 § 1; 1967 ex.s. c 119 § 35A.11.020.]

Effective date—1969 ex.s. c 29: "The effective date of this act is July 1, 1969." [1969 ex.s. c 29 § 2.] This applies to the 1969 amendment to RCW 35A.11.020.

35A.11.030 Applicability of general law. Powers of eminent domain, borrowing, taxation, and the granting of franchises may be exercised by the legislative bodies of code cities in the manner provided in this title or by the general law of the state where not inconsistent with this title; and the duties to be performed and the procedure to be followed by such cities in regard to the keeping of accounts and records, official bonds, health and safety and other matters not specifically provided for in this title, shall be governed by the general law. For the

purposes of this title, "the general law" means any provision of state law, not inconsistent with this title, enacted before or after the passage of this title which is by its terms applicable or available to all cities or towns. [1967 ex.s. c 119 § 35A.11.030.]

35A.11.040 Intergovernmental cooperation and action. The legislative body of a code city may exercise any of its powers or perform any of its functions including purchasing, and participate in the financing thereof, jointly or in cooperation, as provided for in chapter 239, Laws of 1967 [chapter 39.34 RCW]. The legislative body of a code city shall have power to accept any gift or grant for any public purpose and may carry out any conditions of such gift or grant when not in conflict with state or federal law. [1967 ex.s. c 119 § 35A.11.040.]

35A.11.050 Statement of purpose and policy. The general grant of municipal power conferred by this chapter and this title on legislative bodies of noncharter code cities and charter code cities is intended to confer the greatest power of local self-government consistent with the Constitution of this state and shall be construed liberally in favor of such cities. Specific mention of a particular municipal power or authority contained in this title or in the general law shall be construed as in addition and supplementary to, or explanatory of the powers conferred in general terms by this chapter. [1967 ex.s. c 119 § 35A.11.050.]

35A.11.060 Participation in Economic Opportunity Act programs. The legislative body of any city or town is hereby authorized and empowered in its discretion by resolution or ordinance passed by a majority of the legislative body, to take whatever action it deems necessary to enable the city or town to participate in the programs set forth in the Economic Opportunity Act of 1964 (Public Law 88-452; 78 Stat. 508), as amended. Such participation may be engaged in as a sole city or town operation or in conjunction or cooperation with the state, any other city or town, county, or municipal corporation, or any private corporation qualified under said Economic Opportunity Act. [1971 ex.s. c 177 § 4.]

35A.11.070 Tourist promotion. See RCW 35.21.700.

35A.11.080 Initiative and referendum—Election to exercise—Restriction or abandonment. The qualified electors of a noncharter code city may exercise the powers of initiative and referendum, upon electing so to do in the manner provided for changing the classification of a city or town in RCW 35A.02.020, 35A.02.025, 35A.02.030, and 35A.02.035, as now or hereafter amended.

The exercise of such powers may be restricted or abandoned upon electing so to do in the manner provided for abandoning the plan of government of a noncharter code city in RCW 35A.06.030, 35A.06.040, 35A.06.050, and 35A.06.060, as now or hereafter amended. [1973 1st ex.s. c 81 § 1.]

35A.11.090 Initiative and referendum—Effective date of ordinances—Exceptions. Ordinances of non-charter code cities the qualified electors of which have elected to exercise the powers of initiative and referendum shall not go into effect before thirty days from the time of final passage and are subject to referendum during the interim except:

- (1) Ordinances initiated by petition;
- (2) Ordinances necessary for immediate preservation of public peace, health, and safety or for the support of city government and its existing public institutions which contain a statement of urgency and are passed by unanimous vote of the council;
- (3) Ordinances providing for local improvement districts;
- (4) Ordinances appropriating money;
- (5) Ordinances providing for or approving collective bargaining;
- (6) Ordinances providing for the compensation of or working conditions of city employees; and
- (7) Ordinances authorizing or repealing the levy of taxes; which excepted ordinances shall go into effect as provided by the general law or by applicable sections of Title 35A RCW as now or hereafter amended. [1973 1st ex.s. c 81 § 2.]

35A.11.100 Initiative and referendum—Exercise of powers. Except as provided in RCW 35A.11.090, and except that the number of registered voters needed to sign a petition for initiative or referendum shall be fifteen percent of the total number of names of persons listed as registered voters within the city on the day of the last preceding city general election, the powers of initiative and referendum in noncharter code cities shall be exercised in the manner set forth for the commission form of government in RCW 35.17.240 through 35.17.360, as now or hereafter amended. [1973 1st ex.s. c 81 § 3.]

35A.11.110 Members of legislative bodies authorized to serve as volunteer firemen. Notwithstanding any other provision of law, the legislative body of any code city, by resolution adopted by unanimous vote, may authorize any of its members to serve as volunteer firemen and to receive the same compensation, insurance and other benefits as are applicable to other volunteer firemen employed by the code city. [1974 ex.s. c 60 § 2.]

Chapter 35A.12

MAYOR-COUNCIL PLAN OF GOVERNMENT

Sections

- 35A.12.010 Elective city officers—Size of council.
- 35A.12.020 Appointive officers—Duties—Compensation.
- 35A.12.030 Eligibility to hold elective office.
- 35A.12.040 Elections—Terms of elective officers—Numbering of council positions—Contested elections.
- 35A.12.050 Vacancies—Filling of vacancies.
- 35A.12.060 Forfeiture of office.
- 35A.12.065 Pro tempore appointments.
- 35A.12.070 Compensation of elective officers—Expenses.
- 35A.12.080 Oath and bond of officers.
- 35A.12.090 Appointment and removal of officers—Terms.
- 35A.12.100 Duties and authority of the mayor—Veto—Tie—Breaking vote.

- 35A.12.110 Council meetings.
- 35A.12.120 Council—Quorum—Rules—Voting.
- 35A.12.130 Ordinances—Style—Requisites—Veto.
- 35A.12.140 Adoption of codes by reference.
- 35A.12.150 Ordinances—Authentication and recording.
- 35A.12.160 Publication of ordinances.
- 35A.12.170 Audit and allowance of demands against city.
- 35A.12.180 Optional division of city into wards.
- 35A.12.190 Powers of council.

35A.12.010 Elective city officers—Size of council. The government of any noncharter code city or charter code city electing to adopt the mayor-council plan of government authorized by this chapter shall be vested in an elected mayor and an elected council. The council of a noncharter code city having less than twenty-five hundred inhabitants shall consist of five members; when there are twenty-five hundred or more inhabitants, the council shall consist of seven members. The number of inhabitants shall be determined by the most recent official state or federal census or determination by the state census board. A charter adopted under the provisions of this title, incorporating the mayor-council plan of government set forth in this chapter, may provide for an uneven number of councilmen not exceeding eleven. [1967 ex.s. c 119 § 35A.12.010.]

35A.12.020 Appointive officers—Duties—Compensation. The appointive officers shall be those provided for by charter or ordinance and shall include a city clerk and a chief law enforcement officer. The office of city clerk may be merged with that of a city treasurer, if any, with an appropriate title designated therefor. Provision shall be made for obtaining legal counsel for the city, either by appointment of a city attorney on a full-time or part-time basis, or by any reasonable contractual arrangement for such professional services. The authority, duties and qualifications of all appointive officers shall be prescribed by charter or ordinance, consistent with the provisions of this title, and any amendments thereto, and the compensation of appointive officers shall be prescribed by ordinance: *Provided*, That the compensation of an appointed police judge or municipal judge shall be within applicable statutory limits. [1967 ex.s. c 119 § 35A.12.020.]

35A.12.030 Eligibility to hold elective office. No person shall be eligible to hold elective office under the mayor-council plan unless he shall have been a registered voter and resident of the city for a period of at least one year next preceding his election. Residence and voting within the limits of any territory which has been included in, annexed to, or consolidated with such city is construed to have been residence within the city. A mayor or councilman shall hold within the city government no other public office or employment except as permitted under the provisions of chapter 42.23 RCW. [1967 ex.s. c 119 § 35A.12.030.]

35A.12.040 Elections—Terms of elective officers—Numbering of council positions—Contested elections. Officers shall be elected at biennial municipal elections to be conducted as provided in chapter 35A.29 RCW. The mayor and the councilmen shall be elected

for four year terms and until their successors are elected and qualified; except that at the first election three councilmen in cities having seven councilmen, and two councilmen in cities having five councilmen, shall be elected for two year terms and the remaining councilmen shall be elected for four year terms, and the mayor in office at the time of such election shall continue for another four year term coextensive with the terms for which councilmen elected for four years are elected and there shall be no election as to mayor. Thereafter the requisite number of councilmen shall be elected biennially as the terms of their predecessors expire and shall serve for terms of four years. The positions to be filled on the city council shall be designated by consecutive numbers and shall be dealt with as separate offices for all election purposes, as provided in RCW 35A.29.105. At the first election in cities having seven councilmen, the candidates elected to positions one, two, and three shall serve for two year terms and the candidates elected to positions four, five, six and seven shall serve for four year terms; at the first election in cities having five councilmen, the candidates elected to positions one and two shall serve for two year terms and the candidates elected to positions three, four, and five shall serve for four year terms: *Provided*, That in any city which holds its first election under this title in the calendar year 1970, candidates elected for two year terms shall hold office until their successors are elected and qualified at the general municipal election to be held in November, 1973 and candidates elected for four year terms shall hold office until their successors are elected and qualified at the general municipal election to be held in November, 1975. Election to positions on the council shall be by majority vote from the city at large, unless provision is made by charter or ordinance for election by wards. The city council shall be the judge of the qualifications of its members and determine contested elections of city officers, subject to review by certiorari as provided by law. The mayor and councilmen shall qualify by taking an oath or affirmation of office and as may be provided by law, charter, or ordinance. [1970 ex.s. c 52 § 3; 1967 ex.s. c 119 § 35A.12.040.]

35A.12.050 Vacancies—Filling of vacancies. The office of a mayor or councilman shall become vacant if he fails to qualify as provided by law or fails to enter upon his duties at the time fixed by law without a justifiable reason, upon his death, resignation, removal from office by recall as provided by law, or when his office is forfeited as provided in RCW 35A.12.060. A vacancy in the office of mayor or in the council shall be filled for the remainder of the unexpired term, if any, at the next regular municipal election but the council, or the remaining members thereof, by majority vote shall appoint a qualified person to fill the vacancy until the person elected to serve the remainder of the unexpired term takes office. If at any time the membership of the council is reduced below the number required for a quorum, the remaining members, nevertheless, by majority action may appoint additional members to fill the vacancies until persons are elected to serve the remainder of the unexpired terms. If, after thirty days have

passed since the occurrence of a vacancy, the council are unable to agree upon a person to be appointed to fill a vacancy in the council, the mayor may make the appointment from among the persons nominated by members of the council. [1967 ex.s. c 119 § 35A.12.050.]

35A.12.060 Forfeiture of office. A mayor or councilman shall forfeit his office, creating a vacancy, if he ceases to have the qualifications prescribed for such office by law, charter, or ordinance, or if he is convicted of a crime involving moral turpitude or an offense involving a violation of his oath of office. A councilman also shall forfeit his office if he fails to attend three consecutive regular meetings of the council without being excused by the council. [1967 ex.s. c 119 § 35A.12.060.]

35A.12.065 Pro tempore appointments. Biennially at the first meeting of a new council, or periodically, the members thereof, by majority vote, may designate one of their number as mayor pro tempore or deputy mayor for such period as the council may specify, to serve in the absence or temporary disability of the mayor; or, in lieu thereof, the council may, as the need may arise, appoint any qualified person to serve as mayor pro tempore in the absence or temporary disability of the mayor. In the event of the extended excused absence or disability of a councilman, the remaining members by majority vote may appoint a councilman pro tempore to serve during the absence or disability. [1967 ex.s. c 119 § 35A.12.065.]

35A.12.070 Compensation of elective officers—Expenses. The salaries of the mayor and the councilmen shall be fixed by ordinance and may be revised from time to time by ordinance, but any increase in the compensation attaching to an office shall not be applicable to the term then being served by the incumbent if such incumbent is a member of the city legislative body fixing his own compensation or as mayor in a mayor-council code city casts a tie-breaking vote relating to such ordinance: *Provided*, That if the mayor of such a city does not cast such a vote, his salary may be increased during his term of office.

Until the first elective officers under this mayor-council plan of government may lawfully be paid the compensation provided by such salary ordinance, such officers shall be entitled to be compensated in the same manner and in the same amount as the compensation paid to officers of such city performing comparable services immediately prior to adoption of this mayor-council plan.

Until a salary ordinance can be passed and become effective as to elective officers of a newly incorporated code city, such first officers shall be entitled to compensation as follows: In cities having less than five thousand inhabitants, the mayor shall be entitled to a salary of one hundred and fifty dollars per calendar month and a councilman shall be entitled to twenty dollars per meeting for not more than two meetings per month; in cities having more than five thousand but less than fifteen thousand inhabitants, the mayor shall be entitled to a

salary of three hundred and fifty dollars per calendar month and a councilman shall be entitled to one hundred and fifty dollars per calendar month; in cities having more than fifteen thousand inhabitants, the mayor shall be entitled to a salary of twelve hundred and fifty dollars per calendar month and a councilman shall be entitled to four hundred dollars per calendar month: *Provided*, That such interim compensation shall remain in effect only until a salary ordinance is passed and becomes effective as to such officers, and the amounts herein provided shall not be construed as fixing the usual salary of such officers. The mayor and councilmen shall receive reimbursement for their actual and necessary expenses incurred in the performance of the duties of their office, or the council by ordinance may provide for a per diem allowance. Procedure for approval of claims for expenses shall be as provided by ordinance. [1971 ex.s. c 251 § 5; 1967 ex.s. c 119 § 35A.12.070.]

Severability—1971 ex.s. c 251: RCW 35A.90.050.

35A.12.080 Oath and bond of officers. Any officer before entering upon the performance of his duties may be required to take an oath or affirmation as prescribed by charter or by ordinance for the faithful performance of his duties. The clerk, treasurer, if any, chief of police, and such other officers or employees as may be designated by ordinance or by charter shall be required to furnish annually an official bond conditioned on the honest and faithful performance of their official duties. The terms and penalty of official bonds and the surety therefor shall be prescribed by ordinance or charter and the bond shall be approved by the chief administrative officer of the city. The premiums on such bonds shall be paid by the city. When the furnishing of an official bond is required of an officer or employee, compliance with such provisions shall be an essential part of qualification for office. [1967 ex.s. c 119 § 35A.12.080.]

35A.12.090 Appointment and removal of officers—
Terms. The mayor shall have the power of appointment and removal of all appointive officers and employees subject to any applicable law, rule, or regulation relating to civil service except that a police judge or municipal judge who is appointed may be removed only upon conviction of misconduct or malfeasance in office, or because of physical or mental disability rendering him incapable of performing the duties of his office. The head of a department or office of the city government may be authorized by the mayor to appoint and remove subordinates in such department or office, subject to any applicable civil service provisions. All appointments of city officers and employees shall be made on the basis of ability and training or experience of the appointees in the duties they are to perform, from among persons having such qualifications as may be prescribed by ordinance or by charter, and in compliance with provisions of any merit system applicable to such city. Confirmation by the city council of appointments of officers and employees shall be required only when the city charter, or the council by ordinance, provides for confirmation of such appointments. Confirmation of mayoral appointments by the council may be required by the council in

any instance where qualifications for the office or position have not been established by ordinance or charter provision. Appointive offices shall be without definite term unless a term is established for such office by law, charter or ordinance. [1967 ex.s. c 119 § 35A.12.090.]

35A.12.100 Duties and authority of the mayor—
Veto—Tie—Breaking vote. The mayor shall be the chief executive and administrative officer of the city, in charge of all departments and employees, with authority to designate assistants and department heads. The mayor may appoint and remove a chief administrative officer or assistant administrative officer, if so provided by ordinance or charter. He shall see that all laws and ordinances are faithfully enforced and that law and order is maintained in the city, and shall have general supervision of the administration of city government and all city interests. All official bonds and bonds of contractors with the city shall be submitted to the mayor or such person as he may designate for approval or disapproval. He shall see that all contracts and agreements made with the city or for its use and benefit are faithfully kept and performed, and to this end he may cause any legal proceedings to be instituted and prosecuted in the name of the city, subject to approval by majority vote of the council. The mayor shall preside over all meetings of the city council, when present, but shall have a vote only in the case of a tie in the votes of the councilmen. He shall report to the council concerning the affairs of the city and its financial and other needs, and shall make recommendations for council consideration and action. He shall prepare and submit to the council a proposed budget, as required by chapter 35A-.33 RCW. The mayor shall have the power to veto ordinances passed by the council and submitted to him as provided in RCW 35A.12.130 but such veto may be overridden by the vote of a majority of all council members plus one more vote. The mayor shall be the official and ceremonial head of the city and shall represent the city on ceremonial occasions, except that when illness or other duties prevent the mayor's attendance at an official function and no mayor pro tempore has been appointed by the council, a member of the council or some other suitable person may be designated by the mayor to represent the city on such occasion. [1967 ex.s. c 119 § 35A.12.100.]

35A.12.110 Council meetings. The city council and mayor shall meet regularly, at least once a month, at a place within the corporate limits of the city at such times as may be fixed by ordinance or resolution. Special meetings may be called by the mayor or any three members of the council by written notice delivered to each member of the council at least twelve hours before the time specified for the proposed meeting. All council meetings shall be open to the public except that the council may hold executive sessions from which the public is excluded for purposes other than the final adoption of an ordinance, resolution, rule, regulation, or directive. No ordinance or resolution shall be passed, or contract let or entered into, or bill for the payment of money allowed at any meeting not open to the public, nor at

any public meeting the date of which is not fixed by ordinance, resolution, or rule, unless public notice of such meeting has been given by such notice to the local press, radio, and television, as will be reasonably calculated to inform inhabitants of the city of the meeting. Meetings of the council shall be presided over by the mayor, if present, or the mayor pro tempore, or deputy mayor if one has been appointed, or by a member of the council selected by a majority of the council members at such meeting. Appointment of a council member to preside over the meeting shall not in any way abridge his right to vote on matters coming before the council at such meeting. In the absence of the clerk, a deputy clerk or other qualified person appointed by the clerk, the mayor, or the council, may perform the duties of clerk at such meeting. A journal of all proceedings shall be kept, which shall be a public record. [1967 ex.s. c 119 § 35A.12.110.]

35A.12.120 Council—Quorum—Rules—Voting. At all meetings of the council a majority of the councilmen shall constitute a quorum for the transaction of business, but a less number may adjourn from time to time and may compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. The council shall determine its own rules and order of business, and may establish rules for the conduct of council meetings and the maintenance of order. At the desire of any member, any question shall be voted upon by roll call and the ayes and nays shall be recorded in the journal.

The passage of any ordinance, grant or revocation of franchise or license, and any resolution for the payment of money shall require the affirmative vote of at least a majority of the whole membership of the council. [1967 ex.s. c 119 § 35A.12.120.]

35A.12.130 Ordinances—Style—Requisites—Veto. The enacting clause of all ordinances shall be as follows: "The city council of the city of ----- do ordain as follows:" No ordinance shall contain more than one subject and that must be clearly expressed in its title.

No ordinance or any section or subsection thereof shall be revised or amended unless the new ordinance sets forth the revised ordinance or the amended section or subsection at full length.

No ordinance shall take effect until five days after the date of its publication unless otherwise provided by statute or charter, except that an ordinance passed by a majority plus one of the whole membership of the council, designated therein as a public emergency ordinance necessary for the protection of public health, public safety, public property or the public peace, may be made effective upon adoption, but such ordinance may not levy taxes, grant, renew, or extend a franchise, or authorize the borrowing of money.

Every ordinance which passes the council in order to become valid must be presented to the mayor; if he approves it, he shall sign it, but if not, he shall return it with his written objections to the council and the council shall cause his objections to be entered at large upon the

journal and proceed to a reconsideration thereof. If upon reconsideration a majority plus one of the whole membership, voting upon a call of ayes and nays, favor its passage, the ordinance shall become valid notwithstanding the mayor's veto. If the mayor fails for ten days to either approve or veto an ordinance, it shall become valid without his approval. Ordinances shall be signed by the mayor and attested by the clerk. [1967 ex.s. c 119 § 35A.12.130.]

35A.12.140 Adoption of codes by reference. Ordinances may by reference adopt Washington state statutes and state, county, or city codes, regulations, or ordinances or any standard code of technical regulations, or portions thereof, including, for illustrative purposes but not limited to, fire codes and codes or ordinances relating to the construction of buildings, the installation of plumbing, the installation of electric wiring, health and sanitation, the slaughtering, processing and selling of meats and meat products for human consumption, the production, pasteurizing and sale of milk and milk products, or other subjects, together with amendments thereof or additions thereto, on the subject of the ordinance. Such Washington state statutes or codes or other codes or compilations so adopted need not be published in a newspaper as provided in RCW 35A.12.160, but the adopting ordinance shall be so published and a copy of any such adopted statute, ordinance or code, or portion thereof, with amendments or additions, if any, in the form in which it was adopted, shall be authenticated and recorded by the clerk along with the adopting ordinance. Not less than three copies of such statute, code or compilation with amendments or additions, if any, in the form in which it was adopted, shall be filed in the office of the city clerk for use and examination by the public. While any such statute, code or compilation is under consideration by the council prior to adoption, not less than three copies thereof shall be filed in the office of the city clerk for examination by the public. [1967 ex.s. c 119 § 35A.12.140.]

35A.12.150 Ordinances—Authentication and recording. The city clerk shall authenticate by his signature and record in full in a properly indexed book kept for the purpose all ordinances and resolutions adopted by the council. Such book, or copies of ordinances and resolutions, shall be available for inspection by the public at reasonable times and under reasonable conditions. [1967 ex.s. c 119 § 35A.12.150.]

35A.12.160 Publication of ordinances. Promptly after adoption, every ordinance shall be published, verbatim, at least once in a newspaper printed and published within the city, such publication to be made in the city's official newspaper if there is one. If there is no official newspaper or other newspaper printed and published within the city, then publication shall be made by printing and posting the ordinance in at least three public places in the city designated by ordinance as the official posting places for city notices. [1967 ex.s. c 119 § 35A.12.160.]

35A.12.170 Audit and allowance of demands against city. All demands against a code city shall be presented and audited in accordance with such regulations as may be prescribed by charter or ordinance; and upon the allowance of a demand, the clerk shall draw a warrant upon the treasurer for it, which warrant shall be countersigned by the mayor, or such person as he may designate, and shall specify the fund from which it is to be paid; or, payment may be made by a bank check when authorized by the legislative body of the code city under authority granted by RCW 35A.40.020, which check shall bear the signatures of the officers designated by the legislative body as required signatories of checks of such city, and shall specify the fund from which it is to be paid. [1967 ex.s. c 119 § 35A.12.170.]

35A.12.180 Optional division of city into wards. At any time not within three months previous to a municipal general election the council of a noncharter code city organized under this chapter may divide the city into wards or change the boundaries of existing wards. No change in the boundaries of wards shall affect the term of any councilman, but he shall serve out his term in the ward of his residence at the time of his election: *Provided*, That if this results in one ward being represented by more councilmen than the number to which it is entitled those having the shortest unexpired terms shall be assigned by the council to wards where there is a vacancy. The representation of each ward in the city council shall be in proportion to the population as nearly as is practicable. When the city has been divided into wards no person shall be eligible to the office of councilman unless he resides in the ward for which he is elected on the date of his election, and removal of his residence from the ward for which he was elected renders his office vacant. [1967 ex.s. c 119 § 35A.12.180.]

35A.12.190 Powers of council. The council of any code city organized under the mayor-council plan of government provided in this chapter shall have the powers and authority granted to the legislative bodies of cities governed by this title, as more particularly described in chapter 35A.11 RCW. [1967 ex.s. c 119 § 35A.12.190.]

Chapter 35A.13

COUNCIL-MANAGER PLAN OF GOVERNMENT

Sections

- 35A.13.010 City officers—Size of council.
- 35A.13.020 Election of councilmen—Eligibility—Terms—Vacancies—Forfeiture of office—Council chairman.
- 35A.13.030 Mayor—Election—Chairman to be mayor—Duties.
- 35A.13.033 Election on proposition to designate person elected to position one as chairman—Subsequent holders of position one to be chairman.
- 35A.13.035 Mayor pro tempore or deputy mayor.
- 35A.13.040 Compensation of councilmen—Expenses.
- 35A.13.050 City manager—Qualifications.
- 35A.13.060 City manager may serve two or more cities.
- 35A.13.070 City manager—Bond and oath.
- 35A.13.080 City manager—Powers and duties.

- 35A.13.090 Creation of departments, offices, and employment—Compensation.
- 35A.13.100 City manager—Department heads—Authority.
- 35A.13.110 City manager—Appointment of subordinates—Qualifications—Terms.
- 35A.13.120 City manager—Interference by council members.
- 35A.13.130 City manager—Removal—Resolution and notice.
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- 35A.13.150 City manager—Substitute.
- 35A.13.160 Oath and bond of officers.
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- 35A.13.180 Adoption of codes by reference.
- 35A.13.190 Ordinances—Style—Requisites—Veto.
- 35A.13.200 Authentication, recording and publication of ordinances.
- 35A.13.210 Audit and allowance of demands against city.
- 35A.13.220 Optional division of city into wards.
- 35A.13.230 Powers of council.

35A.13.010 City officers—Size of council. The councilmen shall be the only elective officers of a code city electing to adopt the council-manager plan of government authorized by this chapter, except where statutes provide for an elective police judge. The council shall appoint an officer whose title shall be "city manager" who shall be the chief executive officer and head of the administrative branch of the city government. The city manager shall be responsible to the council for the proper administration of all affairs of the code city. The council of a noncharter code city having less than twenty-five hundred inhabitants shall consist of five members; when there are twenty-five hundred or more inhabitants the council shall consist of seven members. The number of inhabitants shall be determined by the most recent official state or federal census or determination by the state census board. A charter adopted under the provisions of this title, incorporating the council-manager plan of government set forth in this chapter may provide for an uneven number of councilmen not exceeding eleven. [1967 ex.s. c 119 § 35A.13.010.]

35A.13.020 Election of councilmen—Eligibility—Terms—Vacancies—Forfeiture of office—Council chairman. In council-manager code cities, eligibility for election to the council, the manner of electing councilmen, the numbering of council positions, the terms of councilmen, the occurrence and the filling of vacancies, the grounds for forfeiture of office, and appointment of a mayor pro tempore or deputy mayor or councilman pro tempore shall be governed by the corresponding provisions of RCW 35A.12.030, 35A.12.040, 35A.12.050, 35A.12.060, and 35A.12.065 relating to the council of a code city organized under the mayor-council plan: *Provided*, That in council-manager cities where all council positions are at-large positions, the city council may, pursuant to RCW 35A.13.033, provide that the person elected to council position one on or after September 8, 1975, shall be the council chairman and shall carry out the duties prescribed by RCW 35A.13.030, as now or hereafter amended. [1975 1st ex.s. c 155 § 1; 1967 ex.s. c 119 § 35A.13.020.]

35A.13.030 Mayor—Election—Chairman to be mayor—Duties. Biennially at the first meeting of the new council the members thereof shall choose a chairman from among their number unless the chairman is elected pursuant to RCW 35A.13.033. The chairman of

the council shall have the title of mayor and shall preside at meetings of the council. In addition to the powers conferred upon him as mayor, he shall continue to have all the rights, privileges, and immunities of a member of the council. The mayor shall be recognized as the head of the city for ceremonial purposes and by the governor for purposes of military law. He shall have no regular administrative duties, but in time of public danger or emergency, if so authorized by ordinance, shall take command of the police, maintain law, and enforce order. [1975 1st ex.s. c 155 § 2; 1967 ex.s. c 119 § 35A.13.030.]

35A.13.033 Election on proposition to designate person elected to position one as chairman—Subsequent holders of position one to be chairman. The city council of a council-manager city may by resolution place before the voters of the city, a proposition to designate the person elected to council position one as the chairman of the council with the powers and duties set forth in RCW 35A.13.030. If a majority of those voting on the proposition cast a positive vote, then at all subsequent general elections at which position one is on the ballot, the person who is elected to position one shall become the chairman upon taking office. [1975 1st ex.s. c 155 § 3.]

35A.13.035 Mayor pro tempore or deputy mayor. Biennially at the first meeting of a new council, or periodically, the members thereof, by majority vote, may designate one of their number as mayor pro tempore or deputy mayor for such period as the council may specify, to serve in the absence or temporary disability of the mayor; or, in lieu thereof, the council may, as the need may arise, appoint any qualified person to serve as mayor pro tempore in the absence or temporary disability of the mayor. In the event of the extended excused absence or disability of a councilman, the remaining members by majority vote may appoint a councilman pro tempore to serve during the absence or disability. [1969 ex.s. c 81 § 1.]

Effective date—1969 ex.s. c 81: "This 1969 amendatory act shall take effect July 1, 1969." [1969 ex.s. c 81 § 7.] This applies to RCW 35A.13.035, and to the 1969 amendments to RCW 35A.33.010, 35A.33.075, 35A.33.125, 35A.63.030, and 35A.63.040.

35A.13.040 Compensation of councilmen—Expenses. The salaries of the councilmen, including the mayor, shall be fixed by ordinance and may be revised from time to time by ordinance, but any increase or reduction in the compensation attaching to an office shall not become effective until the expiration of the term then being served by the incumbent.

Until councilmen of a newly-organized council-manager code city may lawfully be paid as provided by salary ordinance, such councilmen shall be entitled to compensation in the same manner and in the same amount as councilmen of such city prior to the adoption of this council-manager plan.

Until a salary ordinance can be passed and become effective as to elective officers of a newly incorporated

code city, the first councilmen shall be entitled to compensation as follows: In cities having less than five thousand inhabitants—twenty dollars per meeting for not more than two meetings per month; in cities having more than five thousand but less than fifteen thousand inhabitants—a salary of one hundred and fifty dollars per calendar month; in cities having more than fifteen thousand inhabitants—a salary of four hundred dollars per calendar month. A councilman who is occupying the position of mayor, in addition to his salary as a councilman, shall be entitled, while serving as mayor, to an additional amount per calendar month, or portion thereof, equal to twenty-five percent of the councilmanic salary: *Provided*, That such interim compensation shall remain in effect only until a salary ordinance is passed and becomes effective as to such officers, and the compensation provided herein shall not be construed as fixing the usual compensation of such officers. Councilmen shall receive reimbursement for their actual and necessary expenses incurred in the performance of the duties of their office, or the council by ordinance may provide for a per diem allowance. Procedure for approval of claims for expenses shall be as provided by ordinance. [1967 ex.s. c 119 § 35A.13.040.]

35A.13.050 City manager—Qualifications. The city manager need not be a resident at the time of his appointment, but shall reside in the code city after his appointment unless such residence is waived by the council. He shall be chosen by the council solely on the basis of his executive and administrative qualifications with special reference to his actual experience in, or his knowledge of, accepted practice in respect to the duties of his office. No person elected to membership on the council shall be eligible for appointment as city manager until one year has elapsed following the expiration of the term for which he was elected. [1967 ex.s. c 119 § 35A.13.050.]

35A.13.060 City manager may serve two or more cities. Whether the city manager shall devote his full time to the affairs of one code city shall be determined by the council. A city manager may serve two or more cities in that capacity at the same time. [1967 ex.s. c 119 § 35A.13.060.]

35A.13.070 City manager—Bond and oath. Before entering upon the duties of his office the city manager shall take an oath or affirmation for the faithful performance of his duties and shall execute and file with the clerk of the council a bond in favor of the code city in such sum as may be fixed by the council. The premium on such bond shall be paid by the city. [1967 ex.s. c 119 § 35A.13.070.]

35A.13.080 City manager—Powers and duties. The powers and duties of the city manager shall be:

- (1) To have general supervision over the administrative affairs of the code city;
- (2) To appoint and remove at any time all department heads, officers, and employees of the code city, except members of the council, and subject to the provisions of

any applicable law, rule, or regulation relating to civil service: *Provided*, That the council may provide for the appointment by the mayor, subject to confirmation by the council, of a city planning commission, and other advisory citizens' committees, commissions, and boards advisory to the city council: *Provided further*, That if the police judge or municipal judge of the code city is appointed, such appointment shall be made by the city manager subject to confirmation by the council, for a four year term. The police judge or municipal judge may be removed only on conviction of malfeasance or misconduct in office, or because of physical or mental disability rendering him incapable of performing the duties of his office. The council may cause an audit to be made of any department or office of the code city government and may select the persons to make it, without the advice or consent of the city manager;

(3) To attend all meetings of the council at which his attendance may be required by that body;

(4) To see that all laws and ordinances are faithfully executed, subject to the authority which the council may grant the mayor to maintain law and order in times of emergency;

(5) To recommend for adoption by the council such measures, as he may deem necessary or expedient;

(6) To prepare and submit to the council such reports as may be required by that body or as he may deem it advisable to submit;

(7) To keep the council fully advised of the financial condition of the code city and its future needs;

(8) To prepare and submit to the council a proposed budget for the fiscal year, as required by chapter 35A.33 RCW, and to be responsible for its administration upon adoption;

(9) To perform such other duties as the council may determine by ordinance or resolution. [1967 ex.s. c 119 § 35A.13.080.]

35A.13.090 Creation of departments, offices, and employment—Compensation. On recommendation of the city manager or upon its own action, the council may create such departments, offices, and employments as it may find necessary or advisable and may determine the powers and duties of each department or office. Compensation of appointive officers and employees may be fixed by ordinance after recommendations are made by the city manager. The appointive officers shall include a city clerk and a chief of police or other law enforcement officer. Pursuant to recommendation of the city manager, the council shall make provision for obtaining legal counsel for the city, either by appointment of a city attorney on a full time or part time basis, or by any reasonable contractual arrangement for such professional services. [1967 ex.s. c 119 § 35A.13.090.]

35A.13.100 City manager—Department heads—Authority. The city manager may authorize the head of a department or office responsible to him to appoint and remove subordinates in such department or office. Any officer or employee who may be appointed by the city manager, or by the head of a department or office, except one who holds his position subject to civil service,

may be removed by the manager or other such appointing officer at any time subject to any applicable law, rule, or regulation relating to civil service. Subject to the provisions of RCW 35A.13.080 and any applicable civil service provisions, the decision of the manager or other appointing officer, shall be final and there shall be no appeal therefrom to any other office, body, or court whatsoever. [1967 ex.s. c 119 § 35A.13.100.]

35A.13.110 City manager—Appointment of subordinates—Qualifications—Terms. Appointments made by or under the authority of the city manager shall be on the basis of ability and training or experience of the appointees in the duties which they are to perform, and shall be in compliance with provisions of any merit system applicable to such city. Residence within the code city shall not be a requirement. All such appointments shall be without definite term. [1967 ex.s. c 119 § 35A.13.110.]

35A.13.120 City manager—Interference by council members. Neither the council, nor any of its committees or members, shall direct the appointment of any person to, or his removal from, office by the city manager or any of his subordinates. Except for the purpose of inquiry, the council and its members shall deal with the administrative service solely through the manager and neither the council nor any committee or member thereof shall give orders to any subordinate of the city manager, either publicly or privately. The provisions of this section do not prohibit the council, while in open session, from fully and freely discussing with the city manager anything pertaining to appointments and removals of city officers and employees and city affairs. [1967 ex.s. c 119 § 35A.13.120.]

35A.13.130 City manager—Removal—Resolution and notice. The city manager shall be appointed for an indefinite term and may be removed by a majority vote of the council. At least thirty days before the effective date of his removal, the city manager must be furnished with a formal statement in the form of a resolution passed by a majority vote of the city council stating the council's intention to remove him and the reasons therefor. Upon passage of the resolution stating the council's intention to remove the manager, the council by a similar vote may suspend him from duty, but his pay shall continue until his removal becomes effective. [1967 ex.s. c 119 § 35A.13.130.]

35A.13.140 City manager—Removal—Reply and hearing. The city manager may, within thirty days from the date of service upon him of a copy thereof, reply in writing to the resolution stating the council's intention to remove him. In the event no reply is timely filed, the resolution shall upon the thirty-first day from the date of such service, constitute the final resolution removing the manager and his services shall terminate upon that day. If a reply shall be timely filed with the city clerk, the council shall fix a time for a public hearing upon the question of the manager's removal and a final resolution removing the manager shall not be

adopted until a public hearing has been had. The action of the council in removing the manager shall be final. [1967 ex.s. c 119 § 35A.13.140.]

35A.13.150 City manager—Substitute. The council may designate a qualified administrative officer of the city or town to perform the duties of manager:

(1) Upon the adoption of the council-manager plan, pending the selection and appointment of a manager; or

(2) Upon the termination of the services of a manager, pending the selection and appointment of a new manager; or

(3) During the absence, disability, or suspension of the manager. [1967 ex.s. c 119 § 35A.13.150.]

35A.13.160 Oath and bond of officers. All provisions of RCW 35A.12.080 relating to oaths and bonds of officers, shall be applicable to code cities organized under this council-manager plan. [1967 ex.s. c 119 § 35A.13.160.]

35A.13.170 Council meetings—Quorum—Rules—Voting. All provisions of RCW 35A.12.110 and 35A.12.120, relating to council meetings, a quorum for transaction of business, rules and voting at council meetings, shall be applicable to code cities organized under this council-manager plan. [1967 ex.s. c 119 § 35A.13.170.]

35A.13.180 Adoption of codes by reference. Ordinances of cities organized under this chapter may adopt codes by reference as provided in RCW 35A.12.140. [1967 ex.s. c 119 § 35A.13.180.]

35A.13.190 Ordinances—Style—Requisites—Veto. The enacting clause of all ordinances shall be as follows: "The city council of the city of ----- do ordain as follows:" No ordinance shall contain more than one subject and that must be clearly expressed in its title.

No ordinance or any section or subsection thereof shall be revised or amended unless the new ordinance sets forth the revised ordinance or the amended section or subsection at full length.

No ordinance shall take effect until five days after the date of its publication unless otherwise provided by statute or charter, except that an ordinance passed by a majority plus one of the whole membership of the council, designated therein as a public emergency ordinance necessary for the protection of public health, public safety, public property or the public peace, may be made effective upon adoption, but such ordinance may not levy taxes, grant, renew, or extend a franchise, or authorize the borrowing of money. [1967 ex.s. c 119 § 35A.13.190.]

35A.13.200 Authentication, recording and publication of ordinances. Ordinances of code cities organized under this chapter shall be authenticated, recorded and published as provided in RCW 35A.12.150 and 35A.12.160. [1967 ex.s. c 119 § 35A.13.200.]

35A.13.210 Audit and allowance of demands against city. RCW 35A.12.170 shall apply to the audit and allowance of demands against the city. [1967 ex.s. c 119 § 35A.13.210.]

35A.13.220 Optional division of city into wards. A code city organized under this chapter may be divided into wards as provided in RCW 35A.12.180. [1967 ex.s. c 119 § 35A.13.220.]

35A.13.230 Powers of council. The council of any code city organized under the council-manager plan provided in this chapter shall have the powers and authority granted to legislative bodies of cities governed by this title as more particularly described in chapter 35A.11 RCW, except insofar as such power and authority is vested in the city manager. [1967 ex.s. c 119 § 35A.13.230.]

Chapter 35A.14 ANNEXATION BY CODE CITIES

Sections

- 35A.14.010 Authority for annexation—Consent of county commissioners for certain property.
- 35A.14.015 Election method—Resolution for election—Contents of resolution.
- 35A.14.020 Election method—Petition for election—Contents of petition—Filing and approval—Costs.
- 35A.14.030 Filing of petition as approved by city.
- 35A.14.040 Election method—Hearing by review board—Notice.
- 35A.14.050 Decision of the county annexation review board—Filing—Date for election.
- 35A.14.060 Election method—Conduct of election.
- 35A.14.070 Election method—Notice of election.
- 35A.14.080 Election method—Vote required for annexation—Proposition for assumption of indebtedness—Certification.
- 35A.14.090 Election method—Ordinance providing for annexation, assumption of indebtedness.
- 35A.14.100 Election method—Effective date of annexation.
- 35A.14.110 Election method is alternative.
- 35A.14.120 Direct petition method—Notice to legislative body—Meeting—Assumption of indebtedness—Proposed zoning regulation.
- 35A.14.130 Direct petition method—Notice of hearing.
- 35A.14.140 Direct petition method—Ordinance providing for annexation.
- 35A.14.150 Direct petition method—Effective date of annexation.
- 35A.14.160 Annexation review board—Composition.
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- 35A.14.190 Organization of annexation review board—Rules—Journal—Authority.
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- 35A.14.295 Annexation of unincorporated island of territory within code city—Resolution—Notice of hearing.
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- 35A.14.299 Annexation of unincorporated island of territory within code city—Referendum—Effective date if no referendum.
- 35A.14.300 Annexation for municipal purposes.
- 35A.14.310 Annexation of federal areas.

- 35A.14.320 Annexation of federal areas—Provisions of ordinance—Authority over annexed territory.
- 35A.14.330 Proposed zoning regulation—Purposes of regulations and restrictions.
- 35A.14.340 Notice and hearing—Filings and recordings.
- 35A.14.380 Ownership of assets of fire protection district—When at least sixty percent of assessed valuation is annexed or incorporated in code city.
- 35A.14.400 Ownership of assets of fire protection district—When less than sixty percent of assessed valuation is annexed or incorporated in code city.
- 35A.14.500 Outstanding indebtedness not affected.
- 35A.14.700 Determining population of annexed territory—Certificate—As basis for allocation of state funds—Revised certificate.
- 35A.14.801 Road district taxes collected in annexed territory—Disposition.
- 35A.14.802 Road district taxes collected in annexed territory—Distributions to be in accordance with RCW 35A.03-.151, 35A.14.801.
- 35A.14.900 Cancellation, acquisition of franchise or permit for operation of public service business in territory annexed.

Resolution initiating election may provide for inclusion of annexed area into community municipal corporation: RCW 35.13.015.

Water, sewer, or fire districts, annexation of: Chapter 35.13A RCW.

35A.14.010 Authority for annexation—Consent of county commissioners for certain property. Any portion of a county not incorporated as part of a city or town but lying contiguous to a code city may become a part of the charter code city or noncharter code city by annexation: *Provided*, That property owned by a county, and used for the purpose of an agricultural fair as provided in chapter 15.76 RCW or chapter 36.37 RCW shall not be subject to annexation without the consent of the majority of the board of county commissioners. An area proposed to be annexed to a charter code city or noncharter code city shall be deemed contiguous thereto even though separated by water or tide or shore lands and, upon annexation of such area, any such intervening water and/or tide or shore lands shall become a part of such annexing city. [1967 ex.s. c 119 § 35A.14.010.]

35A.14.015 Election method—Resolution for election—Contents of resolution. When the legislative body of a charter code city or noncharter code city shall determine that the best interests and general welfare of such city would be served by the annexation of unincorporated territory contiguous to such city, such legislative body may, by resolution, call for an election to be held to submit to the voters of such territory the proposal for annexation. The resolution shall, subject to RCW 35A-.03.180, describe the boundaries of the area to be annexed, state the number of voters residing therein as nearly as may be, and shall provide that said city will pay the cost of the annexation election. The resolution may require that there also be submitted to the electorate of the territory sought to be annexed a proposition that all property within the area annexed shall, upon annexation, be assessed and taxed at the same rate and on the same basis as the property of such annexing city is assessed and taxed to pay for any then outstanding indebtedness of the city to which said area is annexed, contracted prior to, or existing at, the date of annexation. Whenever such city has prepared and filed a proposed zoning regulation for the area to be annexed as provided for in RCW 35A.14.330 and 35A.14.340, the

resolution initiating the election may also provide for the simultaneous adoption of the proposed zoning regulation upon approval of annexation by the electorate of the area to be annexed. A certified copy of the resolution shall be filed with the board of county commissioners of the county in which said territory is located. A certified copy of the resolution shall be filed with the boundary review board as provided for in chapter 189, Laws of 1967 [chapter 36.93 RCW] or the county annexation review board established by RCW 35A.14.200, unless such annexation proposal is within the provisions of RCW 35A.14.220. [1975 1st ex.s. c 220 § 14; 1971 ex.s. c 251 § 10; 1967 ex.s. c 119 § 35A.14.015.]

Legislative finding, intent—1975 1st ex.s. c 220: See note following RCW 35.02.170.

Severability—1971 ex.s. c 251: RCW 35A.90.050.

35A.14.020 Election method—Petition for election—Contents of petition—Filing and approval—Costs. When a petition which is sufficient under the rules set forth in RCW 35A.01.040 is filed with the legislative body of a code city, calling for an election to vote upon the annexation of unincorporated territory contiguous to such city, describing the boundaries of the area proposed to be annexed, stating the number of voters therein as nearly as may be, and signed by qualified electors resident in such territory equal in number to ten percent of the votes cast at the last state general election therein, the city clerk shall file with the legislative body thereof a certificate of sufficiency of the petition. Within sixty days thereafter, the legislative body shall, by resolution, notify the petitioners, either by mail or by publication in the same manner notice of hearing is required by RCW 35A.14.040 to be published, of its approval or rejection of the proposed action. In approving the proposed action, the legislative body may require that there also be submitted to the electorate of the territory to be annexed, a proposition that all property within the area to be annexed shall, upon annexation be assessed and taxed at the same rate and on the same basis as the property of such annexing city is assessed and taxed to pay for any then outstanding indebtedness of the city to which said area is annexed, contracted prior to, or existing at, the date of annexation. Whenever the legislative body has prepared and filed a proposed zoning regulation for the area to be annexed as provided for in RCW 35A.14.330 and 35A.14.340, the legislative body in approving the proposed action, may require that the proposed zoning regulation be simultaneously adopted upon the approval of annexation by the electorate of the area to be annexed. The approval of the legislative body shall be a condition precedent to further proceedings upon the petition. The costs of conducting the election called for in the petition shall be a charge against the city concerned. [1967 ex.s. c 119 § 35A.14.020.]

35A.14.030 Filing of petition as approved by city. Upon approval of the petition for election by the legislative body of the code city to which such territory is proposed to be annexed, the petition shall be filed with the board of county commissioners for the county in which such territory is located, along with a statement, in the

form required by the city, of the provisions, if any there be, relating to assumption of debt by the owners of property of the area proposed to be annexed, and/or the simultaneous adoption of a proposed zoning regulation for the area. A copy of the petition and the statement, if any, shall also be filed with the boundary review board as provided for in chapter 189, Laws of 1967 [chapter 36.93 RCW] or the county annexation review board established by RCW 35A.14.160, unless such proposed annexation is within the provisions of RCW 35A.14.220. [1971 ex.s. c 251 § 6; 1967 ex.s. c 119 § 35A.14.030.]

Severability—1971 ex.s. c 251: RCW 35A.90.050.

35A.14.040 Election method—Hearing by review board—Notice. Within ten days after receipt of a petition or resolution calling for an election on the question of annexation, the county annexation review board shall meet and, if the proposed annexation complies with the requirements of law, shall fix a date for a hearing thereon, to be held not less than fifteen days nor more than thirty days thereafter, of which hearing the city must give notice by publication at least once a week for two weeks prior thereto in one or more newspapers of general circulation within the city and in one or more newspapers of general circulation within the area proposed to be annexed. The hearing shall be held within the city to which the territory is proposed to be annexed, at a time and place to be designated by the board. Upon the day fixed, the board shall conduct a hearing upon the petition or resolution, at which hearing a representative of the city shall make a brief presentation to the board in explanation of the annexation and the benefits to be derived therefrom, and the petitioners and any resident of the city or the area proposed to be annexed shall be afforded a reasonable opportunity to be heard. The hearing may be adjourned from time to time in the board's discretion, not to exceed thirty days in all from the commencement of the hearing. [1967 ex.s. c 119 § 35A.14.040.]

35A.14.050 Decision of the county annexation review board—Filing—Date for election. After consideration of the proposed annexation as provided in RCW 35A.14.200, the county annexation review board, within thirty days after the final day of hearing, shall take one of the following actions:

(1) Approval of the proposal as submitted.

(2) Subject to RCW 35A.03.180, modification of the proposal by adjusting boundaries to include or exclude territory; except that any such inclusion of territory shall not increase the total area of territory proposed for annexation by an amount exceeding the original proposal by more than five percent: *Provided*, That the county annexation review board shall not adjust boundaries to include territory not included in the original proposal without first affording to residents and property owners of the area affected by such adjustment of boundaries an opportunity to be heard as to the proposal.

(3) Disapproval of the proposal.

The written decision of the county annexation review board shall be filed with the board of county commissioners and with the legislative body of the city concerned. If the annexation proposal is modified by the county annexation review board, such modification shall be fully set forth in the written decision. If the decision of the boundary review board or the county annexation review board is favorable to the annexation proposal, or the proposal as modified by the review board, the board of county commissioners, at its next regular meeting if to be held within thirty days after receipt of the decision of the boundary review board or the county annexation review board, or at a special meeting to be held within that period, shall set a date for submission of such annexation proposal, with any modifications made by the review board, to the voters of the territory proposed to be annexed. The question shall be submitted at a general election if one is to be held within ninety days, or at a special election called for that purpose not less than forty-five days nor more than ninety days after the filing of the decision of the review board with the board of county commissioners. If the boundary review board or the county annexation review board disapproves the annexation proposal, no further action shall be taken thereon, and no proposal for annexation of the same territory, or substantially the same as determined by the board, shall be initiated or considered for twelve months thereafter. [1975 1st ex.s. c 220 § 15; 1971 ex.s. c 251 § 7; 1967 ex.s. c 119 § 35A.14.050.]

Legislative finding, intent—1975 1st ex.s. c 220: See note following RCW 35.02.170.

Severability—1971 ex.s. c 251: RCW 35A.90.050.

35A.14.060 Election method—Conduct of election. An annexation election shall be held in accordance with chapter 35A.29 RCW of this title and only registered voters who have resided in the area proposed to be annexed for ninety days immediately preceding the election shall be allowed to vote therein. [1967 ex.s. c 119 § 35A.14.060.]

35A.14.070 Election method—Notice of election. Notice of an annexation election shall particularly describe the boundaries of the area proposed to be annexed, as the same may have been modified by the boundary review board or the county annexation review board, state the objects of the election as prayed in the petition or as stated in the resolution and require the voters to cast ballots which shall contain the words "For Annexation" or "Against Annexation" or words equivalent thereto, or contain the words "For Annexation and Adoption of Proposed Zoning Regulation", and "Against Annexation and Adoption of Proposed Zoning Regulation", or words equivalent thereto in case the simultaneous adoption of a proposed zoning regulation is proposed, and in case the assumption of indebtedness is proposed, shall contain as a separate proposition, the words "For assumption of indebtedness" and "Against assumption of indebtedness" or words equivalent thereto. The notice shall be posted for at least two weeks prior to the date of election in four public places within the area proposed to be annexed and published at least once a

week for two weeks prior to the date of election in a newspaper of general circulation within the limits of the territory proposed to be annexed. Such notice shall be in addition to the notice required by RCW 35A.29.140. [1967 ex.s. c 119 § 35A.14.070.]

35A.14.080 Election method—Vote required for annexation—Proposition for assumption of indebtedness—Certification. On the Monday next succeeding the annexation election, the county canvassing board shall proceed to canvass the returns thereof and shall submit the statement of canvass to the board of county commissioners.

The proposition for or against annexation or for or against annexation and adoption of the proposed zoning regulation, as the case may be, shall be deemed approved if a majority of the votes cast on that proposition are cast in favor of annexation or in favor of annexation and adoption of the proposed zoning regulation, as the case may be. If a proposition for or against assumption of indebtedness was submitted to the electorate, it shall be deemed approved if a majority of at least three-fifths of the electors of the territory proposed to be annexed voting on such proposition vote in favor thereof, and the number of persons voting on such proposition constitutes not less than forty percent of the total number of votes cast in such territory at the last preceding general election. If either or both propositions were approved by the electors, the board of county commissioners shall enter a finding to that effect on its minutes, a certified copy of which shall be forthwith transmitted to and filed with the clerk of the city to which annexation is proposed, together with a certified abstract of the vote showing the whole number who voted at the election, the number of votes cast for annexation and the number cast against annexation or for annexation and adoption of the proposed zoning regulation and the number cast against annexation and adoption of the proposed zoning regulation, as the case may be, and if a proposition for assumption of indebtedness was submitted to the electorate, the abstract shall include the number of votes cast for assumption of indebtedness and the number of votes cast against assumption of indebtedness, together with a statement of the total number of votes cast in such territory at the last preceding general election. [1967 ex.s. c 119 § 35A.14.080.]

35A.14.090 Election method—Ordinance providing for annexation, assumption of indebtedness. Upon filing of the certified copy of the finding of the board of county commissioners, the clerk shall transmit it to the legislative body of the city at the next regular meeting or as soon thereafter as practicable. If only a proposition relating to annexation or to annexation and adoption of a proposed zoning regulation was submitted to the voters and such proposition was approved, the legislative body shall adopt an ordinance providing for the annexation or adopt ordinances providing for the annexation and adoption of a proposed zoning regulation, as the case may be. If a proposition for annexation or for annexation and adoption of a proposed zoning regulation, and a proposition for assumption of indebtedness were both

submitted, and both were approved, the legislative body shall adopt an ordinance providing for the annexation or for annexation and adoption of the proposed zoning regulation, including the assumption of indebtedness. If both propositions were submitted and only the annexation or the annexation and adoption of the proposed zoning regulation was approved, the legislative body may adopt an ordinance providing for the annexation or adopt ordinances providing for the annexation and adoption of the proposed zoning regulation, as the case may be, or the legislative body may refuse to annex when a proposal for assumption of indebtedness has been disapproved by the voters. [1967 ex.s. c 119 § 35A.14.090.]

35A.14.100 Election method—Effective date of annexation. Upon the date fixed in the ordinance of annexation, the area annexed shall become a part of the city. Upon the date fixed in the ordinances of annexation and adoption of the proposed zoning regulation, the area annexed shall become a part of the city, and property in the annexed area shall be subject to the proposed zoning regulation, as prepared and filed as provided for in RCW 35A.14.330 and 35A.14.340. All property within the territory hereafter annexed shall, if the proposition approved by the people so provides be assessed and taxed at the same rate and on the same basis as the property of such annexing city is assessed and taxed to pay for any then outstanding indebtedness of the city or town to which said area is annexed, contracted prior to, or existing at, the date of annexation. [1967 ex.s. c 119 § 35A.14.100.]

35A.14.110 Election method is alternative. The method of annexation provided for in RCW 35A.14.015 through 35A.14.100 is an alternative method and is additional to the other methods provided for in this chapter. [1967 ex.s. c 119 § 35A.14.110.]

35A.14.120 Direct petition method—Notice to legislative body—Meeting—Assumption of indebtedness—Proposed zoning regulation. Proceedings for initiating annexation of unincorporated territory to a charter code city or noncharter code city may be commenced by the filing of a petition of property owners of the territory proposed to be annexed, in the following manner. This method of annexation shall be alternative to other methods provided in this chapter. Prior to the circulation of a petition for annexation, the initiating party or parties, who shall be the owners of not less than ten percent in value, according to the assessed valuation for general taxation of the property for which annexation is sought, shall notify the legislative body of the code city in writing of their intention to commence annexation proceedings. The legislative body shall set a date, not later than sixty days after the filing of the request, for a meeting with the initiating parties to determine whether the code city will accept the proposed annexation, whether it shall require the simultaneous adoption of a proposed zoning regulation, if such a proposal has been prepared and filed for the area to be

annexed as provided for in RCW 35A.14.330 and 35A.14.340, and whether it shall require the assumption of existing city indebtedness by the area to be annexed. If the legislative body requires the assumption of indebtedness and/or the adoption of a proposed zoning regulation, it shall record this action in its minutes and the petition for annexation shall be so drawn as to clearly indicate these facts. Approval by the legislative body shall be a condition precedent to circulation of the petition. There shall be no appeal from the decision of the legislative body. A petition for annexation of an area contiguous to a code city may be filed with the legislative body of the municipality to which annexation is desired. It must be signed by the owners, as defined by RCW 35A.01.040(1)(a) through (d), of not less than seventy-five percent in value, according to the assessed valuation for general taxation of the property for which annexation is petitioned. Such petition shall set forth a description of the property according to government legal subdivisions or legal plats and shall be accompanied by a map which outlines the boundaries of the property sought to be annexed. If the legislative body has required the assumption of city indebtedness by the area annexed or the adoption of a proposed zoning regulation, these facts, together with a quotation of the minute entry of such requirement, or requirements, shall also be set forth in the petition. [1967 ex.s. c 119 § 35A.14.120.]

35A.14.130 Direct petition method—Notice of hearing. Whenever such a petition for annexation is filed with the legislative body of a code city, which petition meets the requirements herein specified and is sufficient according to the rules set forth in RCW 35A.01.040, the legislative body may entertain the same, fix a date for a public hearing thereon and cause notice of the hearing to be published in one or more issues of a newspaper of general circulation in the city. The notice shall also be posted in three public places within the territory proposed for annexation, and shall specify the time and place of hearing and invite interested persons to appear and voice approval or disapproval of the annexation. [1967 ex.s. c 119 § 35A.14.130.]

35A.14.140 Direct petition method—Ordinance providing for annexation. Following the hearing, if the legislative body determines to effect the annexation, they shall do so by ordinance. Subject to RCW 35A.03.180, the ordinance may annex all or any portion of the proposed area but may not include in the annexation any property not described in the petition. Upon passage of the annexation ordinance a certified copy shall be filed with the board of county commissioners of the county in which the annexed property is located. [1975 1st ex.s. c 220 § 16; 1967 ex.s. c 119 § 35A.14.140.]

Legislative finding, intent—1975 1st ex.s. c 220: See note following RCW 35.02.170.

35A.14.150 Direct petition method—Effective date of annexation. Upon the date fixed in the ordinance of annexation the area annexed shall become part of the city. All property within the territory hereafter annexed

shall, if the annexation petition so provided, be assessed and taxed at the same rate and on the same basis as the property of such annexing code city is assessed and taxed to pay for any then outstanding indebtedness of the city to which said area is annexed, contracted prior to, or existing at, the date of annexation. If the annexation petition so provided, all property in the annexed area shall be subject to and a part of the proposed zoning regulation as prepared and filed as provided for in RCW 35A.14.330 and 35A.14.340. [1967 ex.s. c 119 § 35A.14.150.]

35A.14.160 Annexation review board—Composition. There is hereby established in each county of the state, other than counties having a boundary review board as provided for in chapter 189, Laws of 1967 [chapter 36.93 RCW], a board to be known as the "annexation review board for the county of ----- (naming the county)", which shall be charged with the duty of reviewing proposals for annexation of unincorporated territory to charter code cities and noncharter code cities within its respective county; except that proposals within the provisions of RCW 35A.14.220 shall not be subject to the jurisdiction of such board.

In all counties in which a boundary review board is established pursuant to chapter 189, Laws of 1967 [chapter 36.93 RCW] review of proposals for annexation of unincorporated territory to charter code cities and noncharter code cities within such counties shall be subject to chapter 189, Laws of 1967 [chapter 36.93 RCW]. Whenever any county establishes a boundary review board pursuant to chapter 189, Laws of 1967 [chapter 36.93 RCW] the provisions of this act relating to annexation review boards shall not be applicable.

Except as provided above in this section, whenever one or more cities of a county shall have elected to be governed by this title by becoming a charter code city or noncharter code city, the governor shall, within forty-five days thereafter, appoint an annexation review board for such county consisting of five members appointed in the following manner:

Two members shall be selected independently by the governor. Three members shall be selected by the governor from the following sources: (1) One member shall be appointed from nominees of the individual members of the board of county commissioners; (2) one member shall be appointed from nominees of the individual mayors of charter code cities within such county; (3) one member shall be appointed from nominees of the individual mayors of noncharter code cities within such county.

Each source shall nominate at least two persons for an available position. In the event there are less than two nominees for any position, the governor may appoint the member for that position independently. If, at the time of appointment, there are within the county no cities of one of the classes named above as a nominating source, a position which would otherwise have been filled by nomination from such source shall be filled by independent appointment of the governor.

In making appointments independently and in making appointments from among nominees, the governor shall

strive to appoint persons familiar with municipal government and administration by experience and/or training. [1971 ex.s. c 251 § 8; 1967 ex.s. c 119 § 35A.14.160.]

Severability—1971 ex.s. c 251: RCW 35A.90.050.

35A.14.170 Time for filing nominations—Vacancies. Upon the initial formation of a county annexation review board the governor shall give written notice of such formation to all the nominating sources designated therein and nominations must be filed with the office of the governor within fifteen days after receipt of such notice. Nominations to fill vacancies caused by expiration of terms must be filed at least thirty days preceding the expiration of the terms. When vacancies occur in the membership of the board, the governor shall solicit nominations from the appropriate source and if none are filed within fifteen days thereafter, the governor shall fill the vacancy by an independent appointment. [1967 ex.s. c 119 § 35A.14.170.]

35A.14.180 Terms of members. The members of the annexation review board shall be appointed for five year terms. Upon the initial formation of a board, one member appointed by the governor independently shall be appointed for a four year term, the member appointed from among nominees of the board of county commissioners shall be appointed for a three year term, the member appointed from among nominees of the mayors of noncharter code cities shall be appointed for a three year term, and the remaining members shall be appointed for five year terms. Thereafter board members shall be appointed for five year terms as the terms of their predecessors expire. Members shall be eligible for reappointment to the board for successive terms. [1967 ex.s. c 119 § 35A.14.180.]

35A.14.190 Organization of annexation review board—Rules—Journal—Authority. The members of each annexation review board shall elect from among the members a chairman and a vice chairman, and may employ a nonmember as chief clerk, who shall be the secretary of the board. The board shall determine its own rules and order of business, shall provide by resolution for the time and manner of holding regular or special meetings, and shall keep a journal of its proceedings which shall be a public record. A majority of all the members shall constitute a quorum for the transaction of business.

The chief clerk of the board, the chairman, or the vice chairman shall have the power to administer oaths and affirmations, certify to all official acts, issue subpoenas to any public officer or employee ordering him to testify before the board and produce public records, papers, books or documents. The chief clerk, the chairman or the vice chairman may invoke the aid of any court of competent jurisdiction to carry out such powers.

The planning departments of the county, other counties, and any city, and any state or regional planning agency shall furnish such information to the board at its request as may be reasonably necessary for the performance of its duties.

At the request of the board, the state attorney general shall provide counsel for the board. [1967 ex.s. c 119 § 35A.14.190.]

35A.14.200 Determination by county annexation review board—Factors considered—Filing of findings and decision. The jurisdiction of the county annexation review board shall be invoked upon the filing with the board of a resolution for an annexation election as provided in RCW 35A.14.015, or of a petition for an annexation election as provided in RCW 35A.14.030, and the board shall proceed to hold a hearing, upon notice, all as provided in RCW 35A.14.040. A verbatim record shall be made of all testimony presented at the hearing and upon request and payment of the reasonable costs thereof, a copy of the transcript of such testimony shall be provided to any person or governmental unit. The board shall make and file its decision, all as provided in RCW 35A.14.050, insofar as said section is applicable to the matter before the board. Dissenting members of the board shall have the right to have their written dissents included as part of the decision. In reaching a decision on an annexation proposal, the county annexation review board shall consider the factors affecting such proposal, which shall include but not be limited to the following:

(1) The immediate and prospective population of the area proposed to be annexed, the configuration of the area, land use and land uses, comprehensive use plans and zoning, per capita assessed valuation, topography, natural boundaries and drainage basins, the likelihood of significant growth in the area and in adjacent incorporated and unincorporated areas during the next ten years, location and coordination of community facilities and services; and

(2) The need for municipal services and the available municipal services, effect of ordinances and governmental codes, regulations and resolutions on existing uses, present cost and adequacy of governmental services and controls, the probable future needs for such services and controls, the probable effect of the annexation proposal or alternatives on cost and adequacy of services and controls in area and adjacent area, the effect on the finances, debt structure, and contractual obligations and rights of all affected governmental units; and

(3) The effect of the annexation proposal or alternatives on adjacent areas, on mutual economic and social interests, and on the local governmental structure of the county.

The county annexation review board shall determine whether the proposed annexation would be in the public interest and for the public welfare. The decision of the board shall be accompanied by the findings of the board. Such findings need not include specific data on all the factors listed in this section, but shall indicate that all such factors were considered. [1971 ex.s. c 251 § 11; 1967 ex.s. c 119 § 35A.14.200.]

Severability—1971 ex.s. c 251: RCW 35A.90.050.

35A.14.210 Court review of decisions of the county annexation review board. Decisions of the county annexation review board shall be final unless within ten days

from the date of said action a governmental unit affected by the decision or any person owning real property in or residing in the area proposed to be annexed files in the superior court a notice of appeal. The filing of such notice of appeal within such time limit shall stay the effective date of the decision of the board until such time as the appeal shall have been adjudicated or withdrawn. On appeal the superior court shall not take any evidence other than that contained in the record of the hearing before the board. The superior court may affirm the decision of the county annexation review board or remand the case for further proceedings; or the court may reverse the decision and remand if it finds that substantial rights have been prejudiced because the findings, conclusions, or decision of the board are:

- (1) In violation of constitutional provisions; or
- (2) In excess of the statutory authority or jurisdiction of the board; or
- (3) Made upon unlawful procedure; or
- (4) Affected by other error of law; or
- (5) Unsupported by material and substantial evidence in view of the entire record as submitted; or
- (6) Arbitrary or capricious. [1971 ex.s. c 251 § 12; 1967 ex.s. c 119 § 35A.14.210.]

Severability—1971 ex.s. c 251: RCW 35A.90.050.

35A.14.220 When review procedure may be dispensed with. Annexations under the provisions of RCW 35A.14.295, 35A.14.297, 35A.14.300, and 35A.14.310 shall not be subject to review by the annexation review board: *Provided*, That in class AA, class A and first class counties in which a boundary review board is established under chapter 36.93 RCW all annexations shall be subject to review except as provided for in RCW 36.93.110. When the area proposed for annexation in a petition or resolution, initiated and filed under any of the methods of initiating annexation authorized by this chapter, is less than fifty acres or less than two million dollars in assessed valuation, review procedures shall not be required as to such annexation proposal, except as provided in chapter 36.93 RCW in those counties with a review board established pursuant to chapter 36.93 RCW: *Provided*, That when an annexation proposal is initiated by the direct petition method authorized by section 35A.14.120, review procedures shall not be required without regard to acreage or assessed valuation, except as provided in chapter 36.93 RCW in those counties with a boundary review board established pursuant to chapter 36.93 RCW. [1973 1st ex.s. c 195 § 26; 1967 ex.s. c 119 § 35A.14.220.]

Severability—**Effective dates and termination dates**—**Construction**—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

35A.14.230 Pending disposition of a petition or resolution for annexation no other proposal for same area may be acted upon. After the filing of any petition or resolution for annexation or for an annexation election with the board of county commissioners, the boundary review board or the county annexation review board for the county or the legislative body of a code city and pending its final disposition as provided in this chapter,

no other petition or resolution, or petition for incorporation, which embraces any of the territory included therein shall be acted upon by any public official or body that might otherwise be empowered to receive or act upon such a petition or resolution. [1967 ex.s. c 119 § 35A.14.230.]

35A.14.295 Annexation of unincorporated island of territory within code city—**Resolution**—**Notice of hearing**. When there is, within a code city, unincorporated territory containing less than one hundred acres and having at least eighty percent of the boundaries of such area contiguous to the code city, the legislative body may resolve to annex such territory to the code city. The resolution shall describe the boundaries of the area to be annexed, state the number of voters residing therein as nearly as may be, and set a date for a public hearing on such resolution for annexation. Notice of the hearing shall be given by publication of the resolution at least once a week for two weeks prior to the date of the hearing, in one or more newspapers of general circulation within the code city and one or more newspapers of general circulation within the area to be annexed. [1967 ex.s. c 119 § 35A.14.295.]

35A.14.297 Ordinance providing for annexation of unincorporated island of territory—**Referendum**. On the date set for hearing as provided in RCW 35A.14.295, residents or property owners of the area included in the resolution for annexation shall be afforded an opportunity to be heard. The legislative body may provide by ordinance for annexation of the territory described in the resolution, but the effective date of the ordinance shall be not less than forty-five days after the passage thereof. The legislative body shall cause notice of the proposed effective date of the annexation, together with a description of the property to be annexed, to be published at least once each week for two weeks subsequent to passage of the ordinance, in one or more newspapers of general circulation within the city and in one or more newspapers of general circulation within the area to be annexed. If the annexation ordinance provides for assumption of indebtedness or adoption of a proposed zoning regulation, the notice shall include a statement of such requirements. Such annexation ordinance shall be subject to referendum for forty-five days after the passage thereof. Upon the filing of a timely and sufficient referendum petition as provided in RCW 35A.14.299 below, a referendum election shall be held as provided in RCW 35A.14.299, and the annexation shall be deemed approved by the voters unless a majority of the votes cast on the proposition are in opposition thereto. After the expiration of the forty-fifth day from, but excluding the date of passage of the annexation ordinance, if no timely and sufficient referendum petition has been filed, as provided by RCW 35A.14.299 below, the area annexed shall become a part of the code city upon the date fixed in the ordinance of annexation. [1967 ex.s. c 119 § 35A.14.297.]

35A.14.299 Annexation of unincorporated island of territory within code city—**Referendum**—**Effective**

date if no referendum. Such annexation ordinance as provided for in RCW 35A.14.297 shall be subject to referendum for forty-five days after the passage thereof. Upon the filing of a timely and sufficient referendum petition with the legislative body, signed by qualified electors in number equal to not less than ten percent of the votes cast in the last general state election in the area to be annexed, the question of annexation shall be submitted to the voters of such area in a general election if one is to be held within ninety days or at a special election called for that purpose not less than forty-five days nor more than ninety days after the filing of the referendum petition. Notice of such election shall be given as provided in RCW 35A.14.070 and the election shall be conducted as provided in RCW 35A.14.060. The annexation shall be deemed approved by the voters unless a majority of the votes cast on the proposition are in opposition thereto.

After the expiration of the forty-fifth day from but excluding the date of passage of the annexation ordinance, if no timely and sufficient referendum petition has been filed, the area annexed shall become a part of the code city upon the date fixed in the ordinance of annexation. From and after such date, if the ordinance so provided, property in the annexed area shall be subject to the proposed zoning regulation prepared and filed for such area as provided in RCW 35A.14.330 and 35A.14.340. If the ordinance so provided, all property within the area annexed shall be assessed and taxed at the same rate and on the same basis as the property of such annexing code city is assessed and taxed to pay for any then outstanding indebtedness of such city contracted prior to, or existing at, the date of annexation. [1967 ex.s. c 119 § 35A.14.299.]

35A.14.300 Annexation for municipal purposes. Legislative bodies of code cities may by a majority vote annex territory outside the limits of such city whether contiguous or noncontiguous for any municipal purpose. [1967 ex.s. c 119 § 35A.14.300.]

35A.14.310 Annexation of federal areas. Any unincorporated area contiguous to a code city may be annexed thereto by an ordinance accepting a gift, grant, or lease from the government of the United States of the right to occupy, control, improve it or sublet it for commercial, manufacturing, or industrial purposes: *Provided*, That this right of annexation shall not apply to any territory more than four miles from the corporate limits existing before such annexation. [1967 ex.s. c 119 § 35A.14.310.]

35A.14.320 Annexation of federal areas—Provisions of ordinance—Authority over annexed territory. In the ordinance annexing territory pursuant to a gift, grant, or lease from the government of the United States, a code city may include such tide and shorelands as may be necessary or convenient for the use thereof, and may include in the ordinance an acceptance of the terms and conditions attached to the gift, grant, or lease. A code city may cause territory annexed pursuant to a gift, grant, or lease of the government of the United

States to be surveyed, subdivided and platted into lots, blocks, or tracts and lay out, reserve for public use, and improve streets, roads, alleys, slips, and other public places. It may grant or sublet any lot, block, or tract therein for commercial, manufacturing, or industrial purposes and reserve, receive and collect rents therefrom. It may expend the rents received therefrom in making and maintaining public improvements therein, and if any surplus remains at the end of any fiscal year, may transfer it to the city's current expense fund. [1967 ex.s. c 119 § 35A.14.320.]

35A.14.330 Proposed zoning regulation—Purposes of regulations and restrictions. The legislative body of any code city acting through a planning agency created pursuant to chapter 35A.63 RCW, or pursuant to its granted powers, may prepare a proposed zoning regulation to become effective upon the annexation of any area which might reasonably be expected to be annexed by the code city at any future time. Such proposed zoning regulation, to the extent deemed reasonably necessary by the legislative body to be in the interest of health, safety, morals and the general welfare may provide, among other things, for:

(1) The regulation and restriction within the area to be annexed of the location and the use of buildings, structures and land for residence, trade, industrial and other purposes; the height, number of stories, size, construction and design of buildings and other structures; the size of yards, courts and other open spaces on the lot or tract; the density of population; the set-back of buildings and structures along highways, parks or public water frontages; and the subdivision and development of land;

(2) The division of the area to be annexed into districts or zones of any size or shape, and within such districts or zones regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land;

(3) The appointment of a board of adjustment, to make, in appropriate cases and subject to appropriate conditions and safeguards established by ordinance, special exceptions in harmony with the general purposes and intent of the proposed zoning regulation; and

(4) The time interval following an annexation during which the ordinance or resolution adopting any such proposed regulation, or any part thereof, must remain in effect before it may be amended, supplemented or modified by subsequent ordinance or resolution adopted by the annexing city or town.

All such regulations and restrictions shall be designed, among other things, to encourage the most appropriate use of land throughout the area to be annexed; 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 facilitate

the adequate provision of transportation, water, sewerage and other public uses and requirements. [1967 ex.s. c 119 § 35A.14.330.]

35A.14.340 Notice and hearing—Filings and recordings. The legislative body of the code city shall hold two or more public hearings, to be held at least thirty days apart, upon the proposed zoning regulation, giving notice of the time and place thereof by publication in a newspaper of general circulation in the annexing city and the area to be annexed. A copy of the ordinance or resolution adopting or embodying such proposed zoning regulation or any part thereof or any amendment thereto, duly certified as a true copy by the clerk of the annexing city, shall be filed with the county auditor. A like certified copy of any map or plat referred to or adopted by the ordinance or resolution shall likewise be filed with the county auditor. The auditor shall record the ordinance or resolution and keep on file the map or plat. [1967 ex.s. c 119 § 35A.14.340.]

Annexation of water, sewer, and fire districts: Chapter 35.13A RCW.

35A.14.380 Ownership of assets of fire protection district—When at least sixty percent of assessed valuation is annexed or incorporated in code city. If a portion of a fire protection district including at least sixty percent of the assessed valuation of the real property of the district is annexed to or incorporated into a code city, ownership of all of the assets of the district shall be vested in the code city, upon payment in cash, properties or contracts for fire protection services to the district within one year, of a percentage of the value of said assets equal to the percentage of the value of the real property in the entire district remaining outside the incorporated or annexed area. [1967 ex.s. c 119 § 35A.14.380.]

35A.14.400 Ownership of assets of fire protection district—When less than sixty percent of assessed valuation is annexed or incorporated in code city. If a portion of a fire protection district including less than sixty percent of the assessed value of the real property of the district is annexed to or incorporated into a code city, the ownership of all assets of the district shall remain in the district and the district shall pay to the code city within one year or within such period of time as the district continues to collect taxes in such incorporated or annexed areas, in cash, properties or contracts for fire protection services, a percentage of the value of said assets equal to the percentage of the value of the real property in the entire district lying within the area so incorporated or annexed: *Provided*, That if less than five percent of the area of the district is affected, no payment shall be made to the code city. The fire protection district shall provide fire protection to the incorporated or annexed area for such period as the district continues to collect taxes levied in such annexed or incorporated area. [1967 ex.s. c 119 § 35A.14.400.]

35A.14.500 Outstanding indebtedness not affected. When any portion of a fire protection district is annexed by or incorporated into a code city, any outstanding

indebtedness, bonded or otherwise, shall remain an obligation of the taxable property annexed or incorporated as if the annexation or incorporation had not occurred. [1967 ex.s. c 119 § 35A.14.500.]

35A.14.700 Determining population of annexed territory—Certificate—As basis for allocation of state funds—Revised certificate. Whenever any territory is annexed to a code city, a certificate as hereinafter provided shall be submitted in triplicate to the office of program planning and fiscal management, hereinafter in this section referred to as "the office", within thirty days of the effective date of annexation specified in the relevant ordinance. After approval of the certificate, the office shall retain the original copy in its files, and transmit the second copy to the department of highways and return the third copy to the code city. Such certificates shall be in such form and contain such information as shall be prescribed by the office. A copy of the complete ordinance containing a legal description and a map showing specifically the boundaries of the annexed territory shall be attached to each of the three copies of the certificate. The certificate shall be signed by the mayor and attested by the city clerk. Upon request, the office shall furnish certification forms to any code city.

Upon approval of the annexation certificate, the office shall forward to each state official or department responsible for making allocations or payments to cities or towns, a revised certificate reflecting the increase in population due to such annexation. Upon and after the date of the commencement of the next quarterly period, the population determination indicated in such revised certificate shall be used as the basis for the allocation and payment of state funds to such city or town.

For the purposes of this section, each quarterly period shall commence on the first day of the months of January, April, July, and October. Whenever a revised certificate is forwarded by the office thirty days or less prior to the commencement of the next quarterly period, the population of the annexed territory shall not be considered until the commencement of the following quarterly period.

The resident population of the annexed territory shall be determined by, or under the direction of, the mayor of the code city. Such population determination shall consist of an actual enumeration of the population which shall be made in accordance with practices and policies, and subject to the approval of the office. The population shall be determined as of the effective date of annexation as specified in the relevant ordinance.

Until an annexation certificate is filed and approved as provided herein, such annexed territory shall not be considered by the office in determining the population of such code city. [1975 1st ex.s. c 31 § 2; 1967 ex.s. c 119 § 35A.14.700.]

35A.14.801 Road district taxes collected in annexed territory—Disposition. Whenever any territory is annexed to a code city which is part of a road district of the county and road district taxes have been levied but

not collected on any property within the annexed territory, the same shall when collected by the county treasurer be paid to the code city and by the city placed in the city street fund: *Provided*, That this section shall not apply to any special assessments due in behalf of such property. [1971 ex.s. c 251 § 14.]

Severability—1971 ex.s. c 251: RCW 35A.90.050.

35A.14.802 Road district taxes collected in annexed territory—Distributions to be in accordance with RCW 35A.03.151, 35A.14.801. See RCW 35A.03.152.

35A.14.900 Cancellation, acquisition of franchise or permit for operation of public service business in territory annexed. The annexation by any code city of any territory pursuant to this chapter shall cancel, as of the effective date of such annexation, any franchise or permit theretofore granted to any person, firm or corporation by the state of Washington, or by the governing body of such annexed territory, authorizing or otherwise permitting the operation of any public utility, including but not limited to, public electric, water, transportation, garbage collection and/or disposal or other similar public service business or facility within the limits of the annexed territory, but the holder of any such franchise or permit canceled pursuant to this section shall be forthwith granted by the annexing code city a franchise to continue such business within the annexed territory for a term of not less than five years from the date of issuance thereof, and the annexing code city, by franchise, permit or public operation, shall not extend similar or competing services to the annexed territory except upon a proper showing of the inability or refusal of such person, firm or corporation to adequately service said annexed territory at a reasonable price: *Provided*, That the provisions of this section shall not preclude the purchase by the annexing code city of said franchise, business, or facilities at an agreed or negotiated price, or from acquiring the same by condemnation upon payment of damages, including a reasonable amount for the loss of the franchise or permit. In the event that any person, firm or corporation whose franchise or permit has been canceled by the terms of this section shall suffer any measurable damages as a result of any annexation pursuant to the provisions of the laws above-mentioned, such person, firm or corporation shall have a right of action against any code city causing such damages. [1967 ex.s. c 119 § 35A.14.900.]

Chapter 35A.15 DISINCORPORATION

Sections

- 35A.15.010 Authority for disincorporation—Petition—Resolution.
- 35A.15.020 Election on disincorporation—Receiver.
- 35A.15.030 Notice of election.
- 35A.15.040 Conduct of election—Ballots—Canvass of returns.
- 35A.15.050 Effect of disincorporation—Powers—Offices.
- 35A.15.060 Receiver—Qualification—Bond—When receiver may be appointed.
- 35A.15.070 Duties and authority of receiver—Claims—Priority.
- 35A.15.080 Compensation of receiver.

35A.15.090 Receiver—Removal for cause—Successive appointments.

35A.15.100 Receiver—Final account and discharge.

35A.15.110 Involuntary dissolution.

35A.15.010 Authority for disincorporation—Petition—Resolution. Any noncharter code city may be disincorporated. Proceedings may be initiated by the filing with the city clerk of a petition for disincorporation signed by a majority of the qualified voters resident in such city, or the legislative body of the city may provide by resolution for an election on the proposition of disincorporation. [1967 ex.s. c 119 § 35A.15.010.]

35A.15.020 Election on disincorporation—Receiver. The legislative body shall cause the proposition of disincorporation to be submitted to the voters at the next general municipal election if one is to be held within one hundred and eighty days, or at a special election called for that purpose not less than ninety days, nor more than one hundred and eighty days, after the certification of sufficiency of the petition, or the passage of the resolution, as the case may be. If the code city has any indebtedness or outstanding liabilities, the legislative body shall provide for election of a receiver at the same election. [1967 ex.s. c 119 § 35A.15.020.]

35A.15.030 Notice of election. Notice of such election shall be given as provided in RCW 35A.29.140. [1967 ex.s. c 119 § 35A.15.030.]

35A.15.040 Conduct of election—Ballots—Canvass of returns. The election shall be conducted and the returns canvassed as provided in chapter 35A.29 RCW. Ballot titles shall be prepared by the city as provided in RCW 35A.29.120 and shall contain the words "For Dissolution" and "Against Dissolution", and shall contain on separate lines, alphabetically, the names of candidates for receiver. If a majority of the votes cast on the proposition are for dissolution, the municipal corporation shall be dissolved upon certification of the election results to the office of the secretary of state. [1967 ex.s. c 119 § 35A.15.040.]

35A.15.050 Effect of disincorporation—Powers—Offices. The effect of disincorporation of a noncharter code city shall be as provided in RCW 35.07.090, 35.07.100, and 35.07.110. [1967 ex.s. c 119 § 35A.15.050.]

35A.15.060 Receiver—Qualification—Bond—When receiver may be appointed. The receiver shall qualify and post a bond as provided in RCW 35.07.120. If an elected receiver fails to qualify within the time prescribed, or if no receiver has been elected and the code city does have indebtedness or an outstanding liability, a receiver shall be appointed in the manner provided in RCW 35.07.130 or as provided in RCW 35.07.140. [1967 ex.s. c 119 § 35A.15.060.]

35A.15.070 Duties and authority of receiver—Claims—Priority. The duties and authority of the receiver and the disposition and priority of claims

against the former municipality shall be as provided in RCW 35.07.150, and the receiver shall have the rights, powers, and limitations provided for such a receiver in RCW 35.07.160, 35.07.170, and 35.07.180. [1967 ex.s. c 119 § 35A.15.070.]

35A.15.080 Compensation of receiver. The compensation of the receiver shall be as provided in RCW 35.07.190. [1967 ex.s. c 119 § 35A.15.080.]

35A.15.090 Receiver—Removal for cause—Successive appointments. The receiver may be removed for cause as provided in RCW 35.07.200 and a successor to the receiver may be appointed as provided in RCW 35.07.210. [1967 ex.s. c 119 § 35A.15.090.]

35A.15.100 Receiver—Final account and discharge. The receiver shall file a final account, pay remaining funds to the county treasurer, and be discharged, all as provided in RCW 35.07.220. [1967 ex.s. c 119 § 35A.15.100.]

35A.15.110 Involuntary dissolution. A noncharter code city may be involuntarily dissolved in the manner provided in RCW 35.07.230, 35.07.240, 35.07.250, and 35.07.260 upon the existence of the conditions stated in RCW 35.07.230. [1967 ex.s. c 119 § 35A.15.110.]

Chapter 35A.16 REDUCTION OF CITY LIMITS

Sections

- 35A.16.010 Petition or resolution for election.
- 35A.16.020 Notice of election.
- 35A.16.030 Canvassing the returns—Abstract of vote.
- 35A.16.040 Effective date of reduction.
- 35A.16.050 Recording of ordinance and plat on effective date of reduction.
- 35A.16.060 Effect of exclusion as to liability for indebtedness.
- 35A.16.070 Franchises within territory excluded.

35A.16.010 Petition or resolution for election. Upon the filing of a petition which is sufficient as determined by RCW 35A.01.040 praying for the exclusion from the boundaries of a code city of an area described by metes and bounds or by reference to a recorded plat or government survey, signed by qualified voters of the city in number equal to not less than ten percent of the number of votes cast at the last general municipal election, the legislative body of the code city shall cause the question to be submitted to the voters. As an alternate method, such a proposal for exclusion from the code city of a described area may be submitted to the voters by resolution of the legislative body. The question shall be submitted at the next general municipal election if one is to be held within one hundred and eighty days or at a special election called for that purpose not less than ninety days nor more than one hundred and eighty days after the certification of sufficiency of the petition or the passage of the resolution. The petition or resolution shall set out and describe the territory to be excluded from the code city, together with the boundaries of the code city as it will exist after such change is made. [1967 ex.s. c 119 § 35A.16.010.]

35A.16.020 Notice of election. Notice of election shall be given as provided in RCW 35A.29.140, and the notice shall be published at least once each week for two weeks prior to the date of election in one or more newspapers of general circulation within the code city. [1967 ex.s. c 119 § 35A.16.020.]

35A.16.030 Canvassing the returns—Abstract of vote. The election returns shall be canvassed as provided in RCW 35A.29.070 and if three-fifths of the votes cast on the proposition favor the reduction of the corporate limits, the legislative body, by an order entered on its minutes, shall direct the clerk to make and transmit to the office of the secretary of state a certified abstract of the vote. [1967 ex.s. c 119 § 35A.16.030.]

35A.16.040 Effective date of reduction. Promptly after the filing of the abstract of votes with the secretary of state the legislative body shall adopt an ordinance defining and fixing the corporate limits after excluding the area as determined by the election. The ordinance shall also describe the excluded territory by metes and bounds or by reference to a recorded plat or government survey and declare it no longer a part of the code city. [1967 ex.s. c 119 § 35A.16.040.]

35A.16.050 Recording of ordinance and plat on effective date of reduction. Upon the effective date of the ordinance a certified copy thereof together with a map showing the corporate limits as altered shall be filed and recorded in the office of the county auditor of the county in which the code city is situated, and thereupon the boundaries shall be as set forth therein. [1967 ex.s. c 119 § 35A.16.050.]

35A.16.060 Effect of exclusion as to liability for indebtedness. The exclusion of an area from the boundaries of the code city shall not exempt any real property therein from taxation for the purpose of paying any indebtedness of the code city existing at the time of its exclusion and the interest thereon. [1967 ex.s. c 119 § 35A.16.060.]

35A.16.070 Franchises within territory excluded. In regard to franchises previously granted for operation of any public service business or facility within the territory excluded from a code city by proceedings under this chapter, the rights, obligations, and duties of the legislative body of the county or other political subdivision having jurisdiction over such territory and of the franchise holder shall be as provided in RCW 35.02.160, relating to inclusion of territory by an incorporation, and such a franchise shall be canceled and a new franchise issued by the legislative body having jurisdiction, as therein provided. [1967 ex.s. c 119 § 35A.16.070.]

Chapter 35A.20 MUNICIPAL COURTS OR POLICE COURTS IN CODE CITIES

Sections

- 35A.20.010 Law governing municipal courts or police courts.

- 35A.20.020 Police judge or municipal judge—Term—Compensation bond.
 35A.20.030 Additional judge—Traffic cases.
 35A.20.040 Jurisdiction of police judge.
 35A.20.050 Precedence of cases—No change of venue.
 35A.20.060 Criminal process.
 35A.20.070 Prosecutions in name of city.
 35A.20.080 Costs.
 35A.20.090 Procedure.
 35A.20.100 Police judge pro tempore.
 35A.20.110 Staff of court—Supplies.
 35A.20.120 Annual report of liquor law violations.
 35A.20.130 List for petit jury.
 35A.20.150 Actions by and against code cities.

35A.20.010 Law governing municipal courts or police courts. The municipal court or municipal department of code cities governed by the provisions of chapters 3.30 through 3.74 RCW, or chapter 35.20 RCW, shall be organized and conducted in accordance with such statutory provisions as have been elected by the legislative body of such city, and the municipal judge (who may be designated as police judge) of such cities shall be qualified and elected or appointed in accordance with such applicable statutory provisions. RCW 35A.20.020 through 35A.20.110 shall apply to police courts in code cities not covered by the provisions of chapters 3.30 through 3.74 RCW, or chapter 35.20 RCW. Nothing in this chapter shall be construed to amend or to affect the application of the statutes referred to in this section. [1967 ex.s. c 119 § 35A.20.010.]

35A.20.020 Police judge or municipal judge—Term—Compensation bond. In code cities not governed by any of the provisions referred to in RCW 35A.20.010 but governed by this chapter, a police judge (who may be designated as municipal judge) shall be appointed by the chief administrative officer of the city and shall be a justice of the peace or an attorney admitted to the practice of law in the state of Washington, except that the legislative body of cities having less than five thousand inhabitants may provide that a person who is not a justice of the peace or an attorney may be appointed as police judge. The police judge of code cities governed by the provisions of this chapter shall be appointed for a four-year term, and such term shall be concurrent with the term of a justice of the peace, under the general law effective in the county wherein the code city is located. An appointed police judge shall be removed only upon conviction of misconduct or malfeasance in office, or because of physical or mental disability rendering him incapable of performing the duties of his office. Notwithstanding the provisions of this section, the charter of a charter code city may provide that the office of police judge or municipal judge shall be an elective office, and may provide for the term thereof, but the qualifications required for election to such office shall be the same as for appointment thereto. The compensation of a police judge or municipal judge shall be fixed by ordinance subject to any applicable statutory provisions relating thereto, and shall be paid wholly out of the funds of the code city. A police judge or municipal judge shall give a bond for the faithful performance of his duties, when and as provided by charter or ordinance. [1967 ex.s. c 119 § 35A.20.020.]

35A.20.030 Additional judge—Traffic cases. Any code city having twenty thousand or more inhabitants may provide by charter or ordinance for the election or appointment of an additional municipal judge who shall have the same qualifications as, and be removable in like manner as the regular police judge, and who upon qualification shall enjoy all the powers and perform all the duties imposed upon police judges by law. The compensation of such additional municipal judge shall be provided for by ordinance and his salary shall be paid wholly out of city funds. Such additional municipal judge may appoint a clerk who shall be paid by the city, and a suitable place for holding court by such additional municipal judge shall be provided and maintained by the code city.

The purpose of this section is to authorize code cities having twenty thousand or more inhabitants to expedite the handling of traffic offense cases under the laws thereof, and the chief administrative officer of the code city, in making appointments of municipal judges shall designate which of the judges shall be primarily responsible for the handling of traffic cases, the trial of which in such code cities shall, so far as practicable, be segregated from other municipal court trials. [1967 ex.s. c 119 § 35A.20.030.]

35A.20.040 Jurisdiction of police judge. The police judge, in addition to powers he may have as justice of the peace, shall have exclusive jurisdiction over all offenses defined by any ordinance of the city, and all other actions brought to enforce or recover any license, penalty, or forfeiture declared or given by any such ordinance, and full power to forfeit bail bonds and issue execution thereon and full power to forfeit cash bail, and full power and authority to hear and determine all causes, civil or criminal, arising under such ordinance, and pronounce judgment in accordance therewith and full power to issue all warrants and process necessary to effectuate the ordinances of the city. Such police judge shall have jurisdiction to impose a fine or imprisonment, or both such fine and imprisonment, in all cases where such penalty shall be prescribed by ordinance. In the trial of actions brought for violating any city ordinance, no jury shall be allowed. All civil or criminal proceedings before such police judge and judgments rendered by him, shall be subject to review in the superior court of the proper county by writ of review or appeal in the same manner as is provided in RCW 35.22.530 through 35.22.560. [1967 ex.s. c 119 § 35A.20.040.]

35A.20.050 Precedence of cases—No change of venue. Such police judge, if he is a justice of the peace, shall in the conduct of the business of the court give preference to cases arising under ordinances of the city; then to prosecutions for violation of the criminal laws of the state of Washington within the city; then to civil causes coming before him upon change of venue from another justice of the peace in the city. No change of venue shall be allowed from such police judge in actions brought for violations of city ordinances. [1967 ex.s. c 119 § 35A.20.050.]

35A.20.060 Criminal process. All criminal process issued by such police judge shall be in the name of the state of Washington and run throughout the state, be directed to the chief of police, marshal or other police officer of any city or to any sheriff or constable in the state and shall be served by him. [1967 ex.s. c 119 § 35A.20.060.]

35A.20.070 Prosecutions in name of city. All prosecutions for the violation of any city ordinance shall be conducted in the name of the city, and may be upon the complaint of any person. [1967 ex.s. c 119 § 35A.20.070.]

35A.20.080 Costs. In all civil and criminal cases arising from the violations of city ordinances tried by such police judge he shall charge as costs in each case the same fees as are charged by justices of the peace for like services in every action, and all fees so charged and collected by, and all fines and forfeitures paid to, such police judge shall belong to and be paid over by him, weekly, to the city. [1967 ex.s. c 119 § 35A.20.080.]

35A.20.090 Procedure. The manner of commencement of actions brought before the police judge, the manner of obtaining service upon the defendants, the procedure during the pendency of the action, and the enforcement of the judgment shall be as provided in the case of like actions before justices of the peace in the county wherein such code city is situated. [1967 ex.s. c 119 § 35A.20.090.]

35A.20.100 Police judge pro tempore. In the event of the police judge's inability to act, or during any temporary absence, or if he should be disqualified, the chief administrative office of the code city shall appoint any practicing attorney, or qualified elector of the city, as police judge pro tempore, who, before entering upon the duties of such office, shall take and subscribe an oath as other judicial officers, and while so acting, he shall have all the power of the police judge: *Provided*, That such appointment shall not continue for a longer period than the absence or inability of the police judge. A police judge pro tempore shall receive such compensation for his services as shall be fixed by ordinance of the legislative body of the city, to be paid by the city. [1967 ex.s. c 119 § 35A.20.100.]

35A.20.110 Staff of court—Supplies. The legislative body of the code city shall furnish for the use of the police court all necessary dockets, books of record, forms, furnishings, and supplies as are necessary for the proper administration of the court and shall pay the salary of a clerk and/or other necessary personnel of the police court, who shall be appointed by and serve at the pleasure of the police judge. [1967 ex.s. c 119 § 35A.20.110.]

35A.20.120 Annual report of liquor law violations. A municipal judge or police judge of a code city shall make an annual report to the state liquor board concerning

prosecutions for liquor law violations as provided in RCW 35.21.170. [1967 ex.s. c 119 § 35A.20.120.]

35A.20.130 List for petit jury. The clerk or comptroller of each code city designated as registrar of voters by Title 29 RCW, except the registrar of voters in the city which is the county seat of any county, shall prepare annually from the original registration files of voters of such city a list for petit jury as required by chapter 2.36 RCW. [1967 ex.s. c 119 § 35A.20.130.]

35A.20.150 Actions by and against code cities. A code city may exercise the power to bring an action or special proceeding at law as authorized by Title 4 RCW, chapters 7.24, 7.25 and *7.32 RCW, and shall be subject to actions and process of law in accordance with procedures prescribed by law and rules of court. [1967 ex.s. c 119 § 35A.20.150.]

***Reviser's note:** Chapter "7.32 RCW" was repealed in its entirety by 1969 ex.s. c 264 § 36; later enactment, see chapter 7.33 RCW.

Chapter 35A.21

PROVISIONS AFFECTING ALL CODE CITIES

Sections

- 35A.21.010 Validity of ordinances and resolutions—Deficiencies of form.
- 35A.21.020 Conflict between charter and optional code.
- 35A.21.030 Mandatory duties of code city officers.
- 35A.21.040 Merit systems.
- 35A.21.050 Pension and retirement systems.
- 35A.21.060 Garbage ordinance—Lien—Foreclosure.
- 35A.21.070 Office hours prescribed by ordinance.
- 35A.21.080 Computation of time.
- 35A.21.090 Jurisdiction over adjacent waters—Control of street over tidelands.
- 35A.21.100 Lien for utility services.
- 35A.21.110 Warrants—Interest rate—Payment.
- 35A.21.120 Utilities—Facilities for generation of electricity.
- 35A.21.130 Codification of ordinances.
- 35A.21.140 Change of name.
- 35A.21.150 Sewerage and refuse collection and disposal systems.
- 35A.21.160 General application of laws to code cities.
- 35A.21.161 Regulation of activities and enforcement of penal laws.
- 35A.21.170 Fiscal year.
- 35A.21.180 Flags to be displayed.
- 35A.21.190 Daylight saving time.
- 35A.21.200 Limitation of actions.
- 35A.21.210 Centerlines of streets, roads or highways as corporate boundaries—Revision by substituting right of way lines.

Abandoned junk motor vehicles: RCW 46.52.145 through 46.52.160.

City and county jail act of 1974: Chapter 36.63A RCW.

Demonstration Cities and Metropolitan Development Act—Authority of cities to contract with federal government: RCW 35.21.660.

Fire protection, ambulance or other emergency services provided by municipal corporation within county—Financial and other assistance by county authorized: RCW 36.32.470.

Residency not grounds for discharge: RCW 52.36.065.

Transfer of real property or contract for use for park and recreational purposes: RCW 39.33.060.

35A.21.010 Validity of ordinances and resolutions—Deficiencies of form. Deficiencies in the form of an ordinance or resolution shall not affect the validity thereof if the following requirements are met:

(1) The purpose and intent of the ordinance or resolution are clear.

(2) Any regulatory or procedural provisions thereof are expressed in clear and unambiguous terms, or the legislative intent can be determined by usual methods of judicial construction.

(3) The legislative action was taken at an authorized public meeting held within the code city limits at a time and place made known to residents of the city, as provided by law.

(4) The legislative body of the code city followed the prescribed procedures, if any, for passage of such an ordinance or resolution, as provided in the law or charter provision delegating to the legislative body the authority to so legislate; or, if prescribed procedures were not strictly complied with, no substantial detriment was incurred by any affected person, by reason of such irregularity.

If the foregoing requirements have been met, brevity or awkwardness of language, or defects of form not going to the substance, or inadvertent use of an incorrect or inaccurate proper name or term shall not render an ordinance or resolution invalid, if otherwise in compliance with law. [1967 ex.s. c 119 § 35A.21.010.]

35A.21.020 Conflict between charter and optional code. This optional municipal code is intended to be a general law, available to all cities and towns within the state, and to all legal intents and purposes a "general law" within the meaning of Article 11, section 10 of the state Constitution, as amended.

If any provision of this title is in conflict with any provision of the charter or amendments thereto of any charter code city, the provisions of this title shall govern and control, except where the legislative body of such charter code city, by ordinance, elects to retain such charter provision or amendment, in which event such charter provision shall prevail notwithstanding a conflict with provisions of this optional code: *Provided*, That such ordinance shall be subject to referendum as provided in RCW 35A.29.170. [1967 ex.s. c 119 § 35A.21.020.]

35A.21.030 Mandatory duties of code city officers. Except as otherwise provided in this title, every officer of a code city shall perform, in the manner provided, all duties of his office which are imposed by state law on officers of every other class of city who occupy a like position and perform like functions. [1967 ex.s. c 119 § 35A.21.030.]

35A.21.040 Merit systems. Provisions for a merit system, made by charter or ordinance of a code city, shall be in compliance with any applicable statutes relating to civil service for employees of such city: *Provided*, That nothing herein shall impair the validity of charter provisions adopted prior to the effective date of this title and relating to a merit system. [1967 ex.s. c 119 § 35A.21.040.]

35A.21.050 Pension and retirement systems. Nothing in this title shall be construed to alter or affect vested

rights of city employees under pension and retirement systems in effect at the time this title becomes effective. [1967 ex.s. c 119 § 35A.21.050.]

35A.21.060 Garbage ordinance—Lien—Foreclosure. A garbage ordinance of a code city may contain the provisions authorized by RCW 35.21.130. Notice shall be given of a lien for garbage collection and disposal service, the lien shall have priority and be foreclosed all as provided in RCW 35.21.140 and 35.21.150. [1967 ex.s. c 119 § 35A.21.060.]

35A.21.070 Office hours prescribed by ordinance. All code city offices shall be kept open for the transaction of business during such days and hours as the legislative body of such city shall by ordinance prescribe. [1967 ex.s. c 119 § 35A.21.070.]

35A.21.080 Computation of time. When, under the provisions of this title, an act is to be done within a certain time period, the time shall be computed by excluding the first day and including the last, except that when the last day is a Saturday, Sunday, or a day designated by RCW 1.16.050 or by the city's ordinances as a holiday, then it also is excluded and the act must be completed on the next business day. [1967 ex.s. c 119 § 35A.21.080.]

35A.21.090 Jurisdiction over adjacent waters—Control of street over tidelands. The legislative body of a code city shall have supervision and control within its corporate limits of streets over tidelands or upon or across tide and shore lands of the first class as provided in RCW 35.21.230, 35.21.240 and 35.21.250; and shall have jurisdiction over adjacent waters as provided in RCW 35.21.160. [1967 ex.s. c 119 § 35A.21.090.]

35A.21.100 Lien for utility services. Code cities owning or operating waterworks or electric light distribution or power plants shall have a lien for such utility services as provided by RCW 35.21.290 for cities owning such plants and as limited therein, which lien may be enforced only as provided in RCW 35.21.300. [1967 ex.s. c 119 § 35A.21.100.]

35A.21.110 Warrants—Interest rate—Payment. Code city warrants shall draw interest, be paid, and called for all as provided in RCW 35.21.320 and the duty and liability of the treasurer of a code city in calling and paying warrants of the city shall be as provided in RCW 35.21.320. [1967 ex.s. c 119 § 35A.21.110.]

35A.21.120 Utilities—Facilities for generation of electricity. Any code city owning and operating a public utility and having facilities and/or land for the generation of electricity shall be governed by the provisions of RCW 35.21.420 through 35.21.450. [1967 ex.s. c 119 § 35A.21.120.]

35A.21.130 Codification of ordinances. Compilation, codification, and revision of code city ordinances shall be as provided by and be governed by the provisions of

RCW 35.21.500 through 35.21.570. [1967 ex.s. c 119 § 35A.21.130.]

35A.21.140 Change of name. Any code city may change its name in accordance with the procedure provided in chapter 35.62 RCW. [1967 ex.s. c 119 § 35A.21.140.]

35A.21.150 Sewerage and refuse collection and disposal systems. The general law as contained in, but not limited to, chapter 35.67 RCW, relating to sewerage systems and the collection and disposal of refuse, the manner of providing therefor, and the issuance of general obligation or revenue bonds therefor, the establishment of a revenue bond fund in connection therewith, compulsory connection with a city sewer system, setting and collection of rates, fees, and charges therefor, and the existence, enforcement, and foreclosure of a lien for sewer services is hereby recognized as applicable to code cities operating systems of sewerage and systems and plants for refuse collection and disposal. A code city may exercise the powers, in the manner provided, perform the duties, and shall have the rights and obligations provided in chapter 35.67 RCW, subject to the conditions and limitations therein provided. [1967 ex.s. c 119 § 35A.21.150.]

35A.21.160 General application of laws to code cities. A code city organized or reorganized under this title shall have all of the powers which any city of any class may have and shall be governed in matters of state concern by statutes applicable to such cities in connection with such powers to the extent to which such laws are appropriate and are not in conflict with the provisions specifically applicable to code cities. [1967 ex.s. c 119 § 35A.21.160.]

35A.21.161 Regulation of activities and enforcement of penal laws. All code cities shall observe and enforce, in addition to its local regulations, the provisions of state laws relating to the conduct, location and limitation on activities as regulated by state law and shall supply police information to the state bureau of criminal identification as required by *chapter 72.50 RCW. [1967 ex.s. c 119 § 35A.21.161.]

**Reviser's note:* "chapter 72.50 RCW" was repealed in its entirety by 1970 ex.s. c 18 § 62; see RCW 43.43.700-43.43.780.

35A.21.170 Fiscal year. The fiscal year of a code city shall commence on the first day of January and end on the thirty-first day of December of each calendar year unless a different fiscal period is authorized by RCW 1.16.030, as amended. [1967 ex.s. c 119 § 35A.21.170.]

35A.21.180 Flags to be displayed. The flag of the United States and the flag of the state shall be prominently installed and displayed and maintained in code city buildings and shall be as provided in RCW 1.20.010. [1967 ex.s. c 119 § 35A.21.180.]

35A.21.190 Daylight saving time. No code city shall adopt any provision for the observance of daylight saving

time other than as authorized by RCW 1.20.050 and 1.20.051. [1967 ex.s. c 119 § 35A.21.190.]

35A.21.200 Limitation of actions. The limitations prescribed in chapter 4.16 RCW shall apply to actions brought in the name or for the benefit of, or against, a code city, except as otherwise provided by general law or by this title. [1967 ex.s. c 119 § 35A.21.200.]

35A.21.210 Centerlines of streets, roads or highways as corporate boundaries—Revision by substituting right of way lines. (1) The governing bodies of a county and any city or town located therein may by agreement revise any part of the corporate boundary of the city or town which coincides with the centerline of a public street, road or highway by substituting therefor a right of way line of the same public street, road or highway so as fully to include or fully to exclude that segment of the public street, road or highway from the corporate limits of the city or town.

(2) The revision of a corporate boundary as authorized by this section shall become effective when approved by ordinance of the city or town council or commission and by ordinance or resolution of the board of county commissioners or county council. [1975 1st ex.s. c 220 § 18.]

Legislative finding, intent—1975 1st ex.s. c 220: See note following RCW 35.02.170.

Use of centerlines as boundaries in incorporation or annexation proceedings—Prohibition—Use of right of way lines: RCW 35A.03.180.

Chapter 35A.24 AERONAUTICS

Section

35A.24.010 Airport operation, planning and zoning.

35A.24.010 Airport operation, planning and zoning. A code city may exercise the powers relating to airport planning and zoning, improvement and operation as authorized by chapters 14.07, 14.08, and 14.12 RCW and chapter 35A.63 RCW of this title in accordance with the procedures therein prescribed. [1967 ex.s. c 119 § 35A.24.010.]

Chapter 35A.27 LIBRARIES, MUSEUMS AND HISTORICAL ACTIVITIES

Section

35A.27.010 General laws applicable.

35A.27.010 General laws applicable. Every code city may exercise the powers relating to the acquisition, development, improvement and operation of libraries and museums and the preservation of historical materials to the same extent authorized by general law for cities of any class, including, but not limited to, the authority for city libraries granted by RCW 35.22.280 (20), the power to acquire and operate art museums, auditoriums, and other facilities as authorized by RCW 35.21.020 to participate in the establishment of regional

libraries, and to contract for library service for public libraries with county, intercounty, and rural library districts, and for regional libraries as authorized by chapter 27.12 RCW, to have a county law library or branch thereof generally under the provisions of chapter *24.27 RCW, to preserve historical materials, markers, graves and records as provided in chapters 27.48 and **27.52 RCW, and to expend municipal funds thereon. [1967 ex.s. c 119 § 35A.27.010.]

Reviser's note: *(1) The above reference to "chapter 24.27 RCW" as dealing with county law libraries appears to be in error; chapter 27.24 RCW covers such subject matter.

***(2) Chapter "27.52 RCW" was repealed by 1967 ex.s. c 19 § 11; later enactment, see RCW 43.51.750-43.51.820.

Chapter 35A.28 SCHOOLS

Section

35A.28.010 General laws applicable.

35A.28.010 General laws applicable. Code cities shall have the authority to enter into contracts for joint acquisition of land and improvement thereof with school districts. Code cities and their relationship with public schools, colleges and school districts shall be governed by the provisions of general law, including Titles 28A and 28B RCW. Each code city shall be contained within one school district except as may be otherwise provided in RCW 28A.57.150, and may establish schools for truants under the provisions of *RCW 13.12.010. [1967 ex.s. c 119 § 35A.28.010.]

***Reviser's note:** "RCW 13.12.010" was repealed by 1971 c 44 § 1.

Chapter 35A.29 MUNICIPAL ELECTIONS IN CODE CITIES

Sections

- 35A.29.010 Definition of city clerk.
- 35A.29.020 Definition of code city precinct.
- 35A.29.030 City clerk as registrar.
- 35A.29.040 County auditor as supervisor of elections.
- 35A.29.050 Qualifications for voting.
- 35A.29.060 Time and places for registration.
- 35A.29.070 Times for holding elections—Conduct of elections.
- 35A.29.080 Costs of elections.
- 35A.29.090 Commencement of terms of officers elected.
- 35A.29.100 Code city elections to be nonpartisan.
- 35A.29.105 Numbering of council positions.
- 35A.29.110 Declaration of candidacy—Time for filing—Withdrawal—Nominating petitions.
- 35A.29.120 Ballot titles.
- 35A.29.130 Notice of ballot title—Appeal.
- 35A.29.140 Notice of election.
- 35A.29.150 General provisions relating to municipal elections.
- 35A.29.170 Referendum petitions—Suspension of effectiveness of legislative action.
- 35A.29.180 Recall.

35A.29.010 Definition of city clerk. As used herein "city clerk" means every officer of a code city, by whatever name designated, who performs the functions usually performed by a city clerk. [1967 ex.s. c 119 § 35A.29.010.]

35A.29.020 Definition of code city precinct. A code city precinct is a voting precinct lying wholly or partly within a code city. [1967 ex.s. c 119 § 35A.29.020.]

35A.29.030 City clerk as registrar. The city clerk shall be the registrar of voters in all code city precincts. In the case of code city precincts lying partly within and partly without the code city limits, the voters within and those without the city limits shall be registered in separate registration files. The city clerk shall take an oath as required by RCW 29.07.050 and shall perform his duties as registrar as provided in chapters 29.07 and 29.10 RCW. Expense of registration shall be paid or apportioned as provided in RCW 29.07.030, and registration officers of code cities shall receive compensation, fees, and expenses as provided in RCW 29.07.040. [1967 ex.s. c 119 § 35A.29.030.]

35A.29.040 County auditor as supervisor of elections. The county auditor of each county shall be ex officio the supervisor of code city elections as provided in RCW 29.04.020. [1967 ex.s. c 119 § 35A.29.040.]

35A.29.050 Qualifications for voting. Only registered voters resident in the code city may vote in municipal elections of code cities. A voter's place of residence shall be determined as provided in RCW 29.01.140. [1967 ex.s. c 119 § 35A.29.050.]

35A.29.060 Time and places for registration. Registration officers in code cities shall keep their respective offices open for registration of voters during the days and hours when the same are open for the transaction of public business. In code cities having over twenty thousand inhabitants the registrar of voters shall establish on a permanent basis at least one registration office in each legislative district that lies wholly or partially within the city limits by appointing persons as deputy registrars who may register any eligible elector of such code city. Each such deputy registrar shall hold office at the pleasure of the registrar of voters and shall maintain a fixed place, conveniently located, for the registration of voters, but nothing in this section shall preclude door-to-door registration including registration from a portable office as in a trailer. The legislative body of every code city having more than fifteen hundred inhabitants shall provide for additional temporary registration facilities during the fifteen day period, excepting Sundays, prior to the last day to register in order to vote at a state primary or state general election, when deemed necessary by the legislative body in order to afford ample opportunity for all qualified electors to register for voting. [1967 ex.s. c 119 § 35A.29.060.]

35A.29.070 Times for holding elections—Conduct of elections. The times for holding general municipal elections in code cities shall be as provided in RCW 29.13.010 and 29.13.020. Elections shall be conducted and the returns canvassed as provided in RCW 29.13.040. [1967 ex.s. c 119 § 35A.29.070.]

35A.29.080 Costs of elections. Code cities shall bear the cost of elections called by the code city on an isolated date, and shall bear their proportionate share of the costs of city elections held in conjunction with other elections, all as provided in RCW 29.13.045. [1967 ex.s. c 119 § 35A.29.080.]

35A.29.090 Commencement of terms of officers elected. Except as otherwise provided in RCW 35A.03.130, 35A.04.140, 35A.05.110, and 35A.08.110, the term of every code city officer elected to office on the first Tuesday following the first Monday in November of the odd-numbered years shall begin as of noon on the second Monday in January following his election: *Provided*, That any person elected to less than a full term shall assume office as soon as the election returns are certified, unless otherwise provided in this title: *Provided further*, That when not otherwise provided for in this title the term of officers elected at a special election shall begin on the first Monday following the certification of the election returns. [1967 ex.s. c 119 § 35A.29.090.]

35A.29.100 Code city elections to be nonpartisan. All code city primaries and elections shall be nonpartisan irrespective of the form of government of such code city. [1967 ex.s. c 119 § 35A.29.100.]

35A.29.105 Numbering of council positions. Positions to be filled on the council of code cities operating under the mayor-council or council-manager plan of government shall be numbered consecutively and treated as separate offices for all election purposes as provided in RCW 29.21.017. [1967 ex.s. c 119 § 35A.29.105.]

35A.29.110 Declaration of candidacy—Time for filing—Withdrawal—Nominating petitions. A candidate for office in a code city shall file a declaration of candidacy substantially in the form set forth in RCW 29.18.030 insofar as such form is applicable to nonpartisan offices. Declarations of candidacy for offices of code cities to be voted upon at any municipal general election shall be filed with the city clerk or code city clerk not earlier than the last Monday of July nor later than the next succeeding Friday in the year such general election is to be held: *Provided*, That if the first election of officers under a plan of government adopted in the manner provided in RCW 35A.02.020, 35A.02.030 or 35A.02.080 is a special election as provided in RCW 35A.02.050 as amended, such declarations of candidacy shall be filed with the city clerk not more than fifty nor less than forty-six days prior to the primary election provided for in RCW 35A.02.050 as amended. Any candidate may withdraw his declaration at any time but not later than five days after the last day allowed for filing declarations of candidacy. Nominating petitions for charter commissioners and for any other office for which nominating petitions may be required shall be filed with the city clerk or code city clerk not more than sixty nor less than forty-six days prior to the date of the election, and may be withdrawn at any time but not later than five days after the last day allowed for filing such petitions. [1970 ex.s. c 52 § 4; 1967 ex.s. c 119 § 35A.29.110.]

35A.29.120 Ballot titles. When any question is to be submitted to the voters of a code city, or when a proposition is to be submitted to the voters of an area under provisions of this title, the question or proposition shall be advertised as provided for nominees for office, and in such cases there shall also be printed on the ballot a concise statement not exceeding one hundred words containing the essential features thereof expressed in such a manner as to clearly identify the proposition to be voted upon, which statement shall be prepared by the attorney for the code city, or by the prosecuting attorney for the county for elections held outside of a code city. In addition to such a statement, the official preparing the statement shall also prepare a caption, not to exceed ten words in length, to permit the voters readily to identify the proposition and distinguish it from other propositions on the ballot. This caption shall be placed on the ballot immediately before the statement, and shall be printed in heavy black type in such a manner as to be readable at a glance. The caption and statement together shall constitute the ballot title. [1967 ex.s. c 119 § 35A.29.120.]

35A.29.130 Notice of ballot title—Appeal. Upon the filing of a ballot title as defined in RCW 35A.29.120, the county auditor shall forthwith notify the persons proposing the measure of the exact language of the ballot title. If the persons filing any local question covered by RCW 35A.29.120 are dissatisfied with the ballot title formulated by the attorney for the code city or by the county prosecuting attorney, they may appeal to the superior court of the county where the question is to appear on the ballot, as provided in RCW 29.27.067. [1967 ex.s. c 119 § 35A.29.130.]

35A.29.140 Notice of election. Except as otherwise provided in this title, notice for any municipal election in a code city, or any election held under the provisions of this title, 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 code city, or within the area in which the election is to be held. Said legal notice shall contain the title of each office to be filled, the names and addresses of all candidates for such office, in alphabetical order and without party designation, together with the ballot titles of all measures to be voted upon at such election, the day and the hours during which the polls will be open and the addresses of each polling place in each precinct. [1967 ex.s. c 119 § 35A.29.140.]

35A.29.150 General provisions relating to municipal elections. Except as otherwise provided in this chapter, municipal elections in code cities having seven or more councilmen shall be conducted in accordance with the applicable provisions of Title 29 RCW relating to elections in first, second and third class cities and the municipal elections in code cities having five councilmen shall be conducted in accordance with the applicable provisions of Title 29 RCW relating to elections in

fourth class municipalities (towns). [1970 ex.s. c 52 § 5; 1967 ex.s. c 119 § 35A.29.150.]

35A.29.170 Referendum petitions—Suspension of effectiveness of legislative action. Initiative and referendum petitions authorized to be filed under provisions of this title, or authorized by charter, or authorized for code cities having the commission form of government as provided by chapter 35.17 RCW, shall be in substantial compliance with the provisions of RCW 35A.01.040 as to form and content of the petition, insofar as such provisions are applicable; shall contain a true copy of a resolution or ordinance sought to be referred to the voters; and must contain valid signatures of qualified electors of the code city in the number required by the applicable provision of this title. Except when otherwise provided by statute, referendum petitions must be filed with the clerk of the legislative body of the code city within ninety days after the passage of the resolution or ordinance sought to be referred to the voters, or within such lesser number of days as may be authorized by statute or charter in order to precede the effective date of an ordinance: *Provided*, That nothing herein shall be construed to abrogate or affect an exemption from initiative and/or referendum provided by a code city charter. The clerk shall determine the sufficiency of the petition under the rules set forth in RCW 35A.01.040. When a referendum petition is filed with the clerk, the legislative action sought to be referred to the voters shall be suspended from taking effect. Such suspension shall terminate when: (1) There is a final determination of insufficiency or untimeliness of the referendum petition; or (2) the legislative action so referred is approved by the voters at a referendum election. [1967 ex.s. c 119 § 35A.29.170.]

35A.29.180 Recall. Elective officers of code cities may be recalled in the manner provided in chapter 29.82 RCW. [1967 ex.s. c 119 § 35A.29.180.]

Chapter 35A.31 ACCIDENT CLAIMS AND FUNDS

Sections

- 35A.31.010 Claims—Statement of residence required—Time for filing—Verification.
- 35A.31.020 Liberal construction.
- 35A.31.030 Report—Requisites of claim—Time limitations.
- 35A.31.050 Charter code cities—Provisions cumulative.
- 35A.31.060 Accident fund—Warrants for judgments.
- 35A.31.070 Tax levy for fund.
- 35A.31.080 Surplus to general fund.

35A.31.010 Claims—Statement of residence required—Time for filing—Verification. Claims for damages sounding in tort against any code city shall be presented and filed within the time, in the manner and by the person prescribed in RCW 4.96.020. [1967 ex.s. c 119 § 35A.31.010.]

35A.31.020 Liberal construction. With respect to the content of such claims the provisions of RCW 4.96.020

shall be liberally construed so that substantial compliance will be deemed satisfactory. [1967 ex.s. c 119 § 35A.31.020.]

35A.31.030 Report—Requisites of claim—Time limitations. No ordinance or resolution shall be passed allowing such claim or any part thereof, or appropriating any money or other property to pay or satisfy the same or any part thereof, until the claim has first been referred to the proper department or committee, nor until such department or committee has made its report thereon to the legislative body of the code city pursuant to such reference. All such claims for damages must accurately locate and describe the defect that caused the injury, reasonably describe the injury and state the time when it occurred, contain the item of damages claimed and be verified by the claimant or a relative, attorney, or agent of the claimant.

No action shall be maintained against any code city for any claim for damages until the same has been presented to the legislative body of the city by filing with the clerk and sixty days have elapsed after such presentation. [1967 ex.s. c 119 § 35A.31.030.]

35A.31.050 Charter code cities—Provisions cumulative. Nothing herein shall be construed as in anywise modifying, limiting, or repealing any valid provision of the charter of any charter code city relating to such claims for damages, except when in conflict herewith, but the provisions hereof shall be in addition to such charter provisions, and such claims for damages, in all other respects, shall conform to and comply with such charter provisions. [1967 ex.s. c 119 § 35A.31.050.]

35A.31.060 Accident fund—Warrants for judgments. Every code city may create an accident fund upon which the clerk shall draw warrants for the full amount of any judgment including interest and costs against the city on account of personal injuries suffered by any person as shown by a transcript of the judgment duly certified to the clerk. Warrants issued for such purpose shall be in denominations not less than one hundred dollars nor more than five hundred dollars; they shall draw interest at the rate of six percent per annum, shall be numbered consecutively and be paid in the order of their issue. [1967 ex.s. c 119 § 35A.31.060.]

35A.31.070 Tax levy for fund. The legislative body of the code city, after the drawing of warrants against the accident fund, shall estimate the amount necessary to pay the warrant with accrued interest thereon and may appropriate and transfer money from the contingency fund sufficient therefor, or if there is not sufficient money in the contingency fund the legislative body shall levy a tax sufficient to pay all or such unpaid portion of any judgment not exceeding seventy-five cents per thousand dollars of assessed value. If a single levy of seventy-five cents per thousand dollars of assessed value is not sufficient, and if other moneys are not available therefor, an annual levy of seventy-five cents per thousand dollars of assessed value shall be made until the

warrants and interest are fully paid. [1973 1st ex.s. c 195 § 27; 1967 ex.s. c 119 § 35A.31.070.]

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

35A.31.080 Surplus to general fund. If there is no judgment outstanding against the city for personal injuries, the money remaining in the accident fund after the payment of the warrants drawn on that fund and interest in full shall be transferred to the general fund. [1967 ex.s. c 119 § 35A.31.080.]

Chapter 35A.33 BUDGETS IN CODE CITIES

Sections

- 35A.33.010 Definitions.
- 35A.33.020 Applicability of chapter.
- 35A.33.030 Budget estimates.
- 35A.33.040 Classification and segregation of budget estimates.
- 35A.33.050 Proposed preliminary budget.
- 35A.33.052 Preliminary budget.
- 35A.33.055 Budget message—Preliminary hearings.
- 35A.33.060 Budget—Notice of hearing on final.
- 35A.33.070 Budget—Hearing.
- 35A.33.075 Budget adoption.
- 35A.33.080 Emergency expenditures—Nondebatable emergencies.
- 35A.33.090 Emergency expenditures—Other emergencies—Hearing.
- 35A.33.100 Emergency expenditures—Warrants—Payments.
- 35A.33.102 Registered warrants—Appropriations.
- 35A.33.105 Adjustment of wages, etc., of employees permissible budget notwithstanding.
- 35A.33.110 Forms—Accounting—Supervision by state.
- 35A.33.120 Funds—Limitations on expenditures—Transfers and adjustments.
- 35A.33.125 Limitation on expenditures—Void.
- 35A.33.130 Funds received from sales of bonds and warrants—Expenditures.
- 35A.33.135 Levy for ad valorem tax.
- 35A.33.140 Funds—Quarterly report of status.
- 35A.33.145 Contingency fund—Creation.
- 35A.33.146 Contingency fund—Withdrawals.
- 35A.33.150 Unexpended appropriations.
- 35A.33.160 Violations and penalties.

35A.33.010 Definitions. Unless the context clearly indicates otherwise, the following words as used in this chapter shall have the meaning herein prescribed:

(1) "Clerk" as used in this chapter includes the officer performing the functions of a finance or budget director, comptroller, auditor, or by whatever title he may be known in any code city.

(2) "Department" as used in this chapter includes each office, division, service, system or institution of the city for which no other statutory or charter provision is made for budgeting and accounting procedures or controls.

(3) "Council" as used in this chapter includes the commissioners in cities having a commission form of government and any other group of city officials serving as the legislative body of a code city.

(4) "Chief administrative officer" as used in this chapter includes the mayor of cities having a mayor-council form of government, the commissioners in cities having a commission form of government, the city manager, or any other city official designated by the charter or ordinances of such city under the plan of government

governing the same, or the budget or finance officer designated by the mayor, manager or commissioners, to perform the functions, or portions thereof, contemplated by this chapter.

(5) "Fiscal year" as used in this chapter means that fiscal period set by the code city pursuant to authority given under RCW 1.16.030.

(6) "Fund", as used in this chapter and "funds" where clearly used to indicate the plural of "fund", shall mean the budgeting or accounting entity authorized to provide a sum of money for specified activities or purposes.

(7) "Funds" as used in this chapter where not used to indicate the plural of "fund" shall mean money in hand or available for expenditure or payment of a debt or obligation.

(8) Except as otherwise defined herein, municipal accounting terms used in this chapter have the meaning prescribed in "Governmental Accounting, Auditing and Financial Reporting" prepared by the National Committee on Governmental Accounting, 1968. [1969 ex.s. c 81 § 2; 1967 ex.s. c 119 § 35A.33.010.]

Effective date—1969 ex.s. c 81: The effective date of the 1969 amendment to this section is July 1, 1969, see note following RCW 35A.13.035.

35A.33.020 Applicability of chapter. The provisions of this chapter apply to all code cities: *Provided*, That this chapter shall not apply to any municipal utility or enterprise for which separate budgeting provisions are made by general state law. [1967 ex.s. c 119 § 35A.33.020.]

35A.33.030 Budget estimates. On or before the second Monday of the fourth month prior to the beginning of the city's next fiscal year, or at such other time as the city may provide by ordinance or charter, the clerk shall notify in writing the head of each department of a code city to file with the clerk within fourteen days of the receipt of such notification, detailed estimates of the probable revenue from sources other than ad valorem taxation and of all expenditures required by his department for the ensuing fiscal year. The notice shall be accompanied by the proper forms provided by the clerk, prepared in accordance with the requirements and classification established by the division of municipal corporations in the office of the state auditor. The clerk shall prepare the estimates for interest and debt redemption requirements and all other estimates, the preparation of which falls properly within the duties of his office. The chief administrative officers of the city shall submit to the clerk detailed estimates of all expenditures proposed to be financed from the proceeds of bonds or warrants not yet authorized, together with a statement of the proposed method of financing them. In the absence or disability of the official or person regularly in charge of a department, the duties herein required shall devolve upon the person next in charge of such department. [1967 ex.s. c 119 § 35A.33.030.]

35A.33.040 Classification and segregation of budget estimates. All estimates of receipts and expenditures for the ensuing year shall be fully detailed in the annual

budget and shall be classified and segregated according to a standard classification of accounts to be adopted and prescribed by the state auditor through the division of municipal corporations after consultation with the Washington finance officers association, the association of Washington cities and the association of Washington city managers. [1967 ex.s. c 119 § 35A.33.040.]

35A.33.050 Proposed preliminary budget. On or before the first business day in the third month prior to the beginning of the fiscal year of a code city or at such other time as the city may provide by ordinance or charter, the clerk or other person designated by the charter, by ordinances, or by the chief administrative officer of the city shall submit to the chief administrative officer a proposed preliminary budget which shall set forth the complete financial program of the city for the ensuing fiscal year, showing the expenditure program requested by each department and the sources of revenue by which each such program is proposed to be financed.

The revenue section shall set forth in comparative and tabular form for each fund the actual receipts for the last completed fiscal year, the estimated receipts for the current fiscal year and the estimated receipts for the ensuing fiscal year, which shall include the amount to be raised from ad valorem taxes and unencumbered fund balances estimated to be available at the close of the current fiscal year.

The expenditure section shall set forth in comparative and tabular form for each fund and every department operating within each fund the actual expenditures for the last completed fiscal year, the appropriations for the current fiscal year and the estimated expenditures for the ensuing fiscal year. The salary or salary range for each office, position or job classification shall be set forth separately together with the title or position designation thereof: *Provided*, That salaries may be set out in total amounts under each department if a detailed schedule of such salaries and positions be attached to and made a part of the budget document. [1967 ex.s. c 119 § 35A.33.050.]

35A.33.052 Preliminary budget. The chief administrative officer shall prepare the preliminary budget in detail, making any revisions or addition to the reports of the department heads deemed advisable by such chief administrative officer and at least sixty days before the beginning of the city's next fiscal year he shall file it with the city clerk as the recommendation of the chief administrative officer for the final budget. The clerk shall provide a sufficient number of copies of such preliminary budget and budget message to meet the reasonable demands of taxpayers therefor and have them available for distribution not later than six weeks before the beginning of the city's next fiscal year. [1967 ex.s. c 119 § 35A.33.052.]

35A.33.055 Budget message—Preliminary hearings. In every code city a budget message prepared by or under the direction of the city's chief administrative officer shall be submitted as a part of the preliminary

budget to the city's legislative body at least sixty days before the beginning of the city's next fiscal year and shall contain the following:

- (1) An explanation of the budget document;
- (2) An outline of the recommended financial policies and programs of the city for the ensuing fiscal year;
- (3) A statement of the relation of the recommended appropriation to such policies and programs;
- (4) A statement of the reason for salient changes from the previous year in appropriation and revenue items;
- (5) An explanation for any recommended major changes in financial policy.

Prior to the final hearing on the budget, the legislative body or a committee thereof, shall schedule hearings on the budget or parts thereof, and may require the presence of department heads to give information regarding estimates and programs. [1967 ex.s. c 119 § 35A.33.055.]

35A.33.060 Budget—Notice of hearing on final. Immediately following the filing of the preliminary budget with the clerk, the clerk shall publish a notice once each week for two consecutive weeks stating that the preliminary budget for the ensuing fiscal year has been filed with the clerk, that a copy thereof will be furnished to any taxpayer who will call at the clerk's office therefor and that the legislative body of the city will meet on or before the first Monday of the month next preceding the beginning of the ensuing fiscal year for the purpose of fixing the final budget, designating the date, time and place of the legislative budget meeting and that any taxpayer may appear thereat and be heard for or against any part of the budget. The publication of such notice shall be made in the official newspaper of the city if there is one, otherwise in a newspaper of general circulation in the city or if there be no newspaper of general circulation in the city, then by posting in three public places fixed by ordinance as the official places for posting the city's official notices. [1973 c 67 § 1; 1967 ex.s. c 119 § 35A.33.060.]

35A.33.070 Budget—Hearing. The council shall meet on the day fixed by RCW 35A.33.060 for the purpose of fixing the final budget of the city at the time and place designated in the notice thereof. Any taxpayer may appear and be heard for or against any part of the budget. The hearing may be continued from day to day but not later than the twenty-fifth day prior to commencement of the city's fiscal year. [1967 ex.s. c 119 § 35A.33.070.]

35A.33.075 Budget adoption. Following conclusion of the hearing, and prior to the beginning of the fiscal year, the legislative body shall make such adjustments and changes as it deems necessary or proper and after determining the allowance in each item, department, classification and fund, and shall by ordinance, adopt the budget in its final form and content. Appropriations shall be limited to the total estimated revenues contained therein including the amount to be raised by ad valorem taxes and the unencumbered fund balances estimated to be available at the close of the current fiscal year. Such

ordinances may adopt the final budget by reference: *Provided*, That the ordinance adopting such budget shall set forth in summary form the totals of estimated revenues and appropriations for each separate fund and the aggregate totals for all such funds combined.

A complete copy of the final budget as adopted shall be transmitted to the division of municipal corporations in the office of the state auditor, and to the association of Washington cities. [1969 ex.s. c 81 § 3; 1967 ex.s. c 119 § 35A.33.075.]

Effective date—1969 ex.s. c 81: The effective date of the 1969 amendment to this section is July 1, 1969, see note following RCW 35A.13.035.

35A.33.080 Emergency expenditures—Nondebatable emergencies. Upon the happening of any emergency caused by violence of nature, casualty, riot, insurrection, war, or other unanticipated occurrence requiring the immediate preservation of order or public health, or for the restoration to a condition of usefulness of any public property which has been damaged or destroyed by accident, or for public relief from calamity, or in settlement of approved claims for personal injuries or property damage, or to meet mandatory expenditures required by laws enacted since the last annual budget was adopted, or to cover expenses incident to preparing for or establishing a new form of government authorized or assumed after adoption of the current budget, including any expenses incident to selection of additional or new officials required thereby, or incident to employee recruitment at any time, the city council, upon the adoption of an ordinance, by the vote of one more than the majority of all members of the legislative body, stating the facts constituting the emergency and the estimated amount required to meet it, may make the expenditures therefor without notice or hearing. [1967 ex.s. c 119 § 35A.33.080.]

35A.33.090 Emergency expenditures—Other emergencies—Hearing. If a public emergency which could not reasonably have been foreseen at the time of filing the preliminary budget requires the expenditure of money not provided for in the annual budget, and if it is not one of the emergencies specifically enumerated in RCW 35A.33.080, the city council before allowing any expenditure therefor shall adopt an ordinance stating the facts constituting the emergency and the estimated amount required to meet it and declaring that an emergency exists.

Such ordinance shall not be voted on until five days have elapsed after its introduction, and for passage shall require the vote of one more than the majority of all members of the legislative body of the code city.

Any taxpayer may appear at the meeting at which the emergency ordinance is to be voted on and be heard for or against the adoption thereof. [1967 ex.s. c 119 § 35A.33.090.]

35A.33.100 Emergency expenditures—Warrants—Payments. All expenditures for emergency purposes as provided in this chapter shall be paid by warrants from any available money in the fund properly

chargeable with such expenditures. If, at any time, there is insufficient money on hand in a fund with which to pay such warrants as presented, the warrants shall be registered, bear interest and be called in the same manner as other registered warrants as prescribed in RCW 35A.21.110. [1967 ex.s. c 119 § 35A.33.100.]

35A.33.102 Registered warrants—Appropriations. In adopting the final budget for any fiscal year, the council shall appropriate from estimated revenue sources available, a sufficient amount to pay the principal and interest on all outstanding registered warrants issued since the adoption of the last preceding budget except those issued and identified as revenue warrants and except those for which an appropriation previously has been made: *Provided*, That no portion of the revenues which are restricted in use by law may be appropriated for the redemption of warrants issued against a utility or other special purpose fund of a self-supporting nature: *Provided further*, That all or any portion of the city's outstanding registered warrants may be funded into bonds in any manner authorized by law. [1967 ex.s. c 119 § 35A.33.102.]

35A.33.105 Adjustment of wages, etc., of employees permissible budget notwithstanding. Notwithstanding the appropriations for any salary, or salary range of any employee or employees adopted in a final budget, the legislative body of any code city may, by ordinance, change the wages, hours, and conditions of employment of any or all of its appointive employees if sufficient funds are available for appropriation to such purposes. [1967 ex.s. c 119 § 35A.33.105.]

35A.33.110 Forms—Accounting—Supervision by state. The division of municipal corporations in the office of the state auditor is empowered to make and install the forms and classifications required by this chapter to define what expenditures are chargeable to each budget class and to establish the accounting and cost systems necessary to secure accurate budget information. [1967 ex.s. c 119 § 35A.33.110.]

35A.33.120 Funds—Limitations on expenditures—Transfers and adjustments. The expenditures as classified and itemized in the final budget shall constitute the city's appropriations for the ensuing fiscal year. Unless otherwise ordered by a court of competent jurisdiction, and subject to further limitations imposed by ordinance of the code city, the expenditure of city funds or the incurring of current liabilities on behalf of the city shall be limited to the following:

(1) The total amount appropriated for each fund in the budget for the current fiscal year, without regard to the individual items contained therein, except that this limitation shall not apply to wage adjustments authorized by RCW 35A.33.105; and

(2) The unexpended appropriation balances of a preceding budget which may be carried forward from prior fiscal years pursuant to RCW 35A.33.150; and

(3) Funds received from the sale of bonds or warrants which have been duly authorized according to law; and

(4) Funds received in excess of estimated revenues during the current fiscal year, when authorized by an ordinance amending the original budget; and

(5) Expenditures required for emergencies, as authorized in RCW 35A.33.080 and 35A.33.090.

Transfers between individual appropriations within any one fund may be made during the current fiscal year by order of the city's chief administrative officer subject to such regulations, if any, as may be imposed by the city council. Notwithstanding the provisions of RCW 43.09.210 or of any statute to the contrary, transfers, as herein authorized, may be made within the same fund regardless of the various offices, departments or divisions of the city which may be affected.

The city council, upon a finding that it is to the best interests of the code city to decrease, revoke or recall all or any portion of the total appropriations provided for any one fund, may, by ordinance, approved by the vote of one more than the majority of all members thereof, stating the facts and findings for doing so, decrease, revoke or recall all or any portion of an unexpended fund balance, and by said ordinance, or a subsequent ordinance adopted by a like majority, the moneys thus released may be reappropriated for another purpose or purposes, without limitation to department, division or fund, unless the use of such moneys is otherwise restricted by law, charter, or ordinance. [1967 ex.s. c 119 § 35A.33.120.]

35A.33.125 Limitation on expenditures—Void. Liabilities incurred by any officer or employee of the city in excess of any budget appropriations shall not be a liability of the city. The clerk shall issue no warrant and the city council or other authorized person shall approve no claim for an expenditure in excess of the total amount appropriated for any individual fund, except upon an order of a court of competent jurisdiction or for emergencies as provided in this chapter. [1969 ex.s. c 81 § 4; 1967 ex.s. c 119 § 35A.33.125.]

Effective date—1969 ex.s. c 81: The effective date of the 1969 amendment to this section is July 1, 1969, see note following RCW 35A.13.035.

35A.33.130 Funds received from sales of bonds and warrants—Expenditures. Moneys received from the sale of bonds or warrants shall be used for no other purpose than that for which they were issued and no expenditure shall be made for that purpose until the bonds have been duly authorized. If any unexpended fund balance remains from the proceeds realized from the bonds or warrants after the accomplishment of the purpose for which they were issued it shall be used for the redemption of such bond or warrant indebtedness. Where a budget contains an expenditure program to be financed from a bond issue to be authorized thereafter, no such expenditure shall be made or incurred until after the bonds have been duly authorized. [1967 ex.s. c 119 § 35A.33.130.]

35A.33.135 Levy for ad valorem tax. At a time fixed by the city's ordinance or charter, not later than the first

Monday in October of each year, the chief administrative officer shall provide the city's legislative body with current information on estimates of revenues from all sources as adopted in the budget for the current year, together with estimates submitted by the clerk under RCW 35A.33.050. The city's legislative body and the city's administrative officer or his designated representative shall consider the city's total anticipated financial requirements for the ensuing fiscal year, and the legislative body shall determine and fix by ordinance the amount to be raised by ad valorem taxes. Upon adoption of the ordinance fixing the amount of ad valorem taxes to be levied, the clerk shall certify the same to the board of county commissioners as required by RCW 84.52.020. [1967 ex.s. c 119 § 35A.33.135.]

35A.33.140 Funds—Quarterly report of status. At such intervals as may be required by city charter or ordinance, however, being not less than quarterly, the clerk shall submit to the city's legislative body and chief administrative officer a report showing the expenditures and liabilities against each separate budget appropriation incurred during the preceding reporting period and like information for the whole of the current fiscal year to the first day of the current reporting period together with the unexpended balance of each appropriation. The report shall also show the receipts from all sources. [1967 ex.s. c 119 § 35A.33.140.]

35A.33.145 Contingency fund—Creation. Every code city may create and maintain a contingency fund to provide moneys with which to meet any municipal expense, the necessity or extent of which could not have been foreseen or reasonably evaluated at the time of adopting the annual budget, or from which to provide moneys for those emergencies described in RCW 35A.33.080 and 35A.33.090. Such fund may be supported by a budget appropriation from any tax or other revenue source not restricted in use by law, or also may be supported by a transfer from other unexpended or decreased funds made available by ordinance as set forth in RCW 35A.33.120: *Provided*, That the total amount accumulated in such fund at any time shall not exceed the equivalent of thirty-seven and one-half cents per thousand dollars of assessed valuation of property within the city at such time. Any moneys in the contingency fund at the end of the fiscal year shall not lapse except upon reappropriation by the council to another fund in the adoption of a subsequent budget. [1973 1st ex.s. c 195 § 28; 1967 ex.s. c 119 § 35A.33.145.]

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

35A.33.146 Contingency fund—Withdrawals. No money shall be withdrawn from the contingency fund except by transfer to the appropriate operating fund authorized by a resolution or ordinance of the council, adopted by a vote of the majority of the entire council, clearly stating the facts constituting the reason for the withdrawal or the emergency as the case may be, specifying the fund to which the withdrawn money shall be transferred. [1967 ex.s. c 119 § 35A.33.146.]

35A.33.150 Unexpended appropriations. All appropriations in any current operating fund shall lapse at the end of each fiscal year: *Provided*, That this shall not prevent payments in the following year upon uncompleted programs or improvements in progress or on orders subsequently filled or claims subsequently billed for the purchase of material, equipment and supplies or for personal or contractual services not completed or furnished by the end of the fiscal year, all of which have been properly budgeted and contracted for prior to the close of such fiscal year but furnished or completed in due course thereafter.

All appropriations in a special fund authorized by ordinance or by state law to be used only for the purpose or purposes therein specified, including any cumulative reserve funds lawfully established in specific or general terms for any municipal purpose or purposes, or a contingency fund as authorized by RCW 35A.33.145, shall not lapse, but shall be carried forward from year to year until fully expended or the purpose has been accomplished or abandoned, without necessity of reappropriation.

The accounts for budgetary control for each fiscal year shall be kept open for twenty days after the close of such fiscal year for the purpose of paying and recording claims for indebtedness incurred during such fiscal year; any claim presented after the twentieth day following the close of the fiscal year shall be paid from appropriations lawfully provided for the ensuing period, including those made available by provisions of this section, and shall be recorded in the accounts for the ensuing fiscal year. [1967 ex.s. c 119 § 35A.33.150.]

35A.33.160 Violations and penalties. Upon the conviction of any city official, department head or other city employee of knowingly failing, or refusing, without just cause, to perform any duty imposed upon such officer or employee by this chapter, or city ordinance or charter, in connection with the giving of notice, the preparing and filing of estimates of revenues or expenditures or other information required for preparing a budget report in the time and manner required, or of knowingly making expenditures in excess of budget appropriations, he shall be guilty of a misdemeanor and shall be fined not more than five hundred dollars for each separate violation. [1967 ex.s. c 119 § 35A.33.160.]

Chapter 35A.35 INTERGOVERNMENTAL RELATIONS

Sections

- 35A.35.010 Joint facilities and agreements.
35A.35.020 Demonstration Cities and Metropolitan Development Act—Authority to contract with federal government.

35A.35.010 Joint facilities and agreements. In addition to exercising all authority granted to cities of any class for joint or intergovernmental cooperation and activity and agreements for the acquisition, ownership, leasing, control, improvement, occupation and use of land or other property with a county, another city, or governmental agency, and in addition to authority granted to code cities by RCW 35A.11.040, every code

city may exercise the powers relating to jails, places of detention, civic centers, civic halls and armories as is authorized by chapters 36.64 and 38.20 RCW. [1967 ex.s. c 119 § 35A.35.010.]

35A.35.020 Demonstration Cities and Metropolitan Development Act—Authority to contract with federal government. See RCW 35.21.660.

Chapter 35A.36 EXECUTION OF BONDS BY PROXY IN CODE CITIES

Sections

- 35A.36.010 Appointment of proxies.
35A.36.020 Coupons—Printing facsimile signatures.
35A.36.030 Deputies—Exemptions.
35A.36.040 Designation of bonds to be signed.
35A.36.050 Liability of officer.
35A.36.060 Notice to council.
35A.36.070 Revocation of proxy.

35A.36.010 Appointment of proxies. The mayor, finance officer, city clerk, or other officer of a code city who is authorized or required by law, charter, or ordinance to execute bonds of the city or any subdivision or district thereof may designate one or more bonded persons to affix such officer's signature to any bond or bonds requiring his signature. If the signature of one of these officers is affixed to a bond during his continuance in office by a proxy designated by him whose authority has not been revoked, the bond shall be as binding upon the city and all concerned as though the officer had signed the bond in person. This chapter shall apply to all bonds, whether they constitute obligations of the city as a whole or of any local improvement or other district or subdivision thereof, whether they call for payment from the general funds of the city or from a local, special or other fund, and whether negotiable or otherwise. [1967 ex.s. c 119 § 35A.36.010.]

35A.36.020 Coupons—Printing facsimile signatures. A facsimile reproduction of the signature of any of the code city officers referred to in RCW 35A.36.010 may be printed, engraved, or lithographed upon bond coupons with the same effect as though the particular officer had signed the coupon in person. [1967 ex.s. c 119 § 35A.36.020.]

35A.36.030 Deputies—Exemptions. This chapter shall not be construed to require the appointment of deputy finance officers or deputy city clerks of code cities to be made in accordance with this chapter insofar as concerns signatures or other acts which may lawfully be made or done by such deputy officer under the provisions of any other law. [1967 ex.s. c 119 § 35A.36.030.]

35A.36.040 Designation of bonds to be signed. The officer of a code city whose duty it is to cause any bonds to be printed, engraved, or lithographed, shall specify in a written order or requisition to the printer, engraver, or lithographer the number of bonds to be printed, engraved or lithographed and the manner of numbering them. Every printer, engraver, or lithographer who

knowingly prints, engraves, or lithographs a greater number of bonds than that specified or who knowingly prints, engraves, or lithographs more than one bond bearing the same number shall be guilty of a felony. [1967 ex.s. c 119 § 35A.36.040.]

35A.36.050 Liability of officer. A code city officer authorizing the affixing of his signature to a bond by a proxy shall be subject to the same liability personally and on his bond for any signature so affixed and to the same extent as if he had affixed his signature in person. [1967 ex.s. c 119 § 35A.36.050.]

35A.36.060 Notice to council. In order to designate a proxy to affix his signature to bonds, a code city officer shall address a written notice to the legislative body of the city giving the name of the person whom he has selected therefor and stating generally or specifically what bonds are to be so signed.

Attached to or included in the notice shall be a written signature of the officer making the designation executed by the proposed proxy followed by the word "by" and his own signature; or, if the notice so states, the specimen signatures may consist of a facsimile reproduction of the officer's signature impressed by some mechanical process followed by the word "by" and the proxy's own signature.

If the authority is intended to include the signature upon bonds bearing an earlier date than the effective date of the notice, the prior dated bonds must be specifically described by reasonable reference thereto.

The notice designating a proxy shall be filed with the city finance officer or city clerk, together with the specimen signatures attached thereto and a record of the filing shall be made in the journal of the legislative body. This record shall note the date and hour of filing and may be made by the official who keeps the journal at any time after the filing of the notice, even during a period of recess or adjournment of the legislative body. The notice shall be effective from the time of its recording. [1967 ex.s. c 119 § 35A.36.060.]

35A.36.070 Revocation of proxy. Any designation of a proxy may be revoked by written notice addressed to the legislative body of the code city signed by the officer who made the designation and filed and recorded in the same manner as the notice of designation. It shall be effective from the time of its recording but shall not affect the validity of any signatures theretofore made. [1967 ex.s. c 119 § 35A.36.070.]

Chapter 35A.37 FUNDS, SPECIAL PURPOSE

Section

35A.37.010 Segregating and accounting.

35A.37.010 Segregating and accounting. Code cities shall establish such funds for the segregation, budgeting, expenditure and accounting for moneys received for special purposes as are required by general law applicable to such cities' activities and the officers thereof shall pay

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into, expend from, and account for such moneys in the manner provided therefor including but not limited to the requirements of the following:

- (1) Accounting funds as required by RCW 35.37.010;
- (2) Annexation and consolidation fund as required by chapters 35.10, 35.11, and 35.12 RCW and RCW 35.37.025;
- (3) Assessment fund as required by RCW 8.12.480;
- (4) Equipment rental fund as authorized by RCW 35.21.088;
- (5) Current expense fund as required by RCW 35.37.010, usually referred to as the general fund;
- (6) Local improvement guaranty fund as required by RCW 35.54.010;
- (7) An indebtedness and sinking fund, together with separate funds for utilities and institutions as required by RCW 35.37.020;
- (8) Local improvement district fund and revolving fund as required by RCW 35.45.130 and 35.48.010;
- (9) City street fund as required by chapter 35.76 RCW and RCW 47.24.040;
- (10) Firemen's relief and pension fund as required by chapters 41.16 and 41.18 RCW;
- (11) Policemen's relief and pension fund as required by RCW 41.20.130 and 63.32.030;
- (12) First class cities' employees retirement and pension system as authorized by chapter 41.28 RCW;
- (13) Applicable rules of the division of municipal corporations office of state auditor. RCW 43.09.190 through 43.09.282. [1967 ex.s. c 119 § 35A.37.010.]

Reviser's note: (1) Chapter 35.11 RCW was recodified in chapter 35.10 RCW.

(2) RCW 35.12.010, the only statutory section contained in chapter 35.12 RCW, was repealed by 1969 ex.s. c 89 § 18.

(3) RCW 35.37.025 was repealed by 1969 ex.s. c 89 § 18.

Chapter 35A.38 EMERGENCY SERVICES

Section

35A.38.010 Local organization.

35A.38.010 Local organization. A code city may participate in the creation of local organizations for emergency services, provide for mutual aid, and exercise all of the powers and privileges and perform all of the functions and duties, and the officers and employees thereof shall have the same powers, duties, rights, privileges and immunities as any city of any class, and the employees thereof, have in connection with emergency services as provided in chapter 38.52 RCW in the manner provided by said chapters or by general law. [1974 ex.s. c 171 § 2; 1967 ex.s. c 119 § 35A.38.010.]

Chapter 35A.39 PUBLIC DOCUMENTS AND RECORDS

Section

35A.39.010 Legislative and administrative records.

35A.39.010 Legislative and administrative records. Every code city shall keep a journal of minutes of its

legislative meetings with orders, resolutions and ordinances passed, and records of the proceedings of any city department, division or commission performing quasi judicial functions as required by ordinances of the city and general laws of the state and shall keep such records open to the public as required by RCW 42.32.030 and shall keep and preserve all public records and publications or reproduce and destroy the same as provided by Title 40 RCW. Each code city shall provide three copies of each of its ordinances of general application to the association of Washington cities without charge and may duplicate and sell copies of its ordinances at fees reasonably calculated to defray the cost of such duplication and handling. [1967 ex.s. c 119 § 35A.39.010.]

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 bank checks when funds are solvent.
35A.40.030 Fiscal—Depositaries.
35A.40.040 Fiscal—Depositaries—Provisions of general law applicable.
35A.40.050 Fiscal—Investment of funds.
35A.40.060 Fiscal—Validation and funding of debts.
35A.40.070 Fiscal—Municipal revenue bond act.
35A.40.080 Bonds—Form, terms, and maturity.
35A.40.090 Limitation on indebtedness.
35A.40.100 Bankruptcy, readjustment and relief from debts.
35A.40.200 General law relating to public works and contracts.

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, payment, form, term, interest, 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, 39.44, 39.52, 39.56, and 43.80 RCW, and are hereby recognized as applicable to code cities. As applied to code cities, the vote prescribed by RCW 35.37.040 for passage of an ordinance to contract indebtedness shall be construed to mean a majority of the whole membership of the legislative body. [1967 ex.s. c 119 § 35A.40.010.]

35A.40.020 Code city may elect to use bank 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 bank 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 bank checks are to be used, the legislative body shall designate the bank 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 bank checks where authorized by this section. [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 banks in the county wherein the code city is located as depositary or depositaries 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 depositary 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 depositaries, contained in chapter 39.58 RCW, as now or hereafter amended, are hereby recognized as applicable to code cities and to the depositaries designated by them. [1973 c 126 § 4; 1967 ex.s. c 119 § 35A.40.030.]

35A.40.040 Fiscal—Depositaries—Provisions of general law applicable. The general law as contained in RCW 35.38.050 through 35.38.110, relating to the official bond of a city treasurer, a city official as officer, employee, or stockholder of a depositary, inclusion of "trust company" in the use of the word "bank", designation of a trustee for safekeeping of securities, procedure upon insolvency of a depositary, prohibition of a bank acting as trustee of its own securities, compensation of a trustee of securities, and the trustee's receipt, is hereby recognized as applicable to code cities. [1967 ex.s. c 119 § 35A.40.040.]

Reviser's note: RCW 35.38.070, 35.38.080, 35.38.090, 35.38.100, and 35.38.110 were repealed by 1969 ex.s. c 193 § 30.

35A.40.050 Fiscal—Investment of funds. Excess and inactive funds on hand in the treasury of any code city may be invested in the same manner and subject to the same limitations as provided for city and town funds in all applicable statutes, including, but not limited to the following: RCW 32.12.100, 33.52.010, 35.39.030, 35.39.040, 35.58.510, 35.81.070, 35.82.070, 36.29.020, 39.60.010, 39.60.020, 41.16.040, 68.12.060, 68.12.065, and 72.19.120.

The responsibility for determining the amount of money available in each fund for investment purposes shall be placed upon the department, division or board responsible for the administration of such fund.

Moneys thus determined available for this purpose may be invested on an individual fund basis or may, unless otherwise restricted by law be commingled within one common investment portfolio for the mutual benefit of all participating funds: *Provided*, That if such moneys are commingled in a common investment portfolio, all income derived therefrom shall be apportioned among the various participating funds in direct proportion to the amount of money invested by each.

Any excess or inactive funds on hand in the city treasury not otherwise invested for the specific benefit of any particular fund, may be invested by the city treasurer in

United States government bonds, notes, bills or certificates of indebtedness for the benefit of the general or current expense fund. [1967 ex.s. c 119 § 35A.40.050.]

35A.40.060 Fiscal—Validation and funding of debts. The provisions of general law contained in chapters 35.40 and 39.90 RCW, relating to the validation and funding of debts and elections pertaining thereto is hereby recognized as applicable to code cities. [1967 ex.s. c 119 § 35A.40.060.]

35A.40.070 Fiscal—Municipal revenue bond act. All provisions of chapter 35.41 RCW, the Municipal Revenue Bond Act, shall be applicable and/or available to code cities. [1967 ex.s. c 119 § 35A.40.070.]

35A.40.080 Bonds—Form, terms, and maturity. In addition to any other authority granted by law, a code city shall have authority to ratify and fund indebtedness as provided by chapter 35.40 RCW; to issue revenue bonds, coupons and warrants as authorized by chapter 35.41 RCW; to authorize and issue local improvement bonds and warrants, installment notes and interest certificates as authorized by chapter 35.45 RCW; to fund indebtedness and to issue other bonds as authorized by chapters 39.44, 39.48, 39.52 RCW, RCW 39.56.020, and 39.56.030 in accordance with the procedures and subject to the limitations therein provided. [1967 ex.s. c 119 § 35A.40.080.]

35A.40.090 Limitation on indebtedness. No code city shall incur an indebtedness exceeding three-fourths of one percent of the value of the taxable property in such city without the assent of three-fifths of the voters therein voting at an election to be held for that purpose nor, with such assent, to exceed two and one-half percent of the value of the taxable property therein except as otherwise provided in chapter 39.36 RCW and subject to the provisions of this chapter and shall have the authority and be subject to the constitutional and/or statutory limitations relating to levy of taxes. The term "value of the taxable property" shall have the meaning set forth in RCW 39.36.015. [1973 1st ex.s. c 195 § 29; 1970 ex.s. c 42 § 16; 1967 ex.s. c 119 § 35A.40.090. Cf. 1973 1st ex.s. c 195 § 141.]

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.

35A.40.100 Bankruptcy, readjustment and relief from debts. A code city may exercise the powers and obtain the benefits relating to bankruptcy, readjustment and relief from debts as authorized by chapter 39.64 RCW in accordance with the procedures therein prescribed. [1967 ex.s. c 119 § 35A.40.100.]

35A.40.200 General law relating to public works and contracts. Every code city shall have the authority to make public improvements and to perform public works under authority provided by general law for any class of city and to make contracts in accordance with procedure

and subject to the conditions provided therefor, including but not limited to the provisions of: (1) Chapter 39.04 RCW, relating to public works; (2) RCW 35.23-.352 relating to competitive bidding for public works, materials and supplies; (3) RCW 9.18.120 and 9.18.150 relating to suppression of competitive bidding; (4) chapter 60.28 RCW relating to liens for materials and labor performed; (5) chapter 39.08 RCW relating to contractor's bonds; (6) chapters 39.12, 39.16, and 43.03 RCW relating to prevailing wages; (7) chapter 49.12 RCW relating to hours of labor; (8) chapter 51.12 RCW relating to workmen's compensation; (9) chapter 39.20 RCW relating to employment of certain aliens; (10) chapter 49.60 RCW relating to antidiscrimination in employment; (11) chapter 39.24 RCW relating to the use of Washington commodities; and (12) chapter 39.28 RCW relating to emergency public works. [1967 ex.s. c 119 § 35A.40.200.]

Chapter 35A.41 PUBLIC EMPLOYMENT

Sections

- 35A.41.010 Retirement and pension systems for code cities having a population of more than twenty thousand.
- 35A.41.020 Public employment and civil service.
- 35A.41.030 City contracts to obtain sheriff's office law enforcement services.

35A.41.010 Retirement and pension systems for code cities having a population of more than twenty thousand. A code city having a population of more than twenty thousand inhabitants, or having been classed theretofore as a city of the first class may exercise all of the powers relating to retirement and pension systems for employees as authorized by RCW 35A.11.020 and by chapter 41.28 RCW in accordance with the procedures prescribed therein and subject to the limitations and penalties thereof. [1967 ex.s. c 119 § 35A.41.010.]

35A.41.020 Public employment and civil service. Except as otherwise provided in this title, the general provisions relating to public employment, including hospitalization and medical aid as provided in chapter 41.04 RCW, and the application of federal social security for public employees, the acceptance of old age and survivors insurance as provided in chapters 41.47 and 41.48 RCW, military leave as provided in RCW 38.40.060, the application of industrial insurance as provided in Title 51 RCW, and *chapter 43.100 RCW relating to training of law enforcement officers, shall apply to code cities. Any code city may retain any civil service system theretofore in effect in such city and may adopt any system of civil service which would be available to any class of city under general law. [1967 ex.s. c 119 § 35A.41.020.]

*Reviser's note: "chapter 43.100 RCW" was repealed in its entirety by 1974 ex.s. c 94 § 23; later enactment, see chapter 43.101 RCW.

35A.41.030 City contracts to obtain sheriff's office law enforcement services. See RCW 41.14.250-41.14.280.

Chapter 35A.42
PUBLIC OFFICERS AND AGENCIES, MEETINGS,
DUTIES AND POWERS

Sections

- 35A.42.010 City treasurer—Miscellaneous authority and duties.
35A.42.020 Qualification, removal, code of ethics, duties.
35A.42.030 Continuity of government—Enemy attack.
35A.42.040 City clerks and controllers.
35A.42.050 Public officers and employees—Conduct.

35A.42.010 City treasurer—Miscellaneous authority and duties. 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 46.81.050 relating to fines and bail forfeitures and additional assessments for driver education; (7) as provided in RCW 41.16.020 and chapter 41.20 RCW relating to police and firemen's relief and pension boards; (8) as provided in chapter 42.20 RCW relating to misappropriation of funds; and (9) 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. [1967 ex.s. c 119 § 35A.42.010.]

35A.42.020 Qualification, removal, code of ethics, duties. Except as otherwise provided in this title, every elective and appointive officer and all employees of code cities shall: (1) Be possessed of the qualifications and be subject to forfeiture of office, impeachment or removal and recall as provided in chapter 42.04 RCW and RCW 9.81.040; and (2) provide official bonds in accordance with the requirements of this title, and as required in compliance with chapters 42.08 and 48.28 RCW.

When vacancies in public offices in code cities shall occur the term of a replacement officer shall be fixed as provided in chapter 42.12 RCW. A public officer charged with misconduct as defined in chapter 42.20 RCW, shall be charged and, upon conviction, punished as provided for such misconduct in chapter 42.20 RCW. The officers and employees of code cities shall be guided and governed by the code of ethics as provided in chapter 42.23 RCW. Vouchers for the payment of public funds and the provisions for certifying the same shall be as provided in chapter 42.24 RCW. The meetings of any board, agency, or commission of a code city shall be open to the public to the extent and notice given in the

manner required by chapter 42.32 RCW. [1967 ex.s. c 119 § 35A.42.020.]

Reviser's note: RCW 42.32.010 and 42.32.020 were repealed by 1971 ex.s. c 250 § 15; later enactment, see chapter 42.30 RCW.

Recall of elective officers: State Constitution Art. 1 §§ 33, 34 (Amendment 8); chapter 29.82 RCW.

35A.42.030 Continuity of government—Enemy attack. In the event that the mayor, manager or other chief executive officer of any code city is unavailable by reason of enemy attack to exercise the powers and to discharge the duties of his office, his successor or substitute shall be selected in the manner provided by RCW 42.14.050 subject to rules and regulations providing for the appointment of temporary interim successors adopted under RCW 42.14.070. [1967 ex.s. c 119 § 35A.42.030.]

35A.42.040 City clerks and controllers. In addition to any specific enumeration of duties of city clerks in a code city's charter or ordinances, and without limiting the generality of RCW 35A.21.030 of this title, the clerks of all code cities shall perform the following duties in the manner prescribed, to wit: (1) Certification of city streets as part of the highway system in accordance with the provisions of RCW 47.24.010; (2) prepare statements of cancellation of registration as required by RCW 29.10.120; (3) perform the functions of a member of a firemen's pension board as provided by RCW 41.16.020; (4) keep a record of ordinances of the city and provide copies thereof as authorized by RCW 5.44-.080; (5) serve as applicable the trustees of any police relief and pension board as authorized by RCW 41.20-.010; and (6) serve as secretary-treasurer of volunteer firemen's relief and pension boards as provided in RCW 41.24.060. [1967 ex.s. c 119 § 35A.42.040.]

35A.42.050 Public officers and employees—Conduct. In addition to provisions of general law relating to public officials and others in public administration, employment or public works, the duties and conduct of such officers and other persons shall be governed by: (1) *RCW 9.18.010 and 9.18.020 relating to bribery of a public officer; (2) Article II, section 30 of the Constitution of the state of Washington relating to bribery or corrupt solicitation; (3) RCW 35.17.150 relating to misconduct in code cities having a commission form of government; (4) chapter 42.23 RCW in regard to interest in contracts; (5) chapter 29.85 RCW relating to misconduct in connection with elections; (6) RCW 49.44.060 and 49.44.070 relating to grafting by employees; (7) RCW 49.44.020 and 49.44.030 relating to the giving or solicitation of a bribe to a labor representative; (8) chapter 42.20 RCW relating to misconduct of a public officer; (9) RCW 49.52.050 and 49.52.090 relating to rebating by employees; and (10) chapter 9.18 RCW relating to bribery and grafting. [1967 ex.s. c 119 § 35A.42.050.]

***Reviser's note:** *RCW 9.18.010 and 9.18.020 were repealed by 1975 1st ex.s. c 260 § 9A.92.010.

Chapter 35A.43**LOCAL IMPROVEMENTS IN CODE CITIES**

Sections

- 35A.43.010 General law applicable to code cities.
 35A.43.020 Public lands subject to local assessments.

35A.43.010 General law applicable to code cities. Chapters 35.43, 35.44, 35.45, 35.47, 35.48, 35.49, 35.50, 35.53, 35.54, 35.55, and 35.56 RCW all relating to municipal local improvements and made applicable to all incorporated cities and towns by RCW 35.43.030 are hereby recognized as applicable to all code cities, and the provisions thereof shall supersede the provisions of any charter of a charter code city inconsistent therewith. The provisions of the chapters named in this section shall be effective as to charter code cities to the same extent as such provisions are effective as to cities of the first class, and all code cities may exercise, in the manner provided, any authority therein granted to any class of city. [1967 ex.s. c 119 § 35A.43.010.]

35A.43.020 Public lands subject to local assessments. In addition to the authority provided by chapter 35.44 RCW, and chapter 79.44 RCW, a code city may assess public lands for the cost of local improvements specially benefiting such lands. [1967 ex.s. c 119 § 35A.43.020.]

Chapter 35A.44
CENSUS

Section

- 35A.44.010 Population determination.

35A.44.010 Population determination. The population of code cities shall be determined by specific purposes in accordance with any express provision of state law relating thereto. Where no express provision is made, the provisions of chapter 43.62 RCW relating to the state census board, the provisions of RCW 35.13.260 shall govern. [1967 ex.s. c 119 § 35A.44.010.]

Chapter 35A.46
MOTOR VEHICLES

Section

- 35A.46.010 State law applicable.

35A.46.010 State law applicable. The provisions of Title 46 of the Revised Code of Washington relating to regulation of motor vehicles shall be applicable to code cities, its officers and employees to the same extent as such provisions grant powers and impose duties upon cities of any class, their officers and agents, including without limitation the following: (1) Authority to provide for angle parking on certain city streets designated as forming a route of a primary state highway as authorized in RCW 46.61.575; (2) application of city police regulations to port districts as authorized by RCW 53.08.230; (3) authority to establish local regulations relating to city streets forming a part of the state highway system as authorized by RCW 46.44.080; (4)

authority to install and operate a station for the inspection of vehicle equipment in conformity with rules, regulations, procedure and standards prescribed by the Washington state patrol as authorized under RCW 46.32.030; (5) exemption from the payment of license fees for city owned vehicles as authorized by RCW 46.16.020 and 46.16.290; (6) authority to establish traffic schools as provided by chapter 46.83 RCW; and (7) authority to enforce the provisions of RCW 81.48.050 relating to railroad crossings. [1967 ex.s. c 119 § 35A.46.010.]

Chapter 35A.47
HIGHWAYS AND STREETS

Sections

- 35A.47.010 Highways, granting land for.
 35A.47.020 Streets—Acquisition, standards of design, use, vacation and abandonment—Funds.
 35A.47.030 Public highways—Acquisition, agreements, transfers, regulations.
 35A.47.040 Franchises and permits—Streets and public ways.

35A.47.010 Highways, granting land for. A code city may exercise the powers relating to granting of property for state highway purposes as authorized by RCW 47.12.040 in accordance with the procedures therein prescribed. [1967 ex.s. c 119 § 35A.47.010.]

35A.47.020 Streets—Acquisition, standards of design, use, vacation and abandonment—Funds. The designation of code city streets as a part of the state highway system, the jurisdiction and control of such streets, the procedure for acquisition or abandonment of rights of way for city streets and state highways, and the sale or lease of state highway land or toll facility to a code city, the requirements for accounting and expenditure of street funds, and the authority for contracting for the construction, repair and maintenance of streets by the state or county shall be the same as is provided in RCW 36.75.090, chapters 47.08, 47.12, 47.24 and 47.56 RCW, and the regulation of signs thereon as provided in chapter 47.42 RCW. Code cities shall be regulated in the acquisition, construction, maintenance, use and vacation of alleys, city streets, parkways, boulevards and sidewalks and in the design standards therefor as provided in chapters 35.68 through 35.79, 35.85, and 35.86 RCW and RCW 79.01.428 relating to dedication of tidelands and shorelands to public use and in the use of state shared funds as provided by general law. [1967 ex.s. c 119 § 35A.47.020.]

35A.47.030 Public highways—Acquisition, agreements, transfers, regulations. 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) the allocation of fines and forfeitures for highway

violations as provided in RCW 46.68.050 and 47.08.030; (4) city contributions to finance toll facilities as provided in RCW 47.56.250; (5) contracts with the highway commission, as provided in RCW 47.01.210; (6) the construction, maintenance, jurisdiction, and control of city streets, as provided in chapter 47.24 RCW; (7) agreements between the highway commission and a city for the benefit or improvement of highways, roads, or streets, as provided in RCW 47.28.140; (8) sales, leases, or transfers as authorized by RCW 47.12.070 and 47.12.080; (9) the erection of information signs as regulated by RCW 47.42.050 and 47.42.060; (10) provisions relating to limited access highways under chapters 47.52 and *47.54 RCW; (11) the acquisition and abandonment for state highways as provided by RCW 36.75.090 and 90.28.020; and (12) the sharing of maintenance of streets and alleys as an extension of county roads as provided by RCW 35.77.020. [1967 ex.s. c 119 § 35A.47.030.]

*Reviser's note: Chapter "47.54 RCW" was repealed by 1969 c 91 § 3.

35A.47.040 Franchises and permits—Streets and public ways. Every code city shall have authority to permit and regulate under such restrictions and conditions as it may set by charter or ordinance and to grant non-exclusive franchises for the use of public streets, bridges or other public ways, structures or places above or below the surface of the ground for railroads and other routes and facilities for public conveyances, for poles, conduits, tunnels, towers and structures, pipes and wires and appurtenances thereof for transmission and distribution of electrical energy, signals and other methods of communication, for gas, steam and liquid fuels, for water, sewer and other private and publicly owned and operated facilities for public service. The power hereby granted shall be in addition to the franchise authority granted by general law to cities.

No ordinance or resolution granting any franchise in a code city for any purpose shall be adopted or passed by the city's legislative body on the day of its introduction nor for five days thereafter, nor at any other than a regular meeting nor without first being submitted to the city attorney, nor without having been granted by the approving vote of at least a majority of the entire legislative body, nor without being published at least once in a newspaper of general circulation in the city before becoming effective.

The city council may require a bond in a reasonable amount for any person or corporation obtaining a franchise from the city conditioned upon the faithful performance of the conditions and terms of the franchise and providing a recovery on the bond in case of failure to perform the terms and conditions of the franchise.

A code city may exercise the authority hereby granted, notwithstanding a contrary limitation of any preexisting charter provision. [1967 ex.s. c 119 § 35A.47.040.]

Chapter 35A.49 LABOR AND SAFETY REGULATIONS

Section

35A.49.010 Labor regulations—Safety regulations, discrimination in employment, hours, wages.

35A.49.010 Labor regulations—Safety regulations, discrimination in employment, hours, wages. Provisions of state laws relating to labor and safety regulations as provided in Title 49 RCW shall apply to code cities to the same extent as such laws apply to other classes of cities. [1967 ex.s. c 119 § 35A.49.010.]

Chapter 35A.56 LOCAL SERVICE DISTRICTS

Section

35A.56.010 Laws relating to special service districts, application to code cities.

35A.56.010 Laws relating to special service districts, application to code cities. Except as otherwise provided in this title, state laws relating to special service or taxing districts shall apply to, grant powers, and impose duties upon code cities and their officers to the same extent as such laws apply to and affect other classes of cities and towns and their employees, including, without limitation, the following: (1) Chapter 70.94 RCW, relating to air pollution control; (2) chapter 47.57 RCW, relating to toll facility aid districts; (3) chapter 68.16 RCW, relating to cemetery districts; (4) chapters 91.04 through 91.07 RCW, relating to commercial waterway districts; (5) chapter 29.68 RCW, relating to congressional districts; (6) chapters 14.07 and 14.08 RCW, relating to municipal airport districts; (7) chapter 36.88 RCW, relating to county road improvement districts; (8) Title 85 RCW, relating to diking districts, drainage districts, and drainage improvement districts; (9) chapter 36.54 RCW, relating to ferry districts; (10) Title 52 RCW, relating to fire protection districts; (11) Title 86 RCW, relating to flood control districts and flood control; (12) chapter 70.46 RCW, relating to health districts; (13) chapters 87.03 through 87.84 and 89.12 RCW, relating to irrigation districts; (13) Title 78 RCW, relating to mining; (14) chapter 35.61 RCW, relating to metropolitan park districts; (15) chapter 35.58 RCW, relating to metropolitan municipalities; (16) chapter 17.28 RCW, relating to mosquito control districts; (17) chapter 17.12 RCW, relating to agricultural pest districts; (18) chapter 13.12 RCW, relating to parental or truant schools; (19) Title 53 RCW, relating to port districts; (20) chapter 70.44 RCW, relating to public hospital districts; (21) Title 54 RCW, relating to public utility districts; (22) chapter 91.08 RCW, relating to public waterway districts; (23) Title 56 RCW for sewer districts; (24) chapter 89.12 RCW, relating to reclamation districts; (25) chapters 57.02 through 57.36 and 87.60 RCW, relating to water districts; (26) chapter 91.04 RCW, relating to commercial waterway districts; and (27) chapter 17.04 RCW, relating to weed districts. [1967 ex.s. c 119 § 35A.56.010.]

Reviser's note: (2) refers to chapter 47.57 RCW, which was repealed by 1971 c 76 § 6.

(4) refers to chapter 91.04 RCW, which was repealed by 1971 c 76 § 6; however RCW 91.04.325 was amended by 1971 c 81 § 178, and RCW 91.04.360 was amended by 1971 c 81 § 179.

(18) refers to chapter 13.12 RCW, which was repealed by 1971 c 44 § 1.

(25) refers to chapter 87.60 RCW, which was repealed by 1971 c 76 § 6.

(26) refers to chapter 91.04 RCW; see note for reference (4) above.

Chapter 35A.57

INCLUSION OF CODE CITIES IN METROPOLITAN MUNICIPAL CORPORATIONS

Sections

35A.57.010 Code city may be component city of metropolitan municipal corporation.

35A.57.020 Metropolitan municipal corporations—May be formed around charter code city.

35A.57.010 Code city may be component city of metropolitan municipal corporation. Any code city may become a component city of a metropolitan municipal corporation organized as provided in chapter 35.58 RCW, and, upon becoming such component city, shall be subject to the provisions of chapter 35.58 RCW. Adoption of this title by any city which is part of a metropolitan municipal corporation shall in no way affect the status of such city as a component city of a metropolitan municipal corporation. [1967 ex.s. c 119 § 35A.57.010.]

35A.57.020 Metropolitan municipal corporations—May be formed around charter code city. Any area of the state containing two or more cities, at least one of which is a code city having at least ten thousand population, may organize as a metropolitan municipal corporation. The presence in such area of a code city having at least ten thousand population, shall fulfill the requirement of RCW 35.58.030 as to the class of city required to be included in an area incorporating as a metropolitan municipal corporation. [1967 ex.s. c 119 § 35A.57.020.]

Chapter 35A.58

BOUNDARIES AND PLATS

Sections

35A.58.010 Locating corners and boundaries.

35A.58.020 Alteration and vacation of plats.

35A.58.030 Platting and subdivision of land.

35A.58.010 Locating corners and boundaries. General laws shall govern the methods, procedures, and standards for surveying, establishing corners and boundaries, describing and perpetuating and recording information and descriptions relating thereto. The boundaries and corners of sections, parcels, plats, and subdivisions of land within a code city, may be surveyed, established, relocated, and perpetuated whenever a majority of the resident owners of any section or part or parts of any section of land within the city makes application in accordance with the provisions of chapter 58.04 RCW. [1967 ex.s. c 119 § 35A.58.010.]

35A.58.020 Alteration and vacation of plats. The provisions of chapters 58.11 and 58.12 RCW shall apply in appropriate cases to the alteration or vacation of plats including land or lots within a code city or the vacation of streets therein as provided in chapter 35.79 RCW. The vacation of waterways within a code city shall be governed by the provisions of chapter 79.16 RCW. [1967 ex.s. c 119 § 35A.58.020.]

35A.58.030 Platting and subdivision of land. The provisions of *chapter 58.16 RCW together with the provisions of a code city's subdivision regulations as adopted by ordinance not inconsistent with the provisions of chapter 58.17 RCW shall control the platting and subdividing of land into lots or tracts comprising five or more of such lots or tracts or containing a dedication of any part thereof as a public street or highway, or other public place or use: *Provided*, That nothing herein shall prohibit the legislative body of a code city from adopting reasonable ordinances regulating the subdivision of land into two or more parcels without requiring compliance with all of the requirements of the platting law. [1971 ex.s. c 251 § 9; 1967 ex.s. c 119 § 35A.58.030.]

***Reviser's note:** "chapter 58.16 RCW" was repealed by 1969 ex.s. c 271 § 36; later enactment see chapter 58.17 RCW.

Severability—1971 ex.s. c 251: RCW 35A.90.050.

Chapter 35A.60

LIENS

Section

35A.60.010 General law applicable.

35A.60.010 General law applicable. The general law relating to liens including but not limited to the provisions of Title 60 RCW, as the same relates to cities of any class shall apply to code cities. Every code city may exercise the authority to perform services to property within the city and to claim and foreclose liens allowed therefor by general laws for any class of city including but not limited to the following provisions: (1) Chapter 35.80 RCW, relating to unfit dwellings, buildings and structures; (2) RCW 35.22.320, relating to the cost of filling cesspools; (3) RCW 35.85.030, relating to assessment liens for viaducts, elevated roadways, tunnels, and subways; (4) RCW 35.21.130, 35.21.140, 35.21.150, and 35.22.320 for garbage collection; (5) chapters 35.50, 35.55 and 35.56 RCW relating to enforcement of local improvement liens; (6) RCW 35.73.050 relating to the expense of sanitary fills; (7) RCW 35.67.200 through 35.67.290, relating to sewerage systems and service; (8) RCW 35.68.070, 35.69.030, 35.70.090, relating to sidewalks; (9) RCW 35.49.120 through 35.49.160, relating to priority of tax liens; (10) RCW 35.21.290 and 35.21.300, providing for liens for utility services; (11) chapter 84.60 RCW relating to lien of taxes upon property; (12) RCW 4.16.030, relating to foreclosure of local improvement liens; (13) chapter 60.76 RCW, relating to lien of employees for contribution to benefit plans; and (14) chapter 60.28 RCW, relating to lien for labor and

materials on public works. [1967 ex.s. c 119 § 35A.60.010.]

**Chapter 35A.61
METROPOLITAN PARK DISTRICTS**

Section

35A.61.010 Metropolitan park districts.

35A.61.010 Metropolitan park districts. Charter code cities and such contiguous property the residents of which may decide in favor thereof in the manner set forth in chapter 35.61 RCW, may create a metropolitan park district for the management, control, improvement, maintenance, and acquisition of parks, parkways, and boulevards in the manner provided in chapter 35.61 RCW, subject to the provisions of said chapter, which shall be effective as to such charter code city to the same extent as such provisions are applicable to first class cities included in such a metropolitan park district as authorized by said chapter. [1967 ex.s. c 119 § 35A.61.010.]

**Chapter 35A.63
PLANNING AND ZONING IN CODE CITIES**

Sections

- 35A.63.010 Definitions.
- 35A.63.020 Planning agency—Creation and powers and duties.
- 35A.63.030 Joint meetings and cooperative action.
- 35A.63.040 Regional planning.
- 35A.63.050 Receipt and expenditure of funds.
- 35A.63.060 Comprehensive plan—General.
- 35A.63.061 Comprehensive plan—Required elements.
- 35A.63.062 Comprehensive plan—Optional elements.
- 35A.63.070 Comprehensive plan—Notice and hearing.
- 35A.63.071 Comprehensive plan—Forwarding to legislative body.
- 35A.63.072 Comprehensive plan—Approval by legislative body.
- 35A.63.073 Comprehensive plan—Amendments and modifications.
- 35A.63.080 Comprehensive plan—Effect.
- 35A.63.100 Municipal authority.
- 35A.63.110 Board of adjustment—Powers and duties.
- 35A.63.120 Administration and enforcement.
- 35A.63.130 Provisions inconsistent with charters.
- 35A.63.140 Duties and responsibilities imposed by other acts.
- 35A.63.150 Public hearings.
- 35A.63.160 Construction—1967 ex.s. c 119.

Associations of municipal corporations or municipal officers to furnish information to legislature and governor: RCW 44.04.170.

35A.63.010 Definitions. The following words or terms as used in this chapter shall have the meanings set forth below unless different meanings are clearly indicated by the context:

(1) "Chief administrative officer" means the mayor in code cities operating under the mayor-council and commission forms, the city manager in code cities operating under the council-manager forms, or such other officer as the charter of a charter code city designates as the chief administrative officer.

(2) "City" means an incorporated city or town.

(3) "Code city" is used where the application of this chapter is limited to a code city; where joint, regional, or cooperative action is intended, a code city may be included in the unrestricted terms "city" or "municipality".

(4) "Comprehensive plan" means the policies and proposals approved by the legislative body as set forth in RCW 35A.63.060 through 35A.63.072 of this chapter and containing, at least, the elements set forth in RCW 35A.63.061.

(5) "Legislative body" means a code city council, a code city commission, and, in cases involving regional or cooperative planning or action, the governing body of a municipality.

(6) "Municipality" includes any code city and, in cases of regional or cooperative planning or action, any city, town, township, county, or special district.

(7) "Ordinance" means a legislative enactment by the legislative body of a municipality; in this chapter "ordinance" is synonymous with the term "resolution" when "resolution" is used as representing a legislative enactment.

(8) "Planning agency" means any person, body, or organization designated by the legislative body to perform a planning function or portion thereof for a municipality, and includes, without limitation, any commission, committee, department, or board together with its staff members, employees, agents, and consultants.

(9) "Special district" means that portion of the state, county, or other political subdivision created under general law for rendering of one or more local public services or for administrative, educational, judicial, or political purposes. [1967 ex.s. c 119 § 35A.63.010.]

35A.63.020 Planning agency—Creation and powers and duties. By ordinance a code city may create a planning agency and provide for its membership, organization, and expenses. The planning agency shall serve in an advisory capacity to the chief administrative officer or the legislative body, or both, as may be provided by ordinance and shall have such other powers and duties as shall be provided by ordinance. [1967 ex.s. c 119 § 35A.63.020.]

35A.63.030 Joint meetings and cooperative action. Pursuant to the authorization of the legislative body, a code city planning agency may hold joint meetings with one or more city or county planning agencies (including city or county planning agencies in adjoining states) in any combination and may contract with another municipality for planning services. A code city may enter into cooperative arrangements with one or more municipalities and with any regional planning council organized under this chapter for jointly engaging a planning director and such other employees as may be required to operate a joint planning staff. [1969 ex.s. c 81 § 5; 1967 ex.s. c 119 § 35A.63.030.]

Effective date—1969 ex.s. c 81: The effective date of the 1969 amendment to this section was July 1, 1969, see note following RCW 35A.13.035.

35A.63.040 Regional planning. A code city with one or more municipalities within a region, otherwise authorized by law to plan, including municipalities of adjoining states, when empowered by ordinances of their respective legislative bodies, may cooperate to form,

organize, and administer a regional planning commission to prepare a comprehensive plan and perform other planning functions for the region defined by agreement of the respective municipalities. The various agencies may cooperate in all phases of planning, and professional staff may be engaged to assist in such planning. All costs shall be shared on a pro rata basis as agreed among the various entities. A code city may also cooperate with any department or agency of a state government having planning functions. [1969 ex.s. c 81 § 6; 1967 ex.s. c 119 § 35A.63.040.]

Effective date—1969 ex.s. c 81: The effective date of the 1969 amendment to this section was July 1, 1969, see note following RCW 35A.13.035.

35A.63.050 Receipt and expenditure of funds. Any code city or any regional planning commission that includes a code city, when authorized by the legislative bodies of the municipalities represented by the regional planning commission, may enter into an agreement with any department or agency of the government of the United States or the state of Washington, or its agencies or political subdivisions, or any other public or private agency, to arrange for the receipt and expenditure of funds for planning in the interest of furthering the planning program. [1967 ex.s. c 119 § 35A.63.050.]

35A.63.060 Comprehensive plan—General. Every code city, by ordinance, shall direct the planning agency to prepare a comprehensive plan for anticipating and influencing the orderly and coordinated development of land and building uses of the code city and its environs. The comprehensive plan may be prepared as a whole or in successive parts. [1967 ex.s. c 119 § 35A.63.060.]

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.

(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. [1967 ex.s. c 119 § 35A.63.061.]

35A.63.062 Comprehensive plan—Optional elements. The comprehensive plan may include also any or all of the following optional elements:

(1) A conservation element for the conservation, development, and utilization of natural resources.

(2) An open space, park, and recreation element.

(3) A transportation element showing a comprehensive system of surface, air, and water transportation routes and facilities.

(4) A public-use element showing general locations, designs, and arrangements of public buildings and uses.

(5) A public utilities element showing general plans for public and franchised services and facilities.

(6) A redevelopment or renewal element showing plans for the redevelopment or renewal of slum and blighted areas.

(7) An urban design element for general organization of the physical parts of the urban landscape.

(8) Other elements dealing with subjects that, in the opinion of the legislative body, relate to the development of the municipality, or are essential or desirable to coordinate public services and programs with such development. [1967 ex.s. c 119 § 35A.63.062.]

35A.63.070 Comprehensive plan—Notice and hearing. After preparing the comprehensive plan, or successive parts thereof, as the case may be, the planning agency shall hold at least one public hearing on the comprehensive plan or successive part. Notice of the time, place, and purpose of such public hearing shall be given as provided by ordinance and including at least one publication in a newspaper of general circulation delivered in the code city and in the official gazette, if any, of the code city, at least ten days prior to the date of the hearing. Continued hearings may be held at the discretion of the planning agency but no additional notices need be published. [1967 ex.s. c 119 § 35A.63.070.]

35A.63.071 Comprehensive plan—Forwarding to legislative body. Upon completion of the hearing or hearings on the comprehensive plan or successive parts thereof, the planning agency, after making such changes as it deems necessary following such hearing, shall transmit a copy of its recommendations for the comprehensive plan, or successive parts thereof, to the legislative body through the chief administrative officer, who shall acknowledge receipt thereof and direct the clerk to certify thereon the date of receipt. [1967 ex.s. c 119 § 35A.63.071.]

35A.63.072 Comprehensive plan—Approval by legislative body. Within sixty days from its receipt of the recommendation for the comprehensive plan, as above set forth, the legislative body at a public meeting shall consider the same. The legislative body within such period as it may by ordinance provide, shall vote to approve or disapprove or to modify and approve, as modified, the comprehensive plan or to refer it back to the planning agency for further proceedings, in which case the legislative body shall specify the time within

which the planning agency shall report back to the legislative body its findings and recommendations on the matters referred to it. The final form and content of the comprehensive plan shall be determined by the legislative body. An affirmative vote of not less than a majority of total members of the legislative body shall be required for adoption of a resolution to approve the plan or its parts. The comprehensive plan, or its successive parts, as approved by the legislative body, shall be filed with an appropriate official of the code city and shall be available for public inspection. [1967 ex.s. c 119 § 35A.63.072.]

35A.63.073 Comprehensive plan—Amendments and modifications. All amendments, modifications, or alterations in the comprehensive plan or any part thereof shall be processed in the same manner as set forth in RCW 35A.63.070 through 35A.63.072. [1967 ex.s. c 119 § 35A.63.073.]

35A.63.080 Comprehensive plan—Effect. From the date of approval by the legislative body the comprehensive plan, its parts and modifications thereof, shall serve as a basic source of reference for future legislative and administrative action: *Provided*, That the comprehensive plan shall not be construed as a regulation of property rights or land uses: *Provided, further*, That no procedural irregularity or informality in the consideration, hearing, and development of the comprehensive plan or a part thereof, or any of its elements, shall affect the validity of any zoning ordinance or amendment thereto enacted by the code city after the approval of the comprehensive plan.

The comprehensive plan shall be consulted as a preliminary to the establishment, improvement, abandonment, or vacation of any street, park, public way, public building, or public structure, and no dedication of any street or other area for public use shall be accepted by the legislative body until the location, character, extent, and effect thereof shall have been considered by the planning agency with reference to the comprehensive plan. The legislative body shall specify the time within which the planning agency shall report and make a recommendation with respect thereto. Recommendations of the planning agency shall be advisory only. [1967 ex.s. c 119 § 35A.63.080.]

35A.63.100 Municipal authority. After approval of the comprehensive plan, as set forth above, the legislative body, in developing the municipality and in regulating the use of land, may implement or give effect to the comprehensive plan or parts thereof by ordinance or other action to such extent as the legislative body deems necessary or appropriate. Such ordinances or other action may provide for:

(1) Adoption of an official map and regulations relating thereto designating locations and requirements for one or more of the following: Streets, parks, public buildings, and other public facilities, and protecting such sites against encroachment by buildings and other physical structures.

(2) Dividing the municipality, or portions thereof, into appropriate zones within which specific standards, requirements, and conditions may be provided for regulating the use of public and private land, buildings, and structures, and the location, height, bulk, number of stories, and size of buildings and structures, size of yards, courts, open spaces, density of population, ratio of land area to the area of buildings and structures, setbacks, area required for off-street parking, and such other standards, requirements, regulations, and procedures as are appropriately related thereto. The ordinance encompassing the matters of this subsection is hereinafter called the "zoning ordinance". No zoning ordinance, or amendment thereto, shall be enacted by the legislative body without at least one public hearing, notice of which shall be given as set forth in RCW 35A.63.070. Such hearing may be held before the planning agency or the board of adjustment or such other body as the legislative body shall designate.

(3) Adoption of design standards, requirements, regulations, and procedures for the subdivision of land into two or more parcels, including, but not limited to, the approval of plats, dedications, acquisitions, improvements, and reservation of sites for public use.

(4) Scheduling public improvements on the basis of recommended priorities over a period of years, subject to periodic review.

(5) Such other matters as may be otherwise authorized by law or as the legislative body deems necessary or appropriate to effectuate the goals and objectives of the comprehensive plan or parts thereof and the purposes of this chapter. [1967 ex.s. c 119 § 35A.63.100.]

35A.63.110 Board of adjustment—Powers and duties. A code city, by ordinance, shall create a board of adjustment and provide for its membership, terms of office, organization, jurisdiction. The action of the board of adjustment shall be final and conclusive, unless, within ten days from the date of the action, the original applicant or an adverse party makes application to the superior court for the county in which that city is located for a writ of certiorari, a writ of prohibition, or a writ of mandamus. No member of the board of adjustment shall be a member of the planning agency or the legislative body. Subject to conditions, safeguards, and procedures provided by ordinance, the board of adjustment may be empowered to hear and decide:

(1) Appeals from orders, recommendations, permits, decisions, or determinations made by a code city official in the administration or enforcement of the provisions of this chapter or any ordinances adopted pursuant to it.

(2) Applications for variances from the terms of the zoning ordinance, the official map ordinance or other land-use regulatory ordinances under procedures and conditions prescribed by city ordinance, which among other things shall provide that no application for a variance shall be granted unless the board of adjustment finds:

(a) the variance shall not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and zone in which the

property on behalf of which the application was filed is located; and

(b) that such variance is necessary, because of special circumstances relating to the size, shape, topography, location, or surroundings of the subject property, to provide it with use rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located; and

(c) that the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is situated.

(3) Applications for conditional-use permits, unless such applications are to be heard and decided by the planning agency. A conditional use means a use listed among those classified in any given zone but permitted to locate only after review as herein provided in accordance with standards and criteria set forth in the zoning ordinance.

(4) Such other quasi judicial and administrative determinations as may be delegated by ordinance.

In deciding any of the matters referred to in subsections (1), (2), (3), and (4) of this section, the board of adjustment shall issue a written report giving the reasons for its decision. [1967 ex.s. c 119 § 35A.63.110.]

35A.63.120 Administration and enforcement. In order to carry into effect the purposes of this chapter, administrative and enforcement responsibilities, other than those set forth in RCW 35A.63.110, may be assigned by ordinance to such departments, boards, officials, employees, or agents as the legislative body deems appropriate. [1967 ex.s. c 119 § 35A.63.120.]

35A.63.130 Provisions inconsistent with charters. Insofar as the provisions of an existing charter of a municipality are inconsistent with this chapter, a municipality may exercise the authority, or any part thereof, granted by this chapter notwithstanding the inconsistent provision of an existing charter. [1967 ex.s. c 119 § 35A.63.130.]

35A.63.140 Duties and responsibilities imposed by other acts. Any duties and responsibilities which by other statutes are imposed upon a planning commission may, in a code city, be performed by a planning agency, as provided in this chapter. [1967 ex.s. c 119 § 35A.63.140.]

35A.63.150 Public hearings. The legislative body may provide by ordinance for such additional public hearings and notice thereof as it deems to be appropriate in connection with any action contemplated under this chapter. [1967 ex.s. c 119 § 35A.63.150.]

35A.63.160 Construction—1967 ex.s. c 119. This title is intended to implement and preserve to code cities all powers authorized by Article XI, section 11 of the Constitution of the state of Washington and the provision of this title shall not limit any code city from exercising its constitutionally granted power to plan for and to make and enforce within its limits all such local

police, sanitary, and other regulations in the manner that its charter or ordinances may provide. [1967 ex.s. c 119 § 35A.63.160.]

Chapter 35A.64

PUBLIC PROPERTY, REAL AND PERSONAL

Sections

35A.64.010 Acquisition of by conditional sales contracts.

35A.64.020 Purchase of products made by blind.

35A.64.180 Disinfection of property.

35A.64.200 Eminent domain by cities.

35A.64.010 Acquisition of by conditional sales contracts. A code city may exercise the powers relating to acquisition of real or personal property under executory conditional sales contracts as authorized by RCW 39.30.010. [1967 ex.s. c 119 § 35A.64.010.]

35A.64.020 Purchase of products made by blind. A code city may exercise the powers relating to the acquisition of products made by the blind as authorized by RCW 19.06.020. [1967 ex.s. c 119 § 35A.64.020.]

35A.64.180 Disinfection of property. Every code city shall disinfect or destroy all infected trees or shrubs growing upon public property within the city's jurisdiction and may expend city funds in carrying out the provisions of this section, and shall otherwise be governed by the provisions of chapter 15.08 RCW relating to horticultural pests and diseases. [1967 ex.s. c 119 § 35A.64.180.]

35A.64.200 Eminent domain by cities. A code city may exercise all powers relating to eminent domain as authorized by chapters 8.12 and 8.28 RCW in accordance with the procedures therein prescribed and subject to any limitations therein provided. [1967 ex.s. c 119 § 35A.64.200.]

Chapter 35A.65

PUBLICATION AND PRINTING

Sections

35A.65.010 Public printing.

35A.65.020 Publication of legal notice.

35A.65.010 Public printing. All printing, binding and stationery work done for any code city shall be done within the state and all proposals, requests and invitations to submit bids, prices or contracts thereon and all contracts for such work shall so stipulate subject to the limitations contained in RCW 43.78.130 and 35.23.352. [1967 ex.s. c 119 § 35A.65.010.]

35A.65.020 Publication of legal notice. The publication of a legal notice required by general law or by a code city ordinance shall be in a newspaper of general circulation within the city having the qualifications prescribed by chapter 65.16 RCW and shall be governed by the provisions thereof as the same relate to a city of any class. [1967 ex.s. c 119 § 35A.65.020.]

Chapter 35A.66 HEALTH AND SAFETY—ALCOHOL

Sections

- 35A.66.010 Alcoholism—Standards for institutions.
35A.66.020 Liquors, local option on sale of—Enforcement of state laws, sharing proceeds of liquor profits and excise tax.

35A.66.010 Alcoholism—Standards for institutions. In addition to regulating the use of alcoholic beverages, a code city may exercise the powers relating to prescribing standards for institutions for treating alcoholism as authorized by RCW 71.12.550. [1967 ex.s. c 119 § 35A.66.010.]

35A.66.020 Liquors, local option on sale of—Enforcement of state laws, sharing proceeds of liquor profits and excise tax. The qualified electors of any code city may petition for an election upon the question of whether the sale of liquor shall be permitted within the boundaries of such city as provided by chapter 66.40 RCW, and shall be governed by the procedure therein, and may regulate music, dancing and entertainment as authorized by RCW 66.28.080: *Provided*, That every code city shall enforce state laws relating to the investigation and prosecution of all violations of Title 66 RCW relating to control of alcoholic beverages and shall be entitled to retain the fines collected therefrom as therein provided. Every code city shall also share in the allocation and distribution of liquor profits and excise as provided in RCW 82.08.170, 66.08.190, and 66.08.210, and make reports of seizure as required by RCW 66.32.090, and otherwise regulate by ordinances not in conflict with state law or liquor board regulations. [1967 ex.s. c 119 § 35A.66.020.]

Chapter 35A.67 RECREATION AND PARKS

Section

- 35A.67.010 Parks, beaches and camps.

35A.67.010 Parks, beaches and camps. In addition to exercising all powers relating to the acquisition of land, the improvement and operation thereof, or cooperation with other taxing districts in connection with park or recreation facilities, any code city may exercise the powers relating to acquisition and operation of recreational facilities, establishment and operation of public camps, and contracting with other taxing or governmental agencies for the acquisition or operation of public parks, camps and recreational facilities as authorized by chapter 67.20 RCW, in accordance with the procedures prescribed in and authorized by RCW 79.08.080 and 79.08.090 in the application for use of state-owned tide or shorelands for a municipal park or playground purposes. [1967 ex.s. c 119 § 35A.67.010.]

Chapter 35A.68 CEMETERIES AND MORGUES

Section

- 35A.68.010 Acquisition—Care and investment of funds.

35A.68.010 Acquisition—Care and investment of funds. A code city may exercise the powers to acquire, own, improve, manage, operate and regulate real and personal property for the operation of the city morgue, cemetery or other place for the burial of the dead, to create cemetery boards or commissions, to establish and manage funds for cemetery improvement and care and to make all necessary or desirable rules and regulations concerning the control and management of burial places and the investment of funds relating thereto and accounting therefor as is authorized by chapter 68.12 RCW, RCW 35.22.280, 35.23.440, 35.24.300 and 35.27.370(2) in accordance with the procedures and requirements prescribed by said laws and authority to be included within a cemetery district as authorized and conformed to the requirements of Title 68 RCW. [1967 ex.s. c 119 § 35A.68.010.]

Chapter 35A.69 FOOD AND DRUG

Section

- 35A.69.010 General laws applicable.

35A.69.010 General laws applicable. Every code city shall have the powers, perform the functions and duties and enforce the regulations prescribed by general laws relating to food and drugs for any class of city as provided by Title 69 RCW; relating to inspection of foods, meat, dairies, and milk as provided by RCW 15.36.560, *16.49.030, 16.49.120, and 15.36.510; relating to water pollution control as provided by chapter 90.48 RCW; and relating to shellfish as provided by RCW 75.08.150. [1967 ex.s. c 119 § 35A.69.010.]

*Reviser's note: RCW "16.49.030, 16.49.120" were repealed by 1969 ex.s. c 145 § 64; later enactment, see chapter 16.49A RCW.

Chapter 35A.70 HEALTH AND SAFETY

Sections

- 35A.70.010 Waters within city—City's water supply.
35A.70.020 Regulating boarding homes.
35A.70.030 Boats and vessels, quarantine.
35A.70.040 Buildings, construction standards.
35A.70.050 City electrical code—State safety regulations.
35A.70.060 Elevators, moving walks.
35A.70.070 Mental illness and vital statistics, general laws applicable.

35A.70.010 Waters within city—City's water supply. Every code city shall have authority to protect waters within the city or comprising part of the city's water supply pursuant to the authority provided therefor by RCW 9.66.050, 54.16.050, 56.08.010, 69.30.130, 57.08.010, 8.12.030, 70.54.010 and 70.54.030. [1967 ex.s. c 119 § 35A.70.010.]

35A.70.020 Regulating boarding homes. A code city may exercise the powers relating to enforcement of regulations for boarding homes as authorized by RCW 18.20.100, in accordance with the procedures therein prescribed and subject to any limitations therein provided. [1967 ex.s. c 119 § 35A.70.020.]

35A.70.030 Boats and vessels, quarantine. A code city may exercise the powers relating to quarantine of boats, vessels and passengers as authorized by chapter 70.16 RCW in accordance with the procedures therein prescribed and subject to any limitations therein provided. [1967 ex.s. c 119 § 35A.70.030.]

35A.70.040 Buildings, construction standards. In addition to other provisions of the law granting authority and imposing duties, a code city may exercise the powers relating to providing standards for the construction of buildings as provided in chapter 70.86 RCW and shall report the issuance of building permits for new construction as required by RCW 36.21.040 through 36.21.060. [1967 ex.s. c 119 § 35A.70.040.]

35A.70.050 City electrical code—State safety regulations. Every code city may adopt ordinances regulating or otherwise controlling the installation of electrical wiring, equipment, apparatus or appliances as authorized by RCW 19.28.360 and by other general law and shall obey, observe and comply with every order, approval, direction or requirement made by the director or the commission under authority of chapter 19.29 RCW. [1967 ex.s. c 119 § 35A.70.050.]

35A.70.060 Elevators, moving walks. All conveyances owned or operated by code cities as defined by the provisions of chapter 70.87 RCW, shall be subject to the provisions of that chapter to the extent specifically provided for therein. [1967 ex.s. c 119 § 35A.70.060.]

35A.70.070 Mental illness and vital statistics, general laws applicable. Every code city may exercise the powers authorized and shall perform the duties imposed upon cities of like population relating to the public health and safety as provided by Title 70 RCW and, without limiting the generality of the foregoing, shall: (1) Organize boards of health and appoint a health officer with the authority, duties and functions as provided in *chapter 70.04 RCW, or provide for combined city-county health departments as provided and in accordance with the provisions of chapter 70.08 RCW; (2) contribute and participate in public health pooling funds as authorized by chapter 70.12 RCW; (3) perform the functions and provide health precautions at seaports as required by chapter 70.16 RCW; (4) procure pesthouses and to provide quarantines and miscellaneous other health precautions as authorized by chapter 70.20 RCW; (5) control and provide for treatment of venereal diseases as authorized by chapter 70.24 RCW; (6) provide for the care and control of tuberculosis as provided in chapters 70.28, 70.30, 70.32, and 70.54 RCW; (7) participate in health districts as authorized by chapter 70.46 RCW; (8) exercise control over water pollution as provided in chapter 35.88 RCW; (9) for all code cities having a population of more than twenty thousand serve as a primary district for registration of vital statistics in accordance with the provisions of chapter 70.58 RCW and RCW 43.20.090; (10) enforce the provisions of chapter 70.70 RCW relating to the control of shoddy; (11) observe and enforce the provisions relating to fireworks

as provided in chapter 70.77 RCW; (12) enforce the provisions relating to swimming pools provided in chapter 70.90 RCW; (13) enforce the provisions of chapter 18.20 RCW when applicable; (14) perform the functions relating to mentally ill prescribed in chapters 72.06 and 71.12 RCW; (15) cooperate with the state department of health in mosquito control as authorized by RCW 70.22.060; and (16) inspect nursing homes as authorized by RCW 18.51.020. [1967 ex.s. c 119 § 35A.70.070.]

*Reviser's note: "chapter 70.04 RCW" was repealed by 1967 ex.s. c 51 § 23; later enactment, see chapter 70.05 RCW.

Chapter 35A.74 WELFARE

Section

35A.74.010 General law applicable.

35A.74.010 General law applicable. Code cities may exercise authority granted by general law and available to any class of city for the relief of the poor and destitute, including, but not limited to the provisions of RCW 74.04.390 through 74.04.470. [1967 ex.s. c 119 § 35A.74.010.]

Chapter 35A.79 PROPERTY AND MATERIALS

Section

35A.79.010 Powers to acquire, use and manage.

35A.79.010 Powers to acquire, use and manage. A code city shall have all powers provided by general law to cities of any class relating to the receipt of donations of money and property, the acquisition, leasing and disposition of municipal property, both real and personal, including, but not limited to, the following: (1) Intergovernmental leasing, transfer or disposition of property as provided by chapter 39.33 RCW; (2) disposition of unclaimed property as provided by chapters 63.32 and 63.36 RCW; (3) authority to petition for inclusion in a commercial waterway district as provided by *RCW 91.04.210; (4) disposition of local improvement district foreclosures as provided by chapter 35.53 RCW; (5) materials removed from public lands as provided by RCW 79.01.178; (6) purchase of federal surplus property as provided by chapter 39.32 RCW; and (7) land for recreation as provided by chapter 43.99 RCW. A code city in connection with the acquisition of property shall be subject to provisions relating to tax liens as provided by RCW 84.60.050 and 84.60.070. The general law relating to the damage or destruction of public property of a code city or interferences with the duties of a police or other officer shall relate to code city's properties and officers to the same extent as such laws apply to any class of city, its property or officers. [1967 ex.s. c 119 § 35A.79.010.]

*Reviser's note: "RCW 91.04.210" was repealed by 1971 c 76 § 6.

Chapter 35A.80 PUBLIC UTILITIES

Sections

- 35A.80.010 General laws applicable.
35A.80.020 Electric energy.

35A.80.010 General laws applicable. A code city may provide utility service within and without its limits and exercise all powers to the extent authorized by general law for any class of city or town. The cost of such improvements may be financed by procedures provided for financing local improvement districts in chapters 35.43 through 35.54 RCW and by revenue and refunding bonds as authorized by chapters 35.41, 35.67 and 35.89 RCW and Title 85 RCW. A code city may protect and operate utility services as authorized by chapters 35.88, 35.91, 35.92, and 35.94 RCW and may acquire and damage property in connection therewith as provided by chapter 8.12 RCW and shall be governed by the regulations of the pollution control commission as provided in RCW 90.48.110. [1967 ex.s. c 119 § 35A.80.010.]

35A.80.020 Electric energy. Any code city is authorized to enter into contracts or compacts with any commission or any operating agency or publicly or privately owned utility for the purchase and sale of electric energy or falling waters as provided in RCW 43.52.410 and chapter 35.84 RCW and to exercise any other authority granted to cities as provided in chapter 43.52 RCW. [1967 ex.s. c 119 § 35A.80.020.]

Chapter 35A.81 PUBLIC TRANSPORTATION

Section

- 35A.81.010 Application of general law.

35A.81.010 Application of general law. Motor vehicles owned and operated by any code city shall be exempt from the provisions of chapter 81.80 RCW, except where specifically otherwise provided. Urban passenger transportation systems shall receive a refund of the amount of the motor vehicle fuel tax paid on each gallon of motor vehicle fuel used in such systems to the extent authorized by chapter 82.36 RCW. Notwithstanding any provision of the law to the contrary, every urban passenger transportation system as defined in RCW 82.40.047 shall be exempt from the provisions of *chapter 82.40 RCW which requires the payment of use fuel taxes. [1967 ex.s. c 119 § 35A.81.010.]

*Reviser's note: "chapter 82.40 RCW" was repealed in its entirety by 1971 ex.s. c 175 § 33; later enactment, see chapter 82.38 RCW.

Chapter 35A.82 TAXATION—EXCISES

Sections

- 35A.82.010 State shared excises.
35A.82.020 Licenses and permits—Excises for regulation.
35A.82.030 City and county retail sales excise tax and use tax.
35A.82.040 City and town license fees and taxes on financial institutions.

- 35A.82.042 City license fees or taxes on certain business activities to be at a single uniform rate.
35A.82.050 License fees or taxes upon certain business activities to be at single uniform rate.

35A.82.010 State shared excises. A code city shall collect, receive and share in the distribution of state collected and distributed excise taxes to the same extent and manner as general laws relating thereto apply to any class of city or town including, but not limited to, funds distributed to cities pursuant to RCW 82.37.190 relating to motor vehicle fuel importer's tax, and RCW 82.36.020 relating to motor vehicle fuel tax, and RCW 82.40.290 relating to use fuel tax, and RCW 82.36.275 and 82.40.047. [1967 ex.s. c 119 § 35A.82.010.]

Reviser's note: See note following RCW 35A.81.010.

35A.82.020 Licenses and permits—Excises for regulation. A code city may exercise the authority authorized by general law for any class of city to license and revoke the same for cause, to regulate, make inspections and to impose excises for regulation or revenue in regard to all places and kinds of business, production, commerce, entertainment, exhibition, and upon all occupations, trades and professions and any other lawful activity: *Provided*, That no license or permit to engage in any such activity or place shall be granted to any who shall not first comply with the general laws of the state.

No such license shall be granted to continue for longer than a period of one year from the date thereof and no license or excise shall be required where the same shall have been preempted by the state, nor where exempted by the state, including, but not limited to, the provisions of RCW 36.71.090 and chapter 73.04 RCW relating to veterans. [1967 ex.s. c 119 § 35A.82.020.]

35A.82.030 City and county retail sales excise tax and use tax. See chapter 82.14 RCW.

35A.82.040 City and town license fees and taxes on financial institutions. See chapter 82.14A RCW.

35A.82.042 City license fees or taxes on certain business activities to be at a single uniform rate. See RCW 35.21.710.

35A.82.050 License fees or taxes upon certain business activities to be at single uniform rate. Any code city which imposes a license fee or tax upon business activities consisting of the making of retail sales of tangible personal property which are measured by gross receipts or gross income from such sales, shall impose such tax at a single uniform rate upon all such business activities. This section shall not apply to any business activities subject to the tax imposed by chapter 82.16 RCW. [1972 ex.s. c 134 § 7.]

Chapter 35A.84 TAXATION—PROPERTY

Sections

- 35A.84.010 Procedure and rules relating to ad valorem taxes.

35A.84.020 Assessment for and collection of ad valorem taxes.
35A.84.030 Ex officio collector of code city taxes.

35A.84.010 Procedure and rules relating to ad valorem taxes. The taxation of property in code cities shall be governed by general provisions of the law including, but not limited to, the provisions of: (1) Chapter 84.09 RCW, relating to the time for establishment of official boundaries of taxing districts on the first day of March of each year; (2) chapter 84.12 RCW relating to the assessment and taxation of public utilities; (3) chapter 84.16 RCW, relating to the apportionment of taxation on private car companies; (4) chapter 84.20 RCW, relating to the taxation of easements of public utilities; (5) chapter 84.24 RCW, relating to the reassessment of property; (6) chapter 84.36 RCW, relating to property subject to taxation and exemption therefrom; (7) chapter 84.40 RCW relating to the listing of property for assessment; (8) chapter 84.41 RCW, relating to reevaluation of property; (9) chapter 84.44 RCW, relating to the taxable situs of personalty; (10) chapter 84.48 RCW, relating to the equalization of assessments; (11) chapter 84.52 RCW, relating to the levy of taxes, both regular and excess; (12) chapter 84.56 RCW, relating to the collection of taxes; (13) chapter 84.60 RCW, relating to the lien of taxes and the priority thereof; (14) chapter 84.69 RCW, relating to refunds and claims therefor against the code city; and (15) RCW 41.16.060, relating to taxation for firemen's pension fund. [1967 ex.s. c 119 § 35A.84.010.]

35A.84.020 Assessment for and collection of ad valorem taxes. For the purpose of assessment of all property in all code cities, other than code cities having a population of more than twenty thousand inhabitants, the county assessor of the county wherein such code city is situated shall be the ex officio assessor, and as to the code cities having a population of more than twenty thousand inhabitants such county assessor shall perform the duties as provided in RCW 36.21.020. [1967 ex.s. c 119 § 35A.84.020.]

35A.84.030 Ex officio collector of code city taxes. The treasurer of the county wherein a code city is situated shall be the ex officio collector of such code city's taxes and give bond, and account for the city's funds as provided in chapter 36.29 RCW. [1967 ex.s. c 119 § 35A.84.030.]

Chapter 35A.88 HARBORS AND NAVIGATION

Sections

35A.88.010 Discharge of ballast.
35A.88.020 Wharves and landings.
35A.88.030 General laws applicable.

35A.88.010 Discharge of ballast. A code city may exercise the powers relating to regulation of discharge of ballast in harbors within or in front of such city as authorized by RCW 88.28.060. [1967 ex.s. c 119 § 35A.88.010.]

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35A.88.020 Wharves and landings. A code city shall have and exercise all powers granted by general laws to cities and towns of any class relative to docks and other appurtenances to harbor and shipping, including but not limited to, the provisions of RCW 35.22.280, 35.23.440, 35.24.290, and 88.24.030. [1967 ex.s. c 119 § 35A.88.020.]

35A.88.030 General laws applicable. General laws relating to harbor areas within cities, including but not limited to, chapter 36.08 RCW relating to transfer of territory lying in two or more counties; RCW 79.16.180 relating to disposition of rental from leasehold in the harbor areas; RCW 79.01.504 reserving to cities the right to lease harbor improvements; and RCW 88.32.240 and 88.32.250 relating to joint planning by cities and counties shall apply to, benefit and obligate code cities to the same extent as such general laws apply to any class of city. [1967 ex.s. c 119 § 35A.88.030.]

Chapter 35A.90 CONSTRUCTION

Sections

35A.90.010 Becoming code city—Rights, actions saved—Continuation of ordinances.
35A.90.020 Invalidity of part of title not to affect remainder.
35A.90.030 Title, chapter, section headings not part of law.
35A.90.040 Effective date—1967 ex.s. c 119.
35A.90.050 Severability—1971 ex.s. c 251.

35A.90.010 Becoming code city—Rights, actions saved—Continuation of ordinances. Unless otherwise provided by this title, the election by a city or town to become a code city and to be governed by this title shall not affect any right or liability either in favor of or against such city or town existing at the time, nor any civil or criminal proceeding involving or relating to such city or town; and all rights and property of every description which were vested in such city or town immediately prior to becoming a code city shall continue to be vested in such code city; and all charter provisions, ordinances, resolutions, rules, regulations, or orders lawfully in force in such city or town at the time of becoming a code city, and not inconsistent with or repugnant to this title, shall continue in force in such code city until amended or repealed as provided by law. [1967 ex.s. c 119 § 35A.90.010.]

35A.90.020 Invalidity of part of title not to affect remainder. If any provision, section, or chapter of this title or its application to any person or circumstance is held invalid, the remainder of the provision, section, chapter, or title, or the application thereof to other persons or circumstances is not affected. [1967 ex.s. c 119 § 35A.90.020.]

35A.90.030 Title, chapter, section headings not part of law. Title headings, chapter headings, and section or subsection headings, as used in this title, do not constitute any part of the law. [1967 ex.s. c 119 § 35A.90.030.]

35A.90.040 Effective date—1967 ex.s. c 119. The effective date of this act shall be July 1, 1969. [1967 ex.s. c 119 § 35A.90.040.]

35A.90.050 Severability—1971 ex.s. c 251. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1971 ex.s. c 251 § 17.]

TITLE 36

COUNTIES

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Police and sanitary regulations, power to enforce: State Constitution Art. 11 § 11.
Port districts, contracts or leases with counties by: RCW 53.08.070, 53.08.140, 53.08.240.
Port districts, motor vehicle regulation in by county authorities, procedure: RCW 53.08.230.
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Printing for counties to be done in state: RCW 43.78.130.
Public assistance
 as county function: RCW 74.04.040.
 county participation: Chapter 74.04 RCW.
Public contracts and indebtedness: Title 39 RCW.
Public credit not to be loaned: State Constitution Art. 8 § 7.
Public documents (state), distribution to counties: Chapter 40.04 RCW.
Public employees
 hospitalization and medical aid for: RCW 41.04.180–41.04.190.
 interchange of personnel with federal agency, rights preserved: RCW 41.04.140–41.04.170.
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 minimum wage act, public employee exclusion: RCW 49.46.010.
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 state employees' retirement system, county employees as members: RCW 41.40.410.
Public lands
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Public offices, vacancies in: Chapter 42.12 RCW.

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Publication fees, not applicable to counties: RCW 65.16.090.

Publicly owned vehicles

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Publicly owned vehicles to be marked: RCW 46.08.065.

RCW 39.33.060 to govern on sales by water district for park and recreational purposes: RCW 57.08.140.

Railroad grade crossing, apportionment of costs, county liability: RCW 81.53.110, 81.53.130.

Railroad grade crossings

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Railroad signals, warning devices on county roads: RCW 81.53.261–81.53.291.

Reclamation and irrigation districts in United States reclamation areas, contract to bring county lands into: RCW 89.12.110.

Reclamation districts (1,000,000 acres), lands in more than one county: RCW 89.30.004.

Records, certified copies of as evidence: RCW 5.44.040, 5.44.060, 5.44.070.

Records, reproduction of: RCW 40.20.020–40.20.030.

Reforestation, county exchange of land to block up holdings: RCW 76.12.050–76.12.065.

Reforestation, grants of county lands for: Chapter 76.12 RCW.

Regional jail camps, county prisoners may be committed to: RCW 72.64.100–72.64.110.

River and harbor improvements by counties jointly: RCW 88.32.180–88.32.220.

Roads and bridges: Chapter 36.75 RCW.

Rural county library district L.I.D.'s: Chapter 27.14 RCW.

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Rural housing projects: Chapter 35.82 RCW.

Sanitary districts, county participation: Title 55 RCW.

Savings and loan associations, counties as member: RCW 33.20.060.

School directors' associations, county or regional: RCW 28A.61.060.

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Session laws, distribution to counties: RCW 44.20.040.

Sewer districts, county participation: Title 56 RCW.

Soft tree fruits commission law, counties constituting districts under: RCW 15.28.010.

Soil and water conservation districts, county may cooperate with: RCW 89.08.341.

State highways, lands no longer used, sale or lease to county: RCW 47.12.070–47.12.080.

State patrol retirement allowances exempt from county taxation: RCW 43.43.310.

State representatives, allotment as to counties: State Constitution Art. 22 § 2.

State senators, allotment as to counties: State Constitution Art. 22 § 1.

State vehicle regulations precedence over local: RCW 46.08.020.

State's title to abandoned channels granted to counties: RCW 86.13.110.

Steamboat companies, county right to operate ferries, boats and wharves preserved: RCW 81.84.010.

Stock restricted areas in: Chapter 16.24 RCW.

Street railroads in counties: Chapter 81.64 RCW.

Superior courts, judges each county entitled to: State Constitution Art. 4 § 5, Chapter 2.08 RCW.

Superior courts, one in each county: RCW 2.08.060.

Support of dependent children, cooperation of county officials required: RCW 74.20.280.

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Surplus federal property, county may purchase: RCW 39.32.010–39.32.060.

Swine, allowing to run at large in county unlawful, liability: Chapter 16.12 RCW.

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Taxes

B&O, counties defined as person for purposes of: RCW 82.04.030.

excise, state preempts field, which: RCW 82.02.020.

federal payments in lieu of ad valorem property taxes to counties, distribution: Chapter 84.72 RCW.

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gift to county as exclusion: RCW 83.56.060(3).

inheritance, county as exempt: RCW 83.20.010(3).

local, legislature not to impose: State Constitution Art. 11 § 12.

motor vehicle fuel

counties as subject to: RCW 82.36.240.

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Taxes, property

acquisitions of county subject to lien of: RCW 84.60.050.

county by, generally: Title 84 RCW.

county by, reassessment procedure: Chapter 84.24 RCW.

county held tax–title property as exempt: RCW 84.64.220.

county–interstate bridge as exempt from: RCW 84.36.230.

county lands sold on contract as taxable: RCW 84.40.230.

county property as exempt from: RCW 84.36.010.

county revaluation program: Chapter 84.41 RCW.

county right of way easements as exempt from: RCW 84.36.210.

excess levies authorized, county application: RCW 84.52.050–84.52.056.

improvements on county lands listed as personalty: RCW 84.40.250.

limitation on levies, county application: State Constitution Art. 7 § 2 (Amendments 55, 59); RCW 84.52.050.

Taxes, state, county liability for share of: State Constitution Art. 11 § 9.

Taxing district, county as: RCW 84.04.120.

Taxing district relief act, county application: Chapter 39.64 RCW.

Teletypewriter communications network, county participation: Chapter 43.89 RCW.

Time standard: RCW 1.20.050.

Toll bridges, tunnels and ferries: Chapter 36.75 RCW.

Toll roads, bridges and ferries (state), county participation and liability: Chapter 47.56 RCW.

Toll roads, bridges and ferries (state), lease and sale of unneeded property to counties: RCW 47.56.252–47.56.253.

Township organization in: State Constitution Art. 11 § 4 (Amendment 21).

Township roads, county may build, repair and maintain: RCW 45.24.010.

Townships

county aid to: RCW 45.56.050.

division of county into: Chapter 45.08 RCW.

road district obligations continue upon organization: Chapter 45.72 RCW.

Traffic enforcement agencies, duty: Chapter 46.64 RCW.

Traffic schools, county participation: Chapter 46.83 RCW.

Unemployment compensation, county participation: RCW 50.04.200.

Unfit dwellings, buildings and structures: Chapter 35.80 RCW.

Uniform system of accounting: Chapter 43.09 RCW.

Validation of bonds and financing proceedings: Chapter 39.90 RCW.

Venerable disease, rules as binding on county: RCW 70.24.040.

Veterans

indigent and deceased, burial as county responsibility: RCW 73.08.070.

preference in county employment reemployment: RCW 41.04.010, Chapter 73.16 RCW.

public officials duty as considered leave of absence: RCW 73.16.041.

Veterans in business, peddling, county licensing limitations: RCW 73.04.050–73.04.060.

Veterans' meeting hall, county may furnish free of charge: RCW 73.04.070.

Veterans' meeting place, rent from county funds: RCW 73.04.080.

Veterans' relief as county responsibility: Chapter 73.08 RCW.

Vital statistics, county as a primary registration area: RCW 70.58.010.

Wages

deductions and rebates, application to counties: Chapter 49.52 RCW.

payment and collection of, county employee exclusion: RCW 49.48.080.

rebates of on public works, penalty: RCW 49.52.090.

Warrants, interest rate on: RCW 39.56.020–39.56.030.

Washington commodities to be used by counties: Chapter 39.24 RCW.

Washington fuel to be used by counties: RCW 39.24.020.

Washington pesticide application act: Chapter 17.21 RCW.

Washington state wheat commission act, counties constituting districts under: RCW 15.63.050.

Water pollution control, county application: Chapter 90.48 RCW.

Water rights, appropriation of by counties, procedure: Chapter 90.03 RCW.

Water rights, United States, county application: Chapter 90.40 RCW.

Wharves, counties may authorize and prescribe rates: RCW 88.24.020.

World fair or exposition, county participation: Chapter 35.60 RCW.

Workmen's compensation, county coverage: RCW 51.12.050.

36.01.010 Corporate powers. The several counties in this state shall have capacity as bodies corporate, to sue and be sued in the manner prescribed by law; to purchase and hold lands within their own limits; to make such contracts, and to purchase and hold such personal property, as may be necessary to their corporate or administrative powers, and to do all other necessary acts in relation to all the property of the county. [1963 c 4 § 36.01.010. Prior: Code 1881 § 2653; 1863 p 538 § 1; 1854 p 329 § 1; RRS § 3982.]

36.01.020 Corporate name. The name of a county, designated by law, is its corporate name, and it must be known and designated thereby in all actions and proceedings touching its corporate rights, property, and duties. [1963 c 4 § 36.01.020. Prior: Code 1881 § 2654; RRS § 3983.]

36.01.030 Powers—How exercised. Its powers can only be exercised by the county commissioners, or by agents or officers acting under their authority or authority of law. [1963 c 4 § 36.01.030. Prior: Code 1881 § 2655; RRS § 3984.]

36.01.040 Conveyances for use of county. Every conveyance of lands, or transfer of other property, made in any manner for the use of any county, shall have the same force and effect as if made to the county in its proper and corporate name. [1963 c 4 § 36.01.040. Prior: Code 1881 § 2656; 1863 p 538 § 2; 1854 p 329 § 2; RRS § 3985.]

36.01.050 Venue of actions by or against counties. All actions against any county may be commenced in the superior court of such county, or of the adjoining county, and all actions by any county shall be commenced in the superior court of the county in which the defendant resides, or in the county adjoining the county by which such action is commenced. [1963 c 4 § 36.01.050. Prior: 1854 p 329 § 6; No RRS.]

36.01.060 County liable for certain court costs. Each county shall be liable to pay the per diem and mileage, or other compensation in lieu thereof, to jurors of the county attending the superior court; the fees of the sheriff for maintaining prisoners charged with crimes, and his costs in conveying them to and from the court, as well as their board while there; the per diem and mileage, or such other compensation as is allowed in lieu thereof, of the sheriff of the county, when in criminal cases he is required to attend or travel to the superior court out of the limits of his own county; the costs in criminal cases taken from the justice or inferior courts to the superior court; but no such claims shall be paid by the treasurer unless the particular items are approved by the judge and certified by the clerk under the seal of the court. For the time or travel which may be paid by the parties or United States, no payment from the county shall be allowed, and no officer, juror, or witness shall receive from the county double pay as a per diem for the same time, or as traveling expenses or mileage for the same travel, in however many different capacities or in however many different causes they may be summoned, notified, or called upon to testify or attend in. [1963 c 4 § 36.01.060. Prior: Code 1881 § 2110; 1869 p 420 § 9; 1863 p 425 § 10; 1857 p 22 § 10; RRS § 508.]

36.01.070 Counties may engage in probation and parole services. Notwithstanding the provisions of chapter 72.01 RCW or any other provision of law, counties may engage in probation and parole services and employ personnel therefor under such terms and conditions as any such county shall so determine. [1967 c 200 § 9.]

*Severability—1967 c 200: See note following RCW 9.45.122.
Paroles and probation: Chapter 9.95 RCW.*

36.01.080 Parking facilities—Construction, operation and rental charges. Counties may construct, maintain, operate and collect rentals for parking facilities as a part of a courthouse or combined county-city building facility. [1969 ex.s. c 8 § 1.]

Revenue bonds for parking facilities: RCW 36.67.520.

36.01.090 Tourist promotion. See RCW 36.32.450.

36.01.095 Emergency medical services—Authorized—Fees. Any county may establish a system of emergency medical service as defined by RCW 18.73.030(11). The county legislative authority may adopt by resolution procedures to collect reasonable fees in order to reimburse the county in whole or in part for its costs of providing such service: *Provided*, That any county which provides emergency medical services supported by an excess levy may waive such charges for service: *Provided further*, That whenever the county legislative authority determines that the county or a substantial portion of the county is not adequately served by existing private ambulance service, and existing private ambulance service cannot be encouraged to expand service on a contract basis, the emergency medical service that is established by the county shall not be deemed to compete with any existing private ambulance service as

provided for in RCW 36.01.100. [1975 1st ex.s. c 147 § 1.]

36.01.100 Ambulance service authorized—Restriction. The legislative authority of any county may by appropriate legislation provide for the establishment of a system of ambulance service for the entire county or for portions thereof, and award contracts for ambulance service: *Provided*, That such legislation may not provide for the establishment of any system which would compete with any existing private system. [1972 ex.s. c 89 § 1.]

36.01.105 Fire protection, ambulance or other emergency services provided by municipal corporation within county—Financial and other assistance authorized. See RCW 36.32.470.

36.01.110 Federal grants and programs—Powers and authority of counties to participate in—Public corporations, commissions or authorities. See RCW 35.21.725–35.21.755.

Chapter 36.04 COUNTY BOUNDARIES

Sections

36.04.010	Adams county.
36.04.020	Asotin county.
36.04.030	Benton county.
36.04.040	Chelan county.
36.04.050	Clallam county.
36.04.060	Clark county.
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36.04.090	Douglas county.
36.04.100	Ferry county.
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36.04.230	Mason county.
36.04.240	Okanogan county.
36.04.250	Pacific county.
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36.04.280	San Juan county.
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36.04.300	Skamania county.
36.04.310	Snohomish county.
36.04.320	Spokane county.
36.04.330	Stevens county.
36.04.340	Thurston county.
36.04.350	Wahkiakum county.
36.04.360	Walla Walla county.
36.04.370	Whatcom county.
36.04.380	Whitman county.
36.04.390	Yakima county.
36.04.400	Survey of county boundaries.

Reviser's note: For the reasons set out in the second paragraph of the explanatory note appended to chapter 4, Laws of 1963, the session laws comprising chapter 36.04 RCW were neither repealed nor reenacted in the 1963 reenactment of Title 36 RCW. Pending reenactment

of this chapter, it is herein republished as revised by the 1941 code committee; for rules of construction concerning such revision see RCW 1.04.020 and 1.04.021.

36.04.010 Adams county. Adams county shall consist of the territory bounded as follows, to wit: Beginning at the northwest corner of township fourteen north, range twenty-eight east of the Willamette Meridian; running thence north to the fourth standard parallel; thence east to the Columbia River Guide Meridian; thence north to the fifth standard parallel; thence east on said parallel to the line between the ranges thirty-eight and thirty-nine; thence south on said line to where it intersects the Palouse river in township sixteen; thence down said river to where the line between townships fourteen and fifteen crosses said river; thence west on said line to place of beginning. [1883 p 93 § 1; RRS § 3924.]

36.04.020 Asotin county. Asotin county shall consist of the territory bounded as follows, to wit: Commencing at a point in the channel of Snake river on the township line between ranges forty-four and forty-five east, Willamette Meridian; thence running south to the northwest corner of section thirty, township eleven north, range forty-five east, Willamette Meridian; thence west six miles; south one mile; west two miles; south one mile; west one mile to the northwest corner of section three in township ten north, of range forty-three east, Willamette Meridian; thence south eighteen miles; thence west three miles; thence south to the Oregon line; thence east on said line to the midchannel of Snake river; thence down the midchannel of Snake river to the place of beginning. [1883 p 96 § 1; RRS § 3925.]

36.04.030 Benton county. Benton county shall consist of the territory bounded as follows, to wit: Beginning at the point of intersection of the middle of the main channel of the Columbia river with the township line between township thirteen north, range twenty-three east, and township thirteen north, range twenty-four east, Willamette Meridian; thence running south along the township line, being the line between range twenty-three east and range twenty-four east to the line between Yakima county and Klickitat county; thence south along the township lines, being the lines between ranges twenty-three east and twenty-four east, to the point of intersection with the middle of the main channel of the Columbia river, or to its intersection with the line between the states of Washington and Oregon; thence northeasterly, northerly and northwesterly and westerly along the middle of the main channel of the Columbia river and up said stream to the place of beginning. [1905 c 89 § 1; RRS § 3926.]

36.04.040 Chelan county. Chelan county shall consist of the territory bounded as follows, to wit: Beginning at the point of intersection of the middle of the main channel of the Columbia river with the fifth standard parallel north, thence running west along said fifth standard parallel north to the point where said fifth standard parallel north intersects the summit of the main divide between the waters flowing northerly and easterly into the Wenatchee and Columbia rivers, and the waters

flowing southerly and westerly into the Yakima river, thence in a general northwesterly direction along the summit of said main divide between the waters flowing northerly and easterly into the Wenatchee and Columbia rivers and the waters flowing southerly and westerly into the Yakima river, following the course of the center of the summit of the watershed dividing the said respective waters, to the center of the summit of the Cascade mountains, at the eastern boundary line of King county; thence north along the east boundary lines of King, Snohomish and Skagit counties to the point upon the said east boundary of Skagit county, where said boundary is intersected by the watershed between the waters flowing northerly and easterly into the Methow river and the waters flowing southerly and westerly into Lake Chelan, thence in a general southeasterly direction along the summit of the main divide between the waters flowing northerly and easterly into the Methow river and the waters flowing westerly and southerly into Lake Chelan and its tributaries; following the course of the center of the summit of the watershed dividing said respective waters, to the point where the seventh standard parallel north intersects said center of the summit of said watershed; thence east along the said seventh standard parallel north to the point of intersection of the middle of the main channel of the Columbia river with said seventh standard parallel north; thence down the middle of the main channel of the Columbia river to the point of beginning. [1899 c 95 § 1; RRS § 3928.]

36.04.050 Clallam county. Clallam county shall consist of the territory bounded as follows, to wit: Commencing at the northwest corner of Jefferson county at a point opposite the middle of the channel between Protection Island and Diamond Point on the west of Port Discovery Bay; thence following up the middle of said channel to a point directly east of the mouth of Eagle creek; thence west to the mouth of Eagle creek; thence one mile west from the mouth of said creek; thence south to the north boundary line of township twenty-seven north, range two west; thence west to the west boundary of the state in the Pacific Ocean; thence northerly along said boundary to a point marking the north terminus of the west boundary of the state in the Pacific Ocean opposite the Strait of Juan de Fuca; thence easterly along said Strait of Juan de Fuca, where it forms the boundary between the state and British possessions, to the place of beginning. [(i) 1869 p 292 § 1; 1867 p 45 § 1; 1854 p 472 § 1; RRS § 3929. (ii) 1925 ex.s. c 40 § 1; RRS § 3963-1.]

36.04.060 Clark county. Clark county shall consist of the territory bounded as follows, to wit: Commencing at the Columbia river opposite the mouth of Lewis river; thence up Lewis river to the forks of said river; thence up the north fork of Lewis river to where said north fork of Lewis river intersects the range line between ranges four and five east; thence due south to the Columbia river; thence with the main channel of said river to the place of beginning. [(i) 1873 p 561 § 1; 1871 p 153 § 1; 1869 p 295 § 1; RRS § 3930. (ii) 1925 ex.s. c 51 § 1; RRS § 3930-1.]

36.04.070 Columbia county. Columbia county shall consist of the territory bounded as follows, to wit: Commencing at a point in the middle of the channel of Snake river, where the range line between ranges thirty-six and thirty-seven east of the Willamette Meridian intersects said point; thence south on said range line to the northwest corner of township nine north, range thirty-seven east; thence east on the north boundary line of township nine north, range thirty-seven east, to the northeast corner of said township; thence south on the line between ranges thirty-seven and thirty-eight east of the Willamette Meridian, to the northwest corner of township eight north, range thirty-eight east; thence along the north boundary line of township eight north, range thirty-eight east, to the northeast corner of said township; thence due south to the line dividing the state of Washington from the state of Oregon; thence due east on said dividing line to the range line between ranges forty-one and forty-two east; thence north on said range line to the corner of sections thirteen, eighteen, nineteen and twenty-four, township ten north, ranges forty-one and forty-two east; thence west three miles; thence north three miles; thence west one mile; thence north one mile; thence west one mile; thence north three miles; thence west one mile; thence north to the southwest corner of township twelve north, range forty-one east; thence west on township line six miles; thence north on range line between ranges thirty-nine and forty to a point in the midchannel of Snake river; thence down the midchannel of said river to the place of beginning. [(i) 1 H.C. § 6; 1875 p 133 § 1; RRS § 3931. (ii) 1879 p 226 § 1; RRS § 3960-1. (iii) 1881 p 175 § 1; RRS § 3936.]

36.04.080 Cowlitz county. Cowlitz county shall consist of the territory bounded as follows, to wit: Commencing at the Columbia river opposite the mouth of Lewis river; thence up Lewis river to the forks of said river; thence up the north fork of Lewis river to where said north fork of Lewis river intersects the range line between ranges four and five east; thence north to the line between townships ten and eleven north; thence west to the first section line east of the range line between ranges four and five west; thence south on said line to the Columbia river, and up the Columbia river to the place of beginning. [1873 p 561 § 1; 1871 p 153 § 1; 1869 p 295 § 1; 1867 p 48 § 1; 1855 p 39; 1854 p 471 § 1; RRS § 3932.]

36.04.090 Douglas county. Douglas county shall consist of the territory bounded as follows, to wit: Beginning at the point where the Columbia Guide Meridian intersects the Columbia river on the northern boundary of Lincoln county; thence running south on said Columbia Guide Meridian to the township line between townships sixteen and seventeen north; thence running west on said township line to the range line between ranges twenty-seven and twenty-eight east; thence south on said range line to the section line between sections twenty-four and twenty-five in township fourteen north, range twenty-seven east; thence west on said section line to the midchannel of the Columbia river; thence up said channel of said river to

the place of beginning, excepting therefrom the territory hereinafter constituted as Grant county. [1883 p 95 § 1; RRS § 3933. (Grant county, 1909 c 17 § 1; RRS § 3937).]

36.04.100 Ferry county. Ferry county shall consist of the territory bounded as follows, to wit: Commencing at the point where the east boundary line of Okanogan county intersects the Columbia river; thence up the midchannel of the Columbia river to the mouth of Kettle river; thence up the midchannel of Kettle river to the boundary line between the United States and British Columbia; thence westerly along the said boundary line to the intersection thereof with the said east boundary line of Okanogan county; thence southerly along the said boundary line to the place of beginning. [1899 c 18 § 1; RRS § 3934.]

36.04.110 Franklin county. Franklin county shall consist of the territory bounded as follows, to wit: Beginning at a point where the midchannel of the Snake river intersects that of the Columbia river, and running thence up the Columbia river to a point where the section line between sections twenty-one and twenty-eight, township fourteen north, range twenty-seven east, Willamette Meridian, strikes the main body of the Columbia river, on the east side of the island; thence east on said section line to range line between ranges twenty-seven and twenty-eight east; thence north on said range line to the north boundary of township fourteen; thence east on said north boundary of township fourteen to the Palouse river; thence down said river to midchannel of Snake river; thence down Snake river to place of beginning. [1883 p 87 § 1; RRS § 3935.]

36.04.120 Garfield county. Garfield county shall consist of the territory bounded as follows, to wit: Commencing at a point in the midchannel of Snake river on range line between ranges thirty-nine and forty east, W.M.; thence on said line south to the southwest corner of township twelve north, range forty; thence east on township line six miles; thence south to the southwest corner of section seven, township eleven north, range forty-one east; thence east one mile; thence south three miles; thence east one mile; thence south one mile; thence east one mile; thence south three miles; thence east three miles; thence south on township line to the Oregon line; thence due east on said line six miles to the southwest corner of Asotin county; thence northerly following the westerly boundary of Asotin county to a point where the same intersects the midchannel of Snake river; thence down the said midchannel of Snake river to the point of beginning. [1883 p 96 § 1; 1881 p 175 § 1; RRS § 3936.]

36.04.130 Grant county. Grant county shall consist of the territory bounded as follows, to wit: Beginning at the southeast corner of township seventeen north, range thirty east of the Willamette Meridian, thence running west on the township line between townships sixteen and seventeen to the range line between ranges twenty-seven and twenty-eight; thence south on said range line to the

section line between sections twenty-four and twenty-five in township fourteen north, range twenty-seven east; thence west on said section line to the midchannel of the Columbia river; thence up the channel of the river to a point, thence at right angles to the course of said channel to the meander corner of section thirteen, township twenty north, range twenty-two east Willamette Meridian, and section eighteen, township twenty north, range twenty-three east Willamette Meridian; thence north along the range line between ranges twenty-two and twenty-three to the northwest corner of section eighteen, township twenty-one north, range twenty-three east Willamette Meridian; thence east one mile to the southeast corner section seven, township twenty-one, range twenty-three east; north one mile to the northwest corner section eight, township twenty-one, range twenty-three east; east one mile to the southeast corner of section five, township twenty-one, range twenty-three east; north one mile to the northeast corner section five, township twenty-one, range twenty-three east; east one mile to the northeast corner of section four, township twenty-one, range twenty-three east; north one mile to the southeast corner section twenty-eight, township twenty-two, range twenty-three east; east one mile to the southeast corner section twenty-seven, township twenty-two, range twenty-three east; north two miles to the northeast corner of section twenty-two, township twenty-two, range twenty-three east; east one mile to the southeast corner of section fourteen, township twenty-two, range twenty-three east; north one mile to the southeast corner section eleven, township twenty-two, range twenty-three east; east one mile to the southeast corner of section twelve, township twenty-two, range twenty-three east; north two miles to the northwest corner of section six, township twenty-two north, range twenty-four east; east sixteen miles to the northeast corner of section three, township twenty-two north, range twenty-six east; north six miles to the northeast corner of section three, township twenty-three north, range twenty-six east; east one mile to the northeast corner of section two, township twenty-three north, range twenty-six east; north one mile to the northeast corner of section thirty-five, township twenty-four north, range twenty-six east; east one mile to the southeast corner of section twenty-five, township twenty-four north, range twenty-six east; north one mile to the southeast corner of section twenty-four, township twenty-four north, range twenty-six east; east one mile to the southeast corner of section nineteen, township twenty-four north, range twenty-seven east; north one mile to the southeast corner of section eighteen, township twenty-four north, range twenty-seven east; east one mile to the southeast corner of section seventeen, township twenty-four north, range twenty-seven east; north one mile to the southeast corner of section eight, township twenty-four north, range twenty-seven east; east one mile to the southeast corner of section nine, township twenty-four north, range twenty-seven east; north one mile to the southeast corner of section four, township twenty-four north, range twenty-seven east; east one mile to the southeast corner of section three, township twenty-four, range twenty-seven east; north

one mile to the northeast corner of section three, township twenty-four, range twenty-seven east; east three miles to the southeast corner of section thirty-one, township twenty-five north, range twenty-eight east; north one mile to the southeast corner of section thirty, township twenty-five north, range twenty-eight east; east one mile to the southeast corner of section twenty-nine, township twenty-five north, range twenty-eight east; north three miles to the southeast corner of section eight, township twenty-five north, range twenty-eight east; east one mile to the southeast corner of section nine, township twenty-five north, range twenty-eight east; north four miles to the southeast corner of section twenty-one, township twenty-six north, range twenty-eight east; east one mile to the southeast corner of section twenty-two, township twenty-six north, range twenty-eight east; north one mile to the southeast corner of section fifteen, township twenty-six north, range twenty-eight east; east one mile to the southeast corner of section fourteen, township twenty-six north, range twenty-eight east; north two miles to the southeast corner of section two, township twenty-six north, range twenty-eight east; east one mile to the southeast corner of section one, township twenty-six north, range twenty-eight east; north two miles to the southeast corner of section twenty-five, township twenty-seven north, range twenty-eight east; east one mile to the southeast corner of section thirty, township twenty-seven north, range twenty-nine east; north six miles to the southeast corner of section thirty, township twenty-eight north, range twenty-nine east; east one mile to the southeast corner of section twenty-nine, township twenty-eight north, range twenty-nine east; north one mile to the southeast corner of section twenty, township twenty-eight north, range twenty-nine east; east two miles to the southeast corner of section twenty-two, township twenty-eight north, range twenty-nine east; north one mile to the southeast corner of section fifteen, township twenty-eight north, range twenty-nine east; east one mile to the southeast corner of section fourteen, township twenty-eight north, range twenty-nine east; north two miles to the southeast corner of section two, township twenty-eight north, range twenty-nine east; east one mile to the southeast corner of section one, township twenty-eight north, range twenty-nine east; north one mile to the northeast corner of section one, township twenty-eight north, range twenty-nine east; thence east along township line between townships twenty-eight and twenty-nine to the midchannel of the Columbia river; thence up said channel of said river to the point where the Columbia Guide Meridian intersects said channel; thence running south on said Columbia Guide Meridian to the place of beginning. [1909 c 17 § 1; RRS § 3937.]

36.04.140 Grays Harbor county. Grays Harbor county shall consist of the territory bounded as follows, to wit: Commencing at the northeast corner of Pacific county; thence west to the west boundary of the state in the Pacific Ocean; thence northerly along said boundary, including Gray's Harbor, to a point opposite the mouth of Queets river; thence east to the west boundary line of Mason county; thence south to the northeast corner of

township eighteen north, range seven west; thence east fourteen miles to the southeast corner of section thirty-two, township nineteen north, range four west; thence south six miles to the southeast corner of section thirty-two in township eighteen north, range four west; thence east two miles to the southeast corner of section thirty-four in the same township; thence south to a point due east of the northeast corner of Pacific county; thence west to the place of beginning. [(i) 1 H.C. § 3; 1873 p 482 § 1; 1869 p 296 § 1; RRS § 3927. (ii) 1915 c 77 § 1; RRS § 3938. (iii) 1925 ex.s. c 40 § 1; RRS § 3963-1.]

36.04.150 Island county. Island county shall consist of all of the islands known as Whidbey, Camano, Smith's Deception and Ure's and shall extend into the adjacent channels to connect with the boundaries of adjoining counties as defined by statute. [1891 c 119 p 217 § 1; 1877 p 425 §§ 1, 2; 1869 p 292 § 1; 1868 p 68 § 1; 1867 p 46 § 1; RRS § 3939.]

36.04.160 Jefferson county. Jefferson county shall consist of the territory bounded as follows, to wit: Commencing at the middle of the channel of Admiralty Inlet due north of Point Wilson; thence westerly along the Strait of Juan de Fuca to the north of Protection Island, to a point opposite the middle of the channel between Protection Island and Diamond Point on the west of Port Discovery Bay; thence following up the middle of said channel to a point direct east of the mouth of Eagle creek; thence west to the mouth of Eagle creek; thence one mile west from the mouth of said creek; thence south to the summit of the Olympic range of mountains, it being the southeast corner of Clallam county, on the north boundary line of township twenty-seven north, range two west; thence west to the west boundary of the state in the Pacific Ocean; thence southerly along said west boundary to a point opposite the mouth of the Queets river; thence east to the range line dividing ranges six and seven west; thence north on said range line to the sixth standard parallel; thence east to the middle of the channel of Hood Canal; thence northerly along said channel to the middle of the channel of Admiralty Inlet; thence northerly following the channel of said inlet to a point due north of Point Wilson and place of beginning. [(i) 1 H.C. § 12; 1877 p 406 § 1; 1869 p 292 § 1; RRS § 3940. (ii) 1925 ex.s. c 40 § 1; RRS § 3963-1.]

36.04.170 King county. King county shall consist of the territory bounded as follows, to wit: Beginning at the point of intersection of the center of East Passage (also known as Admiralty Inlet) on Puget Sound and the northerly line of the Puyallup Indian Reservation (projected northwesterly); thence southeasterly in a straight line along said northerly line of Puyallup Indian Reservation and same extended to a point on the east line of section thirty-one, township twenty-one, north, range four east, Willamette Meridian; thence south along said east line of section thirty-one, township twenty-one, range four east, Willamette Meridian, to the township line between township twenty north and township twenty-one north (being the fifth standard parallel

north); thence east along said township line between township twenty north and township twenty-one north to the middle of the main channel of White river, near the northeast corner of section three, township twenty north, range five east, Willamette Meridian; thence upstream along the middle of the main channel of White river to the forks of White river and Greenwater river; thence upstream along the middle of the main channel of the Greenwater river to the forks of the Greenwater river and Meadow creek; thence upstream along the middle of the main channel of Meadow creek to the summit of the Cascade mountains, at a point known as Naches Pass, said point lying in the southwest quarter of section thirty-five, township nineteen north, range eleven east, Willamette Meridian; thence northerly along the summit of the Cascade mountains to a point on the township line between township twenty-six north and township twenty-seven north, said point lying near the north quarter-corner of section three, township twenty-six north, range thirteen east, Willamette Meridian; thence west along said township line between township twenty-six north and twenty-seven north to the middle of the channel known as Admiralty Inlet on Puget Sound; thence southerly along said middle of channel known as Admiralty Inlet through Colvo's Passage (West Passage) on the west side of Vashon Island to a point due north of Point Defiance; thence southeasterly along middle of channel between Vashon Island and Point Defiance (Dalcos Passage) to a point due south of Quartermaster Harbor; thence northeasterly along middle of channel known as Admiralty Inlet to point of beginning. [1 H.C. § 13; 1869 p 293 § 1; 1867 p 46 § 1; 1854 p 470 § 1; RRS § 3941.]

Reviser's note: Change in boundary by virtue of election in 1901 under chapter 36.08 RCW incorporated herein.

36.04.180 Kitsap county. Kitsap county shall consist of the territory bounded as follows, to wit: Commencing in the middle of Colvo's Passage at a point due east of the meander post between sections nine and sixteen, on west side of Colvo's Passage, in township twenty-two north, range two east; thence west on the north boundary line of sections sixteen, seventeen and eighteen, to the head of Case's Inlet; thence north along the east boundary of Mason county through the center of townships twenty-two and twenty-three, range one west, to the north line of said township twenty-three; thence due west to the middle of the channel of Hood Canal; thence along said channel to the middle of the main channel of Admiralty Inlet; thence following the main channels of said inlet and Puget Sound up to the middle of Colvo's Passage; thence following the channel of said passage to the place of beginning. [1877 p 406 § 1; 1869 p 293 § 1; 1867 p 46 § 1; 1858 p 51 § 1; RRS § 3942.]

36.04.190 Kittitas county. Kittitas county shall consist of the territory bounded as follows, to wit: Commencing at a point where the main channel of the Columbia river crosses the township line between township fourteen and fifteen north, range twenty-three east of the Willamette Meridian, and running thence west on said township line to the range line between ranges

eighteen and nineteen east; thence north on said range line six miles, or to the township line between the townships fifteen and sixteen north; thence west on said township line to the range line between ranges seventeen and eighteen east; thence north to the township line between townships sixteen and seventeen north; thence west along said township line and a line prolonged due west to the Naches river; and thence northerly along the main channel of the Naches river to the summit of the Cascade mountains, or to the eastern boundary of King county; thence north along the eastern boundary of King county to the point where such boundary intersects the summit of the main divide between the waters flowing northerly and easterly into the Wenatchee and Columbia rivers and the water flowing southerly and westerly into the Yakima river; thence in a general southeasterly direction along the summit of such main divide between the waters flowing northerly and easterly into the Wenatchee and Columbia rivers and the waters flowing southerly and westerly into the Yakima river, following the course of the center of the summit of the watershed dividing such respective waters, to the fifth standard parallel north; thence east along the fifth standard parallel north to the middle of the main channel of the Columbia river; thence down the main channel of the Columbia to the place of beginning. [1899 c 95 § 1; 1886 p 168 § 1; 1883 p 90 § 1; RRS § 3943.]

36.04.200 Klickitat county. Klickitat county shall consist of the territory bounded as follows, to wit: Commencing at a point in the midchannel of the Columbia river opposite the mouth of the White Salmon river; thence up the channel of the White Salmon river as far north as the southern boundary of township four north, range ten east of Willamette Meridian; thence due west on the township line to range nine east of Willamette Meridian; thence north following said range line to where it intersects the south boundary of Yakima county projected; thence east along the north boundary of township six north until that line intersects the range line between range twenty-three east and range twenty-four east; thence south along such range line to the Columbia river; thence down the Columbia river, mid-channel, to the place of beginning. [1905 c 89 § 1; 1 H.C. § 17; 1881 p 187 § 1; 1873 p 571 § 1; 1869 p 296 § 1; 1868 p 60 § 1; 1867 p 49 § 1; 1861 p 59 § 1; 1859 p 420 § 1; RRS § 3944.]

36.04.210 Lewis county. Lewis county shall consist of the territory bounded as follows, to wit: Beginning at the northwest corner of section eighteen, township fifteen north, range five west; thence south along the west boundary of range five west to the southwest corner of township eleven north, range five west; thence east along the south boundary of township eleven north to the summit of the Cascade mountains; thence northerly along said summit to a point due east of the head of Nisqually river; thence west to the head of the Nisqually river; thence westerly down the channel of the river to a point two miles north of the line between townships fourteen and fifteen north; thence west to the northwest corner of section twenty-six, township fifteen north,

range four west; thence north two miles to the northwest corner of section fourteen, township fifteen north, range four west; thence west to place of beginning. [1 H.C. §§ 18, 19; 1888 p 73 § 1; 1879 p 213 § 1; 1869 p 295 § 1; 1867 p 48 § 1; 1861 p 33 § 1; RRS § 3945.]

36.04.220 Lincoln county. Lincoln county shall consist of the territory bounded as follows, to wit: Beginning at the point in township twenty-seven north, where the Colville Guide Meridian between ranges thirty-nine and forty east, Willamette Meridian, intersects the Spokane river, and running thence south along said meridian line to the township line between townships twenty and twenty-one north; thence west along said township line to its intersection with the Columbia Guide Meridian between ranges thirty and thirty-one east, Willamette Meridian; thence north along said meridian line to a point where it intersects the midchannel of the Columbia river; thence up said river in the middle of the channel thereof to the mouth of the Spokane river; thence up the Spokane river, in the middle of the channel thereof, to the place of beginning. [1883 p 89 § 1; 1883 p 95 § 1; RRS § 3946.]

36.04.230 Mason county. Mason county shall consist of the territory bounded as follows, to wit: Commencing in middle of the main channel of Puget Sound where it is intersected in the midchannel of Case's Inlet; thence westerly along the midchannel of Puget Sound, via Dana's Passage, into Totten's Inlet, and up said inlet to its intersection by section line between sections twenty-eight and twenty-nine, township nineteen north, range three west of the Willamette Meridian; thence south to the southwest corner of section thirty-three in township nineteen north, range three west; thence west along the township line dividing townships eighteen and nineteen, twenty miles, to the township line dividing ranges six and seven west, of the Willamette Meridian, which constitutes a part of the east boundary line of Grays Harbor county; thence north along said township line to the sixth standard parallel; thence east along said parallel line to the middle of the channel of Hood Canal; thence southerly along said midchannel to a point due west of the intersection of the shore line of said Hood Canal by the township line between townships twenty-three and twenty-four; thence east along said township line to the line dividing sections three and four in said township twenty-three north, range one west of the Willamette Meridian; thence south along said section line to the head of Case's Inlet; thence south by the midchannel of said inlet to the place of beginning. [1877 p 406 § 1; 1869 p 293 § 1; 1867 p 45 § 1; 1864 p 71 § 1; 1863 p 7 (local laws portion) § 1; 1861 p 56 § 1; 1861 p 30 § 1; 1860 p 458 § 1; 1854 p 474 § 1; 1854 p 470 § 1; RRS § 3947.]

36.04.240 Okanogan county. Okanogan county shall consist of the territory bounded as follows, to wit: Beginning at the intersection of the forty-ninth parallel with the range line between ranges thirty-one and thirty-two east, and from thence running in a southerly direction on said range line to the intersection of the said

range line with the Columbia river, and thence down the river to the seventh standard parallel north; thence west along the seventh standard parallel north to the watershed between the waters flowing northerly and easterly into the Methow river and the waters flowing southerly and westerly into Lake Chelan; thence in a general northwesterly direction along the summit of the main divide between the waters flowing northerly and easterly into the Methow river and the waters flowing westerly and southerly into Lake Chelan and its tributaries; following the course of the center of the summit of the watershed dividing said respective waters to the point where the same intersects the east boundary of Skagit county and the summit of the Cascade mountains; thence northerly with said summit to the forty-ninth parallel, and thence on the said parallel to the place of beginning. [1899 c 95 § 1; 1888 p 70 § 1; RRS § 3948.]

36.04.250 Pacific county. Pacific county shall consist of the territory bounded as follows, to wit: Commencing at the midchannel of the Columbia river at the point of intersection of the line between ranges eight and nine west; thence north along said line to the north boundary of township ten north; thence east along said boundary to the line between ranges five and six west; thence north along the west boundary of range five west to the northwest corner of section eighteen in township fifteen north, range five west; thence west to the west boundary of the state in the Pacific Ocean; thence southerly along said boundary, including Shoalwater Bay, to a point opposite Cape Disappointment; thence up midchannel of the Columbia river to the place of beginning. [(i) 1879 p 213 § 1; 1873 p 538 § 1; 1867 p 49 § 1; 1860 p 429 § 1; 1854 p 471 § 1; RRS § 3949. (ii) 1925 ex.s. c 40 § 1; RRS § 3963-1.]

36.04.260 Pend Oreille county. Pend Oreille county shall consist of the territory bounded and described as follows, to wit: Beginning at the southeast corner of section thirty-six in township thirty north, range forty-two east of the Willamette Meridian; thence running north, along the east line of said township thirty north, range forty-two east of the Willamette Meridian, to the northeast corner of section one, in said township thirty; thence west to the southwest corner of section thirty-four in township thirty-one north, range forty-two east of Willamette Meridian; thence north, along the west line of sections thirty-four, twenty-seven and twenty-two of said township thirty-one north, range forty-two east of Willamette Meridian; thence north on a line from the northwest corner of section twenty-two in township thirty-one to a point on the north line of township thirty-one, midway between the northeast corner and the northwest corner of said township thirty-one, which line will be the west line of sections fifteen, ten and three of said township thirty-one, when the same are surveyed; thence to the center point on the south line of township thirty-two north, range forty-two east of Willamette Meridian; thence north on the north and south center line of said township thirty-two, which line will be the west line of sections thirty-four, twenty-seven, twenty-two, fifteen, ten, and three of township

thirty-two when the same is surveyed, to the north line of said township thirty-two; thence to the center point on the south line of township thirty-three north, range forty-two east of Willamette Meridian; thence north, on the north and south center line of township thirty-three north of range forty-two east of Willamette Meridian, which line will be the west line of sections thirty-four, twenty-seven, twenty-two, fifteen, ten and three of said township thirty-three, when the same is surveyed, to the north line of said township thirty-three; thence to the center point on the south line of township thirty-four north, range forty-two east of Willamette Meridian; thence north on the north and south center line of said township thirty-four, which line will be the west line of sections thirty-four, twenty-seven, twenty-two, fifteen, ten and three of said township thirty-four when the same are surveyed, to the north line of said township; thence to the center point on the south line of township thirty-five north, range forty-two east of Willamette Meridian; thence north, on the north and south center line of township thirty-five north, range forty-two east of Willamette Meridian, which line will be the west line of sections thirty-four, twenty-seven, twenty-two, fifteen, ten and three of said township thirty-five when the same are surveyed to the north line of said township thirty-five; thence to the southwest corner of section thirty-four in township thirty-six north, range forty-two east of Willamette Meridian; thence north, along the west line of sections thirty-four, twenty-seven, twenty-two, fifteen, ten and three to the northwest corner of section three of said township thirty-six; thence west along the south line of township thirty-seven north, range forty-two, and township thirty-seven north, range forty-one east of the Willamette Meridian, to the center point on the south line of said township thirty-seven north, range forty-one east of the Willamette Meridian, which point will be the southwest corner of section thirty-four in said township thirty-seven north, range forty-one east of the Willamette Meridian, when the same are surveyed; thence north along the north and south center line of said township thirty-seven north, range forty-one east of the Willamette Meridian, which line will be the west line of sections thirty-four, twenty-seven, twenty-two, fifteen, ten and three of said township when the same are surveyed, to the north line of said township thirty-seven; thence east, along the south line of township thirty-eight north, range forty-one east of Willamette Meridian to the southeast corner of said township thirty-eight north, range forty-one east of the Willamette Meridian; thence to the southwest corner of section thirty-one in township thirty-eight north, range forty-two east of Willamette Meridian; thence north, along the west line of said township thirty-eight, to the northwest corner of said township thirty-eight; thence east along the north line of township thirty-eight, to the center point on the south line of township thirty-nine north, range forty-two east of Willamette Meridian, which point will be the southwest corner of section thirty-four of said township thirty-nine when the same are surveyed; thence north along the north and south center line of said township thirty-nine, which line will be the west line of sections thirty-four, twenty-seven,

twenty-two, fifteen, ten and three of said township thirty-nine, when the same are surveyed, to the north line of said township thirty-nine; thence east along the south line of township forty north, range forty-two east, of Willamette Meridian to the southeast corner of said township forty; thence north, along the east line of said township forty, to the international boundary line; thence east along the international boundary line, to the intersection of the state line between the states of Washington and Idaho with said international boundary line; thence south along said state line, to the southeast corner of section thirty-one, township thirty north, range forty-six east of Willamette Meridian; thence due west to the southeast corner of section thirty-six, township thirty north, range forty-two east of Willamette Meridian, to the place of beginning. [1911 c 28 § 1; RRS § 3950.]

36.04.270 Pierce county. Pierce county shall consist of the territory bounded as follows, to wit: Commencing at the mouth, midchannel, of the Nisqually river; thence following the main channel of said river to its head; thence due east to the summit of the Cascade mountains; thence northerly along the summit to the head of the Green Water; thence westerly down said river to its confluence with White river; thence down the main channel of White river to the intersection of the fifth standard parallel; thence west along said line to the southeast corner of section thirty-one, township twenty-one north, range four east of Willamette Meridian; thence north along the east line of said section thirty-one to its intersection with the northerly line of the Puyallup Indian reservation; thence northwesterly on said line of the Puyallup Indian reservation, projected northwesterly in a straight line, to its intersection with the center line of Puget Sound; thence southwestward and westerly following the channel of Dalco Passage to the south entrance of Colvo's Passage; thence down the channel of said passage to the northeast corner of section sixteen, in township twenty-two north, range two east; thence west to the northeast corner of section sixteen, in township twenty-two north, range one west; thence southerly along the channels of Case's Inlet and Puget Sound, to the middle of the mouth of the Nisqually river and place of beginning. [1869 p 294 § 1; 1867 p 47 § 1; 1859 p 59 § 1; 1855 p 43 § 1; RRS § 3951.]

36.04.280 San Juan county. San Juan county shall consist of the territory bounded as follows, to wit: Commencing in the Gulf of Georgia at the place where the boundary line between the United States and the British possessions deflects from the forty-ninth parallel of north latitude; thence following said boundary line through the Gulf of Georgia and Haro Strait to the middle of the Strait of Fuca; thence easterly through Fuca Straits along the center of the main channel between Blunt's Island and San Juan and Lopez Islands to a point easterly from the west entrance of Deception Pass, until opposite the middle of the entrance to the Rosario Straits; thence northerly through the middle of Rosario Straits and through the Gulf of Georgia to the

place of beginning. [1877 p 425 § 1; 1873 p 461 § 1; RRS § 3952.]

36.04.290 Skagit county. Skagit county shall consist of the territory bounded as follows, to wit: Commencing at midchannel of Rosario Strait where the dividing line between townships thirty-six and thirty-seven intersects the same; thence east on said township line to the summit of the Cascade mountains; thence south along the summit of said mountain range to the eighth standard parallel; thence west along the parallel to the center of the channel or deepest channel of the nearest arm of Puget Sound and extending along said channel to the east entrance of Deception Pass; thence through said pass to the center of the channel of Rosario Strait; thence northerly along said channel to the place of beginning. [1883 p 97 § 1; RRS § 3953.]

36.04.300 Skamania county. Skamania county shall consist of the territory bounded as follows, to wit: Commencing on the Columbia river at a point where range line four east strikes said river; thence north to the north boundary of township ten north; thence east to a point due north of the mouth of White Salmon; thence south to the township line dividing townships six and seven; thence west to the northwest corner of Klickitat county; thence south along the west boundary of said county to the Columbia river; thence along the midchannel of said river to the place of beginning. [1881 p 187 § 1; 1879 p 213 § 1; 1867 p 49 § 1; 1854 p 472 § 1; RRS § 3954.]

36.04.310 Snohomish county. Snohomish county shall consist of the territory bounded as follows, to wit: Commencing at the southwest corner of Skagit county; thence east along the eighth standard parallel to the summit of the Cascade mountains; thence southerly along the summit of the Cascade mountains to the northeast corner of King county, it being a point due east of the northeast corner of township twenty-six north, range four east; thence due west along the north boundary of King county to Puget Sound; thence northerly along the channel of Puget Sound and Possession Sound to the entrance of Port Susan, including Gedney Island; thence up the main channel of Port Susan to the mouth of the Stillaguamish river; thence northwesterly through the channel of the slough at the head of Camano Island, known as Davis Slough; thence northerly to the place of beginning. [1877 p 426 § 3; 1869 p 291 § 1; 1867 p 44 § 1; 1862 p 107 § 1; 1861 p 19 § 1; RRS § 3955.]

36.04.320 Spokane county. Spokane county shall consist of the territory bounded as follows, to wit: Commencing at the northeast corner of Lincoln county; thence up the midchannel of the Spokane river to the Little Spokane river; thence north to the township line between townships twenty-nine and thirty; thence east to the boundary line between Washington and Idaho; thence south on said boundary line to the fifth standard parallel; thence west on said parallel to the Colville Guide Meridian; thence north on said meridian to the

place of beginning. [1879 p 203; 1864 p 70; 1860 p 436; 1858 p 51; RRS § 3956.]

36.04.330 Stevens county. Stevens county shall consist of the territory bounded as follows, to wit: Commencing at the southeast corner of township thirty north, range forty-two east of the Willamette Meridian; thence north to the northeast corner of said township; thence west to the southwest corner of section thirty-four, township thirty-one north, range forty-two east; thence north along the center line of townships thirty-one, thirty-two, thirty-three, thirty-four, thirty-five and thirty-six in said range forty-two east to the northwest corner of section three in township thirty-six north; thence west to the northwest corner of section three, township thirty-six north, range forty-one east; thence north along the center line of township thirty-seven to the northwest corner of section three in said township; thence east to the northeast corner of said township; thence north to the northwest corner of township thirty-eight, range forty-two east; thence east to the northwest corner of section three of said township; thence north along the center line of township thirty-nine to the northwest corner of section three in said township; thence east to the northeast corner of said township; thence north to the northern boundary line of the state; thence west to where said boundary line intersects the middle of the channel of the Kettle river; thence south along said channel to its confluence with the Columbia river; thence continuing south along the middle of the channel of the Columbia river to its confluence with the Spokane river; thence easterly along the channel of the Spokane to the Little Spokane river; thence north to the township line separating townships twenty-nine and thirty; thence east to the place of beginning. [(i) 1 H.C. § 30; 1888 p 70; 1879 p 203; 1869 p 297; 1867 p 50; 1864 p 70; 1863 p 6; RRS § 3957. (ii) 1899 c 18 § 1; RRS § 3934.]

36.04.340 Thurston county. Thurston county shall consist of the territory bounded as follows, to wit: Commencing at the southeast corner of section thirty-two in township nineteen north, range four west; thence east on the township line to the southeast corner of section thirty-two in township nineteen north, range three west; thence north to the middle of the channel of Totten's Inlet; thence along said channel to the waters of Puget Sound, intersecting the line in the channel of Puget Sound west of the southern portion of Squaxen Reservation; thence following said channel to the mouth of the Nisqually river; thence up midchannel of said river to a point where it strikes the north boundary of Lewis county; thence due west to the northwest corner of section twenty-six, township fifteen north, range four west; thence north to the southeast corner of section thirty-four in township eighteen north, range four west; thence west on the township line to the southeast corner of section thirty-two; thence north on the section line to the place of beginning. [1 H.C. § 31; 1873 p 482; 1869 p 294; 1867 p 47; 1863 p 7; 1860 p 458; RRS § 3958.]

36.04.350 Wahkiakum county. Wahkiakum county shall consist of the territory bounded as follows, to wit: Commencing at the southeast corner of Pacific county, on the Columbia river; thence up midchannel of said river to the southwest corner of Cowlitz county; thence north to the northwest corner of Cowlitz county; thence west on the northern boundary of township ten north to the line between ranges eight and nine west; thence south to the place of beginning. [1879 p 213; 1869 p 295; 1867 p 48; 1854 p 474; RRS § 3959.]

36.04.360 Walla Walla county. Walla Walla county shall consist of the territory bounded as follows, to wit: Commencing at a point where the boundary line between Washington and Oregon intersects the Columbia river; thence up the main channel of the Columbia to the mouth of the Snake river; thence up the main channel of said river to where the range line between ranges thirty-six and thirty-seven intersects said point; thence south on said range line to the northwest corner of township nine north, range thirty-seven east; thence east on the north boundary line of township nine north, range thirty-seven east, to the northeast corner of said township; thence south on the line between ranges thirty-seven and thirty-eight east, of the Willamette Meridian, to the northwest corner of township eight north, range thirty-eight east; thence along the north boundary line of township eight north, range thirty-eight east, to the northeast corner of said township; thence due south to the line dividing the state of Washington from the state of Oregon; thence due west on said dividing line to the place of beginning. [(i) 1 H.C. § 33; 1879 p 226; 1875 p 133; 1869 p 397; 1868 p 60; 1867 p 50; 1858 p 51; 1854 p 472; RRS § 3960. (ii) 1879 p 226; RRS § 3960-1.]

36.04.370 Whatcom county. Whatcom county shall consist of the territory bounded as follows, to wit: Commencing on the forty-ninth parallel at the point dividing the American and British possessions in the Gulf of Georgia; thence along said boundary line to where it deflects at the north entrance to the Haro Strait; thence along the northeasterly boundary of San Juan county to the ninth standard parallel, or the northwest corner of Skagit county; thence due east along said parallel to the summit of the Cascade mountains; thence northerly along the summit of said mountains to the forty-ninth parallel of north latitude; thence west along said parallel to the place of beginning. [1 H.C. § 34; 1877 p 426; 1869 p 291; 1867 p 44; 1859 p 60; 1854 p 475; RRS § 3961.]

36.04.380 Whitman county. Whitman county shall consist of the territory bounded as follows, to wit: Commencing at a point where the range line between ranges thirty-eight and thirty-nine east intersects the fifth standard parallel, being the northeast corner of Adams county; thence east on said parallel to the boundary line between Idaho and Washington; thence south on said boundary line to the midchannel of the Snake river; thence down the midchannel of the Snake river to its intersection with the midchannel of the Palouse river;

thence north along the midchannel of the Palouse river to the point where the same intersects the range line between ranges thirty-eight and thirty-nine east; thence north along said range line to the place of beginning. [(i) 1 H.C. § 35; 1875 p 189; 1871 p 134; RRS § 3962. (ii) 1883 p 87; RRS § 3935. (iii) 1883 p 93; RRS § 3924.]

36.04.390 Yakima county. Yakima county shall consist of the territory bounded as follows, to wit: Commencing at the northwest corner of township six north of range twelve east; thence east along the north boundary of township six north until said line intersects the range line between range twenty-three east and range twenty-four east; thence north along said range line to the Columbia river; thence north up the midchannel of said river to the southeast corner of Kittitas county; thence along the southern boundary of Kittitas county to the summit of the Cascade mountains; thence southerly to the southeast corner of Lewis county; thence west along the line of said county to the northeast corner of Skamania county; thence along the east line of Skamania county to the line between townships six and seven north; thence east along said line to the place of beginning. [1905 c 89 § 1; 1886 p 168; 1873 p 571; 1869 p 296; 1868 p 60; 1867 p 50; RRS § 3963.]

36.04.400 Survey of county boundaries. All common boundaries and common corners of counties not adequately marked by natural objects or lines, or by surveys lawfully made, must be definitely established by surveys jointly made by all the counties affected thereby, and approved by the board of county commissioners of such counties. The cost of making such surveys shall be apportioned equally among the counties interested, and the board of county commissioners shall audit the same, and the amounts shall be paid out of the county current expense fund. [Code 1881 § 2661; RRS § 3990.]

Chapter 36.05

ACTIONS TO ESTABLISH BOUNDARIES

Sections

- 36.05.010 Suit in equity authorized—Grounds.
- 36.05.020 Noninterested judge to sit.
- 36.05.030 Residents of area may intervene.
- 36.05.040 Questions of fact to be determined.
- 36.05.050 Court may establish boundary line.
- 36.05.060 Practice in civil actions to prevail.
- 36.05.070 Copies of decree to be filed and recorded.
- 36.05.080 "Territory" defined.

Lines not to be changed by special act: State Constitution Art. 2 § 28(18).

36.05.010 Suit in equity authorized—Grounds. Whenever the boundary line between two or more adjoining counties in this state are in dispute, or have been lost by time, accident or any other cause, or have become obscure or uncertain, one or more of the counties, in its corporate name, may bring and maintain suit against such other adjoining county or counties, in equity, in the superior court, to establish the location of the boundary line or lines. [1963 c 4 § 36.05.010. Prior: 1897 c 76 § 1; RRS § 3964.]

36.05.020 Noninterested judge to sit. A suit to establish county boundary lines shall be tried before a judge of the superior court who is not a resident of a county which is a party to such suit, or of a judicial district embracing any such county. [1963 c 4 § 36.05.020. Prior: 1897 c 76 § 2; RRS § 3965.]

36.05.030 Residents of area may intervene. A majority of the voters living in the territory embracing such disputed, lost, obscure, or uncertain boundary line may, by petition, duly verified by one or more of them, intervene in the suit, and thereupon the court shall have jurisdiction and power, in locating and establishing the boundary line or lines, to strike or transfer from one county to another a strip or portion of such territory not exceeding two miles in width. [1963 c 4 § 36.05.030. Prior: 1897 c 76 § 3; RRS § 3966.]

36.05.040 Questions of fact to be determined. The boundaries of such territory, the number of voters living therein, and the sufficiency of such petition are questions of fact to be determined by the court. [1963 c 4 § 36.05.040. Prior: 1897 c 76 § 5; RRS § 3968.]

36.05.050 Court may establish boundary line. The court shall have power to move or establish such boundary line on any government section line or subdivisional line thereof, of the section in or through which said disputed, lost, obscure or uncertain boundary line may be located, or if such boundary line is in unsurveyed territory, then the court shall have power to move or establish such boundary line so it will conform to extensions of government section lines already surveyed in that vicinity. [1963 c 4 § 36.05.050. Prior: 1897 c 76 § 6; RRS § 3969.]

36.05.060 Practice in civil actions to prevail. The practice, procedure, rules of evidence, and appeals to the supreme court or the court of appeals applicable to civil actions, are preserved under this chapter. [1971 c 81 § 96; 1963 c 4 § 36.05.060. Prior: 1897 c 76 § 7; RRS § 3970.]

36.05.070 Copies of decree to be filed and recorded. The clerk of the court in whose office a decree is entered under the provisions of this chapter, shall forthwith furnish certified copies thereof to the secretary of state, and to the auditors of the counties, which are parties to said suit. The secretary of state, and the county auditors, shall file and record said copies of the decree in their respective offices. [1963 c 4 § 36.05.070. Prior: 1897 c 76 § 8; RRS § 3971.]

36.05.080 "Territory" defined. The term "territory," as used in this chapter, means that portion of counties lying along the boundary line and within one mile on either side thereof. [1963 c 4 § 36.05.080. Prior: 1897 c 76 § 4; RRS § 3967.]

Chapter 36.08 TRANSFER OF TERRITORY WHERE CITY'S HARBOR LIES IN TWO COUNTIES

Sections	
36.08.010	Petition and notice of election.
36.08.020	Conduct of election—Proclamation of change.
36.08.030	Official proceedings not disturbed by transfer.
36.08.040	Local officers to serve out terms.
36.08.050	Transferee county liable for existing debts—Exception.
36.08.060	Adjustment of indebtedness.
36.08.070	Arbitration of differences.
36.08.080	Expense of proceedings.
36.08.090	Transcript of records by county auditor.
36.08.100	Construction—Limitations.

36.08.010 Petition and notice of election. If a harbor, inlet, bay, or mouth of river is embraced within two adjoining counties, and an incorporated city is located upon the shore of such harbor, bay, inlet, or mouth of river and it is desired to embrace within the limits of one county, the full extent of the shore line of the harbor, port, or bay, and the waters thereof, together with a strip of the adjacent and contiguous upland territory not exceeding three miles in width, to be measured back from highwater mark, and six miles in length, and not being at a greater distance in any part of said strip from the courthouse in the county seat of the county to which the territory is proposed to be annexed, as such county seat and courthouse are now situated, than ten miles, a majority of the qualified electors living in such territory may petition to have the territory stricken from the county of which it shall then be a part, and added to and made a part of the county contiguous thereto.

The petition shall describe with certainty the bounds and area of the territory, with the reasons for making the change and shall be presented to the board of county commissioners of the county in which the territory is located, which shall proceed to ascertain if the petition contains the requisite number of petitioners, who must be bona fide residents of the territory sought to be stricken off and transferred to the contiguous county.

If satisfied that the petition is signed by a majority of the bona fide electors of the territory, and that there will remain in the county from which it is taken more than four thousand inhabitants, the board shall make an order that a special election be held within the limits of the territory described in the petition, on a date to be named in the order.

Notices of the election shall contain a description of the territory proposed to be transferred and the names of the counties from and to which the transfer is intended to be made, and shall be posted and published as required for general elections. [1963 c 4 § 36.08.010. Prior: 1891 c 144 § 1; RRS § 3972.]

36.08.020 Conduct of election—Proclamation of change. The election shall be conducted in all respects as general elections are conducted under the laws governing general elections, in so far as they may be applicable, except that there shall be triplicate returns made, one to each of the respective county auditors and another to the office of the secretary of state. The ballots used at such election shall contain the words "for transferring territory," or "against transferring territory." The votes shall

be canvassed, as by law required, within twenty days, and if three-fifths of the votes cast in the territory at such election are "for transferring territory," the territory described in the petition shall become a part of and be added to and made a part of the county contiguous thereto, and within thirty days after the canvass of the returns of the election, the governor shall issue his proclamation of the change of county lines. [1963 c 4 § 36.08.020. Prior: 1891 c 144 § 2; RRS § 3973.]

36.08.030 Official proceedings not disturbed by transfer. All assessments and collection of taxes, and all judicial or other official proceedings commenced prior to the governor's proclamation transferring territory to a contiguous county, shall be continued, prosecuted, and completed in the same manner as if no such transfer had been made. [1963 c 4 § 36.08.030. Prior: 1891 c 144 § 3; RRS § 3974.]

36.08.040 Local officers to serve out terms. All township, precinct, school, and road district officers within the transferred territory shall continue to hold their respective offices within the county to which they may be transferred until their respective terms of office expire, and until their successors are elected and qualified. [1963 c 4 § 36.08.040. Prior: 1891 c 144 § 4; RRS § 3975.]

36.08.050 Transferee county liable for existing debts—Exception. Every county which is thus enlarged by territory taken from another county shall be liable for a just proportion of the existing debts of the county from which such territory is stricken, which proportion shall be paid by the county to which such territory is transferred at such time and in such manner as may be agreed upon by the boards of county commissioners of both counties: *Provided*, That the county to which the territory is transferred shall not be liable for any portion of the debt of the county from which the territory is taken, incurred in the purchase of any county property, or the construction of any county building then in use or under construction, which shall fall within and be retained by the county from which the territory is taken. [1963 c 4 § 36.08.050. Prior: 1891 c 144 § 5; RRS § 3976.]

36.08.060 Adjustment of indebtedness. The county auditors of the respective counties interested in the transfer of territory, as in this chapter provided, are constituted a board of appraisers and adjusters, to appraise the property, both real and personal, owned by the county from which the territory is taken, and to adjust the indebtedness of such county with the county to which such territory is transferred, in proportion to the amount of taxable property within the territory taken from the one county and transferred to the other. [1963 c 4 § 36.08.060. Prior: 1891 c 144 § 6; RRS § 3977.]

36.08.070 Arbitration of differences. If the board of appraisers and adjusters do not agree on any subject, value, or settlement, they shall choose a third man from

an adjoining county to settle their differences, and the decision thus arrived at shall be final. [1963 c 4 § 36.08.070. Prior: 1891 c 144 § 7; RRS § 3978.]

36.08.080 Expense of proceedings. The expense of the proceedings and election provided for in this chapter shall be paid by the county to which the territory is attached. [1963 c 4 § 36.08.080. Prior: 1891 c 144 § 8; RRS § 3979.]

36.08.090 Transcript of records by county auditor. The county auditor of the county to which any territory may be transferred may take transcripts of all records, books, papers, etc., on file in the office of the county auditor of the county from which the territory has been transferred, which may be necessary to perfect the records of his county, and for this purpose he shall have access to the records of the county from which such territory is stricken, free of cost. [1963 c 4 § 36.08.090. Prior: 1891 c 144 § 9; RRS § 3980.]

36.08.100 Construction—Limitations. Nothing in this chapter shall be construed to authorize the annexing of territory of one county to a neighboring county, where the territory proposed to be annexed, or any part thereof, is at a greater distance than ten miles from the courthouse in the county seat of the county to which said territory is proposed to be annexed, as said courthouse is now located, nor to authorize the annexation of any territory at a greater distance than three miles from high water mark of tide water, but such annexation shall be strictly confined within said limits. [1963 c 4 § 36.08.100. Prior: 1891 c 144 § 10; RRS § 3981.]

Chapter 36.09 DIVISION OF COUNTY

Sections	
36.09.010	Debts and property to be apportioned.
36.09.020	Procedure to settle amount charged new county—Basis of apportionment.
36.09.035	Procedure to settle amount charged new county—Disagreement between auditors—Determination by third person.
36.09.040	Payment of indebtedness—Transfer of property.
36.09.050	Collection of taxes levied—Apportionment.

Combined city and county municipal corporations: State Constitution Art. 11 § 16 (Amendment 58).

New county, formation by special act allowed: State Constitution Art. 2 § 28(18).

New county, restrictions on formation: State Constitution Art. 11 § 3.

36.09.010 Debts and property to be apportioned. Whenever a new county shall be or shall have been organized out of the territory which was included within the limits of any other county or counties, the new county shall be liable for a reasonable proportion of the debts of the county from which it was taken, and entitled to its proportion of the property of the county. [1963 c 4 § 36.09.010. Prior: Code 1881 § 2657; 1863 p 538 § 3; 1854 p 330 § 1; RRS § 3986.]

36.09.020 Procedure to settle amount charged new county—Basis of apportionment. The auditor of the

old county shall give the auditor of the new county reasonable notice to meet him on a certain day at the county seat of the old county, or at some other convenient place, to settle upon and fix the amount which the new county shall pay. In doing so, they shall not charge either county with any share of debts arising from the erection of public buildings, or out of the construction of roads or bridges which shall be and remain, after the division, within the limits of the other county, and of the other debts they shall apportion to each county such a share of the indebtedness as may be just and equitable, taking into consideration the population of such portion of territory so forming a part of the said counties while so united, and also the relative advantages, derived from the old county organization. [1963 c 4 § 36.09.020. Prior: (i) Code 1881 § 2658; 1863 p 538 § 4; 1854 p 330 § 2; RRS § 3987. FORMER PART OF SECTION: 1909 c 79 § 1, part; Code 1881 § 2662, part; RRS § 3991, part. Now codified in RCW 36.09.050.]

36.09.035 Procedure to settle amount charged new county—Disagreement between auditors—Determination by third person. In case the two auditors cannot agree, they shall call a third person, not a citizen of either county, or in any other manner interested, whose decision shall be binding. In case they cannot agree upon such third person, they shall each name one and decide by lot which it shall be. [1963 c 4 § 36.09.035. Prior: Code 1881 § 2659; 1863 p 539 § 5; 1854 p 330 § 3; RRS § 3988.]

36.09.040 Payment of indebtedness—Transfer of property. The auditor of the county indebted upon such decision shall give to the auditor of the other county his order upon the treasurer for the amount to be paid out of the proper fund, as in other cases, and also make out a transfer of such property as shall be assigned to either county. [1963 c 4 § 36.09.040. Prior: Code 1881 § 2660; 1863 p 539 § 6; 1854 p 330 § 4; RRS § 3989.]

36.09.050 Collection of taxes levied—Apportionment. When a county is divided or the boundary is altered, all taxes levied before the division was made or boundaries changed, must be collected by the officers of the county in which the territory was situated before the division or change. And the auditor or auditors of the county or counties so divided or having boundaries changed, shall apportion the amount of the real property taxes so collected after division or change of boundary to the old county or counties and the new county or counties, in the ratio of the assessed value of such property situated in the territory of each county or counties respectively, and the old county that may have been divided or whose boundaries may have been changed, shall retain all of the personal property taxes on the said tax rolls, as compensation for cost of collection of the entire taxes: *Provided*, That in such accounting neither county shall be charged with any debt or liability then existing incurred in the purchase of any county property, or in the purchase or construction of any county buildings then in use or under construction, which shall fall within and be retained by the county: *Provided further*,

That this shall not be construed to affect the rights of creditors: *And provided further*, That any such county property or buildings shall be the property of and owned by the county wherein the same is situated. In case the auditors of the interested counties are not able to agree upon the proportion to be awarded to each county, the same shall be determined by the judge of the superior court of the district in which all of the interested counties are situated, if they be in one district, and have one common judge, and if not, by the judges sitting en banc of the superior courts of the counties involved. Said auditors shall make said apportionment within sixty days after the creation of any new county or the changing of boundaries of any old county, and if they do not, within said time, agree upon said apportionment, thereafter either or any county affected may petition the judge or judges of any court given jurisdiction by this section, and upon ten days' notice to any other county affected, the same may be brought on for hearing and summarily disposed of by said judge or judges, after allowing each side an opportunity to be heard. [1963 c 4 § 36.09.050. Prior: 1909 c 79 § 1; Code 1881 § 2662; RRS § 3991. Formerly RCW 36.09.020, part, 36.09.030 and 36.09.050.]

Chapter 36.12 REMOVAL OF COUNTY SEATS

Sections

- 36.12.010 Petition for removal.
- 36.12.020 Requisites of petition—Submission to electors.
- 36.12.030 Notice of election—Election, how held.
- 36.12.040 Manner of voting.
- 36.12.050 Vote required—Notice of result.
- 36.12.060 Time of removal.
- 36.12.070 Notice to county clerk and secretary of state.
- 36.12.080 Failure of election—Limitation on subsequent removal election.
- 36.12.090 Limitation on successive removal elections.

County seats, location and removal: State Constitution Art. 11 § 2.

County seats, not to be changed by special act: State Constitution Art. 2 § 28(18).

36.12.010 Petition for removal. Whenever the inhabitants of any county desire to remove the county seat of the county from the place where it is fixed by law or otherwise, they shall present a petition to the board of county commissioners of their county praying such removal, and that an election be held to determine to what place such removal must be made. The petition shall set forth the names of the towns or cities to which the county seat is proposed to be removed. [1963 c 4 § 36.12.010. Prior: 1890 p 318 § 1; RRS § 3998.]

36.12.020 Requisites of petition—Submission to electors. If the petition is signed by qualified voters of the county equal in number to at least one-third of all the votes cast in the county at the last preceding general election the board must, at the next general election of county officers, submit the question of removal to the electors of the county. [1963 c 4 § 36.12.020. Prior: 1890 p 318 § 2; RRS § 3999.]

36.12.030 Notice of election—Election, how held. Notice of the election, clearly stating the object, shall be

given, and the election must be held and conducted, and the returns made, in all respects in the manner prescribed by law in regard to elections for county officers. [1963 c 4 § 36.12.030. Prior: 1890 p 318 § 3; RRS § 4000.]

36.12.040 Manner of voting. In voting on the question, each voter must vote for or against the place named in the petition. [1963 c 4 § 36.12.040. Prior: 1890 p 318 § 4; RRS § 4001.]

36.12.050 Vote required—Notice of result. When the returns have been received and compared, and the results ascertained by the board, if three-fifths of the legal votes cast by those voting on the proposition are in favor of any particular place the proposition has been adopted. The board of county commissioners must give notice of the result by posting notices thereof in all the election precincts in the county. [1963 c 4 § 36.12.050. Prior: 1890 p 318 § 5; RRS § 4002.]

36.12.060 Time of removal. In the notice provided for in RCW 36.12.050, the place selected to be the county seat of the county must be so declared upon a day not more than ninety days after the election. After the day named the place chosen is the seat of the county; and the several county officers, whose offices are required by law to be kept at the county seat, shall remove their respective offices, files, records, office fixtures, furniture, and all public property pertaining to their respective offices to the new county seat. [1963 c 4 § 36.12.060. Prior: 1890 p 318 § 6; RRS § 4003.]

36.12.070 Notice to county clerk and secretary of state. Whenever any election has been held for change of county seat, the notice given by the board of county commissioners showing the result thereof must be deposited in the office of the county clerk, and a certified copy thereof transmitted to the secretary of state. [1963 c 4 § 36.12.070. Prior: 1890 p 319 § 7; RRS § 4004.]

36.12.080 Failure of election—Limitation on subsequent removal election. When an election has been held and no one place receives three-fifths of all the votes cast, the former county seat shall remain the county seat, and no second election may be held within four years thereafter. [1963 c 4 § 36.12.080. Prior: 1890 p 319 § 8; RRS § 4005.]

36.12.090 Limitation on successive removal elections. When the county seat of a county has been removed by a popular vote of the people of the county, it may be again removed, from time to time, in the manner provided by this chapter, but no two elections to effect such removal may be held within four years. [1963 c 4 § 36.12.090. Prior: 1890 p 319 § 9; RRS § 4006.]

**Chapter 36.13
CLASSIFICATION OF COUNTIES**

Sections

- 36.13.010 Counties classified by population.
- 36.13.020 County census authorized.

- 36.13.030 County census authorized—How taken—Enumerators.
- 36.13.040 County census authorized—Information to be given enumerators.
- 36.13.050 County census authorized—Classification to be based on census.
- 36.13.070 County census authorized—Penalty.
- 36.13.075 Classification of new or altered counties—Salaries unaffected.
- 36.13.080 Reclassification from 1940 census of seventh, eighth, and ninth class counties.
- 36.13.090 Powers of first class counties apply to class A and class AA counties.
- 36.13.100 Determination when population is basis for allocation of funds.

Combined city and county municipal corporations: State Constitution Art. 11 § 16 (Amendment 58).

36.13.010 Counties classified by population. The several counties of the state are classified by population as follows: Counties containing a population of five hundred thousand or more shall be known as class AA counties; counties containing a population of two hundred ten thousand or more shall be known as class A counties; counties containing a population of one hundred twenty-five thousand and less than two hundred ten thousand shall be known as counties of the first class; counties containing a population of seventy thousand and less than one hundred twenty-five thousand shall be known as counties of the second class; counties containing a population of forty thousand and less than seventy thousand shall be known as counties of the third class; counties containing a population of eighteen thousand and less than forty thousand shall be known as counties of the fourth class; counties containing a population of twelve thousand and less than eighteen thousand shall be known as counties of the fifth class; counties containing a population of eight thousand and less than twelve thousand shall be known as counties of the sixth class; counties containing a population of five thousand and less than eight thousand shall be known as counties of the seventh class; counties containing a population of three thousand three hundred and less than five thousand shall be known as counties of the eighth class; counties containing a population of less than three thousand three hundred shall be known as counties of the ninth class. [1963 c 4 § 36.13.010. Prior: 1953 c 22 § 1; 1941 c 26 § 1; 1933 c 136 § 1; 1925 ex.s. c 148 § 1; 1919 c 168 § 1; 1917 c 88 § 1; 1901 c 136 § 1; 1890 p 302 § 1; Rem. Supp. 1941 § 4200-1a.]

36.13.020 County census authorized. Whenever the board of county commissioners of any county determines that its county has sufficient population to entitle it to advance to a higher class, and passes a resolution setting forth its estimate as to the population and the classification to which the county is entitled by reason of such estimated population it may order a county census to be taken of all the inhabitants of the county: *Provided*, That no county census enumeration under the provisions of RCW 36.13.020 through 36.13.070 shall be made within the three years next preceding or within the three years next following a federal census. The expense of such census enumeration shall be paid from the county current expense fund. [1963 c 4 § 36.13.020. Prior: (i)

1923 c 177 § 1; RRS § 4200-6. (ii) 1923 c 177 § 5; RRS § 4200-10.]

36.13.030 County census authorized—How taken—Enumerators. For the purpose of making a county census, the board of county commissioners may employ one or more suitable persons. The census shall give the full name, age, and occupation, if any, of each person resident in the county as of a date to be fixed by the board. The names shall be plainly written, alphabetically arranged, and numbered in complete series. Each person employed as an enumerator shall prepare a complete list of all names taken by him and shall verify his list as true and correct before an officer authorized to administer oaths. All such lists shall be filed with the county auditor of the county to which they pertain. [1963 c 4 § 36.13.030. Prior: 1923 c 177 § 2; RRS § 4200-7.]

36.13.040 County census authorized—Information to be given enumerators. All persons resident in the county, having knowledge of the facts, shall give the information required herein to any duly authorized census enumerator when requested by him. [1963 c 4 § 36.13.040. Prior: 1923 c 177 § 4; RRS § 4200-9.]

36.13.050 County census authorized—Classification to be based on census. The board of county commissioners shall determine the population of the county based upon such special county census. Based upon such census, it shall enter an order declaring and fixing the population of the county in accordance with such determination, and from and after the entry of the order the county shall be considered and classified for all purposes according to the population thus determined. [1963 c 4 § 36.13.050. Prior: 1923 c 177 § 3; RRS § 4200-8.]

36.13.070 County census authorized—Penalty. Any person violating any of the provisions of RCW 36.13.020, 36.13.030, 36.13.040, and 36.13.050, or any officer or enumerator making, assisting, or permitting any duplication of names or making, permitting, or assisting in the enumeration of any fictitious names or persons in taking the census, shall be guilty of a gross misdemeanor. [1963 c 4 § 36.13.070. Prior: 1923 c 177 § 6; RRS § 4200-11.]

36.13.075 Classification of new or altered counties—Salaries unaffected. Newly created counties shall be governed as to classification by the provisions of this chapter. When the population of any existing county has been reduced, by reason of the creation of any new county from the territory thereof, below the class and rank to which it was first entitled, the county commissioners shall designate, by order, the class to which such county has been reduced by reason thereof, and the county shall then enter such class: *Provided*, That the salary of county officers shall not be affected by reason of such division for the term for which they were elected. [1963 c 4 § 36.13.075. Prior: 1890 p 316 § 47; RRS § 4228. Formerly RCW 36.09.060.]

36.13.080 Reclassification from 1940 census of seventh, eighth, and ninth class counties. No change from the 1940 census in the classification of seventh, eighth, and ninth class counties as provided by RCW 36.13.010 and 36.17.020 shall occur until the board of county commissioners of each such respective county makes an order reclassifying such county: *Provided*, That such order shall be made within ninety days after the issuance of the federal official preliminary estimate of the population for such county. If no order of reclassification be made by the board of county commissioners the federal official preliminary estimate or the final certificate of the census of 1950 shall be considered as showing the actual population of such county.

Such order of reclassification shall not become effective until sixty days after the order is made. During such period of sixty days a referendum may be commenced by a petition filed by the qualified electors of the county in numbers equal to or exceeding fifteen percent of the whole number of electors of such county who voted for governor at the regular gubernatorial election last preceding and such petition shall within sixty days of date of such order be filed in the office of the county auditor.

Upon the filing of such petition, the county auditor shall canvass the signatures thereon in order to determine whether or not the petition contains the requisite signatures and upon ascertaining that fact the county auditor shall certify the petition. Thereafter such order shall be placed upon the ballot at the next general election to be held in the county. [1963 c 4 § 36.13.080. Prior: (i) 1950 ex.s. c 18 § 1. (ii) 1950 ex.s. c 18 § 2. (iii) 1950 ex.s. c 18 § 3.]

36.13.090 Powers of first class counties apply to class A and class AA counties. All provisions of law relative to the powers and duties of first class counties and the officers thereof shall apply with equal force to class A counties and class AA counties, except as otherwise provided by law. [1963 c 4 § 36.13.090. Prior: 1953 c 22 § 2; 1921 c 133 § 1; RRS § 4204.]

36.13.100 Determination when population is basis for allocation of funds. Whenever any funds are allocated to counties on the basis of population, the population of the respective counties shall be determined by the most recent census, estimate or survey by the federal bureau of census or any state board or commission authorized to make such a census, estimate or survey. If a maximum percent of error is shown on any such survey or estimate, the population of the county shall be computed by deducting from the estimate fifty percent of the maximum possible error. [1963 c 4 § 36.13.100. Prior: 1949 c 92 § 1; Rem. Supp. 1949 § 4200-6a.]

Chapter 36.16 COUNTY OFFICERS—GENERAL

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 - abandoned mining shafts and excavations: Chapter 78.12 RCW.
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 - constitutional provision: State Constitution Art. 11 § 5 (Amendment 57).
 - contests: Chapter 29.65 RCW.
 - nomination other than by primary: Chapter 29.24 RCW.
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 - Electrical construction violations, county officers liable—Penalty: RCW 19.29.060.
 - Eligibility to hold office: RCW 42.04.020, 42.04.021.
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 - Health officer
 - boarding homes, officer to aid in administration of licensing laws: Chapter 18.20 RCW.
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 - certified copies of birth or death certificates: RCW 43.20.090.
 - child welfare agencies: Chapter 74.15 RCW.
 - dairy products handled by infected person: RCW 15.36.530.
 - embalmers, licensing of: Chapter 18.39 RCW.
 - narcotic users: Chapter 69.32 RCW.
 - sale or use of shoddy: Chapter 70.70 RCW.
 - tuberculosis hospital care: Chapter 70.32 RCW.
 - venereal disease: Chapter 70.24 RCW.
 - handicapped children, education of, officer to get cooperation: RCW 28A.13.020.
 - hearing tests for pupils, officer may give: RCW 28A.31.030.
 - local milk inspection service unit, officer to administer: RCW 15.36.560.
 - nursing homes, officer may aid in administering: RCW 18.51.020.
 - pesthouses, officer to procure: Chapter 70.20 RCW.
 - producer-distributor dairy employees, officer to examine: RCW 15.36.270, 15.36.425, 15.36.530.
 - seaport purposes, for: Chapter 70.16 RCW.
 - sewer districts, health officer to determine necessity of: RCW 56.04.030.
 - swimming pool regulations, officer to enforce: Chapter 70.90 RCW.
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 - Hospitalization and medical aid insurance for: RCW 41.04.180, 41.04.190.

Inspectors of elections
 duties relating to
 polling place regulations after closing: Chapter 29.54 RCW.
 polling place regulations during voting hours: Chapter 29.51 RCW.
 regulations before polls open: Chapter 29.48 RCW.
 generally: Chapter 29.45 RCW.
 violations by, penalties: Chapter 29.85 RCW.
 voting machines, inspector appointed for: RCW 29.33.210, 29.33.220.

Inspectors of milk, dairies and dairy products: RCW 15.32.510.

Interchange of personnel with federal agency, rights preserved: RCW 41.04.140–41.04.170.

Judges of elections
 duties relating to
 polling place regulations after closing: Chapter 29.54 RCW.
 polling place regulations during voting hours: Chapter 29.51 RCW.
 regulations before polls open: Chapter 29.48 RCW.
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 violations by, penalties: Chapter 29.85 RCW.
 voting machines, judges appointed for: RCW 29.33.210, 29.33.220.

Juvenile probation officer, psychopathic delinquents, officer's duties: Chapter 71.06 RCW.

Labor, maximum hours of prescribed: Chapter 49.28 RCW.

Local authorities, county officer as for motor vehicle purposes: RCW 46.04.280.

Lost or uncertain boundary lines, commissioners appointed to ascertain: RCW 58.04.030.

Military leaves for public employees: RCW 38.40.060.

Military personnel, apprehension and restraint: Chapter 38.38 RCW.

Misconduct of enumerated: Chapter 42.20 RCW.

Moneys, use by, of official, a felony: State Constitution Art. 11 § 14.

Moneys to be deposited with treasurer: State Constitution Art. 11 § 15.

Oaths, who may administer: RCW 5.28.010.

Officers, elections, duties, terms, compensation: State Constitution Art. 11 § 5 (Amendment 57).

Old age and survivors' insurance, acceptance of for counties: Chapter 41.47 RCW.

Payroll deductions for: RCW 41.04.020–41.04.036.

Probation counselors: Chapter 13.04 RCW.

Probation officer
 family court, officer's duties: RCW 26.12.070, 26.12.130.
 juvenile delinquent under sixteen, officer to find suitable place for: RCW 13.04.115.

Property tax advisor: RCW 84.48.140.

Public bodies, meetings: RCW 42.30.030, 42.30.060, 42.30.110.

Public hospital district superintendent: Chapter 70.44 RCW.

Public officers, terms when vacancies filled: RCW 42.12.030.

P.U.D. taxes certified to and collected by county officials: RCW 54.16.080.

Recall of: State Constitution Art. 1 §§ 33, 34 (Amendment 8).

Registration of public officer, how effectuated: RCW 42.12.020.

Religious affiliation of school personnel not to be inquired into: RCW 28A.02.050.

Retirement systems, retention of rights: Chapter 41.04 RCW.

Review board, county officers to assist: RCW 35.13.173.

Salaried officers not to receive witness fees: RCW 42.16.020, 42.16.030.

Sanitary officers: Chapter 70.05 RCW.

Social security, federal, coverage includes county employees: Chapter 41.48 RCW.

Special commissioner (flood control by counties jointly): RCW 86.13.060.

State board of health measures, officers to enforce: RCW 43.20.050.

Superintendent of poor farm, dead bodies, superintendent to surrender for dissection purposes: RCW 68.08.070.

Supervisor of elections, duties relating to
 hospital district elections: Chapter 70.44 RCW.
 P.U.D. elections: RCW 54.04.060.

Support of dependent children, officials to charge no fees in connection with: RCW 74.20.300.

Surveyor to determine town boundaries: RCW 35.27.040.

Taxes, property, officers allowed fees and costs in civil actions against them: RCW 84.09.050.

Unclaimed money and property in hands of public officer, disposition: Chapter 63.28 RCW.

Vacancies in county offices, how filled: State Constitution Art. 11 § 6 (Amendment 52).

Voting machines
 chief custodian of: RCW 29.33.140.
 custodians of: RCW 29.33.130, 29.33.150, 29.33.170.
 polling place regulations during voting hours, custodian's duties: Chapter 29.51 RCW.
 violations by, penalties: Chapter 29.85 RCW.

Weed supervisor: Chapter 17.08 RCW.

36.16.010 Time of election. The election of county and precinct officers shall be held on the Tuesday next following the first Monday in November, 1922; and every four years thereafter on the Tuesday next following the first Monday in November, and all such elective county and precinct officers shall after midnight, June 11, 1919, be elected at the time herein specified: *Provided*, That if a vacancy occur during the first biennium after any such election, an election to fill such vacancy for the unexpired term shall be held at the next succeeding general election. [1963 c 4 § 36.16.010. Prior: 1919 c 175 § 2; RRS § 4030.]

36.16.020 Term of county and precinct officers. The term of office of all county and precinct officers shall be four years and until their successors are elected and qualified and shall begin on the second Monday in January following the election: *Provided*, That this section and RCW 36.16.010 shall not apply to county commissioners: *Provided further*, That this section shall not apply to county superintendents elected in 1962. [1963 c 4 § 36.16.020. Prior: 1959 c 216 § 2; 1919 c 175 § 1; 1886 p 101 § 2; Code 1881 § 3153; 1877 p 330 § 2; 1871 p 35 § 3; 1867 p 7 § 4; RRS § 4029.]

36.16.030 Elective county officers enumerated. In every county there shall be elected from among the qualified voters of the county a county assessor, a county auditor, a county clerk, a county coroner, three county commissioners, a county prosecuting attorney, a county sheriff and a county treasurer: *Provided*, That in counties of the fourth, fifth, sixth, seventh, eighth, and ninth classes no coroner shall be elected and the prosecuting attorney shall be ex officio coroner: *Provided further*, That in ninth class counties no county auditor or assessor shall be elected and the county clerk shall be ex officio county auditor, and the county treasurer shall be ex officio county assessor. [1963 c 4 § 36.16.030. Prior: 1955 c 157 § 5; prior: (i) Code 1881 § 2707; 1869 p 310 §§ 1–3; 1863 p 549 §§ 1–3; 1854 p 424 §§ 1–3; RRS § 4083. (ii) Code 1881 § 2738; 1863 p 552 § 1; 1854 p 426 § 1; RRS § 4106. (iii) 1891 c 5 § 1; RRS § 4127. (iv) 1890 p 478 § 1; 1886 p 164 § 1; 1883 p 39 § 1; Code 1881 § 2752; 1869 p 402 § 1; 1854 p 428 § 1; RRS § 4140. (v) 1943 c 139 § 1; Code 1881 § 2766; 1863 p 557 § 1; 1854 p 434 § 1; Rem. Supp. 1949 § 4155. (vi) Code 1881 § 2775, part; 1863 p 559 § 1, part; 1854 p 436 § 1, part; RRS § 4176, part. (vii) 1933 c 136

§ 2; 1925 ex.s. c 148 § 2; RRS § 4200-2a. (viii) 1937 c 197 § 1; 1933 c 136 § 3; 1925 ex.s. c 148 § 3; RRS § 4200-3a. (ix) 1937 c 197 § 2; 1933 c 136 § 4; 1925 ex.s. c 148 § 4; RRS § 4200-4a. (x) 1927 c 37 § 1; 1890 p 304 § 2; RRS § 4205-1.]

36.16.032 Offices of auditor and clerk may be combined in eighth class counties—Salary. The office of county auditor may be combined with the office of county clerk in counties of the eighth class by unanimous resolution of the board of county commissioners passed thirty days or more prior to the first day of filing for the primary election for county offices. The salary of such office of county clerk combined with the office of county auditor shall be nine thousand four hundred dollars.

Beginning January 1, 1974, the salary of such office shall be ten thousand three hundred dollars. The county legislative authority of such county is authorized to increase or decrease the salary of such office: *Provided*, That the legislative authority of the county shall not reduce the salary of any official below the amount which such official was receiving on January 1, 1973. [1973 1st ex.s. c 88 § 1; 1972 ex.s. c 97 § 1; 1967 ex.s. c 77 § 1; 1963 c 164 § 2; 1963 c 4 § 36.16.032. Prior: 1957 c 219 § 4.]

36.16.040 Oath of office. Every person elected to county office shall before he enters upon the duties of his office take and subscribe an oath or affirmation that he will faithfully and impartially discharge the duties of his office to the best of his ability. This oath, or affirmation, shall be administered and certified by an officer authorized to administer oaths, without charge therefor. [1963 c 4 § 36.16.040. Prior: 1955 c 157 § 6; prior: (i) Code 1881 § 2666; 1869 p 303 § 4; 1863 p 541 § 4; 1854 p 420 § 4; RRS § 4045. (ii) Code 1881 § 2708, part; 1869 p 310 § 4, part; 1863 p 549 § 4, part; 1854 p 424 § 4, part; RRS § 4084, part. (iii) 1943 c 249 § 1; Code 1881 § 2739; 1863 p 553 § 2, part; 1854 p 426 § 2; Rem. Supp. 1943 § 4107. (iv) 1886 p 61 § 4, part; 1883 p 73 § 9, part; Code 1881 § 2163, part; 1877 p 246 § 5, part; 1863 p 408 § 3, part; 1860 p 334 § 3, part; 1858 p 12 § 3, part; 1854 p 417 § 3, part; RRS § 4129, part. (v) 1897 c 71 § 44; 1893 c 124 § 46; Code 1881 § 2753; 1854 p 428 § 2; RRS § 4141. (vi) Code 1881 § 2774; 1863 p 558 § 9; 1854 p 435 § 9; RRS § 4156. (vii) Code 1881 § 2775, part; 1863 p 559 § 1, part; 1854 p 436 § 1, part; RRS § 4176, part. (viii) Code 1881 § 2096; 1869 p 374 § 18; RRS § 4231. (ix) 1909 c 97 p 280 § 1, part; 1903 c 104 § 13, part; 1899 c 142 § 5, part; 1897 c 118 § 30, part; 1890 p 355 § 10, part; Code 1881 § 3170, part; RRS § 4767, part. (x) 1925 ex.s. c 130 § 55; 1891 c 140 § 46; 1890 p 548 § 50; RRS § 11138.]

Appraisers of damage done by swine, oaths of: RCW 16.12.050.

Election officials, oaths of office: RCW 29.45.080-29.45.110.

Examiner of titles, oath of: RCW 65.12.090.

Health officer, seaports, oath of: RCW 70.16.010.

Registration officers, oaths of: RCW 29.07.050.

36.16.050 Official bonds. Every county official before he enters upon the duties of his office shall furnish a

bond conditioned that he will faithfully perform the duties of his office and account for and pay over all money which may come into his hands by virtue of his office, and that he, or his executors or administrators, will deliver to his successor safe and undefaced all books, records, papers, seals, equipment, and furniture belonging to his office. Bonds of elective county officers shall be as follows:

Assessor: Amount to be fixed and sureties to be approved by proper county legislative authority;

Auditor: Amount to be fixed at not less than ten thousand dollars and sureties to be approved by the proper county legislative authority;

Clerk: Amount to be fixed in a penal sum not less than double the amount of money liable to come into his hands and sureties to be approved by the judge or a majority of the judges presiding over the court of which he is clerk: *Provided*, That the maximum bond fixed for the clerk shall not exceed in amount that required for the treasurer in a county of that class;

Coroner: Amount to be fixed at not less than five thousand dollars with sureties to be approved by the proper county legislative authority;

Members of the proper county legislative authority: Sureties to be approved by the county clerk and the amounts to be:

(1) In class A, AA, counties and first class counties twenty-five thousand dollars;

(2) In second class counties, twenty-two thousand five hundred dollars;

(3) In third class counties, twenty thousand dollars;

(4) In fourth class counties, fifteen thousand dollars;

(5) In fifth class counties, ten thousand dollars;

(6) In sixth class counties, seven thousand five hundred dollars;

(7) In seventh and eighth class counties, five thousand dollars;

(8) In ninth class counties, two thousand dollars;

Prosecuting attorney: In the amount of five thousand dollars with sureties to be approved by the proper county legislative authority;

Sheriff: Amount to be fixed and bond approved by the proper county legislative authority at not less than five thousand nor more than fifty thousand dollars; surety to be a surety company authorized to do business in this state;

Treasurer: Sureties to be approved by the proper county legislative authority and the amounts to be fixed by the proper county legislative authority at double the amount liable to come into the treasurer's hands during his term, the maximum amount of the bond, however, not to exceed:

(1) In class A, AA, counties, two hundred fifty thousand dollars;

(2) In first class counties, two hundred thousand dollars;

(3) In second, third and fourth class counties, one hundred fifty thousand dollars;

(4) In all other counties, one hundred thousand dollars.

The treasurer's bond shall be conditioned that all moneys received by him for the use of the county shall

be paid as the proper county legislative authority shall from time to time direct, except where special provision is made by law for the payment of such moneys, by order of any court, or otherwise, and for the faithful discharge of his duties.

Bonds for other than elective officials, if deemed necessary by the proper county legislative authority, shall be in such amount and form as such legislative authority shall determine.

In the approval of official bonds, the chairman may act for the board of county commissioners if it is not in session. [1971 c 71 § 1; 1969 ex.s. c 176 § 91; 1963 c 4 § 36.16.050. Prior: 1955 c 157 § 7; prior: (i) 1895 c 53 § 1; RRS § 70. (ii) 1895 c 53 § 2, part; RRS § 71, part. (iii) 1921 c 132 § 1, part; 1893 c 75 § 7, part; RRS § 4046, part. (iv) Code 1881 § 2708, part; 1869 p 310 § 4, part; 1863 p 549 § 4, part; 1854 p 424 § 4, part; RRS § 4084, part. (v) 1943 c 249 § 1, part; Code 1881 § 2739, part; 1863 p 553 § 2, part; 1854 p 426 § 2, part; Rem. Supp. 1943 § 4107, part. (vi) 1886 p 61 § 4, part; 1883 p 73 § 9, part; Code 1881 § 2163, part; 1877 p 246 § 5, part; 1863 p 408 § 3, part; 1860 p 334 § 3, part; 1858 p 12 § 3, part; 1854 p 417 § 3, part; RRS 4129, part. (vii) 1897 c 71 § 44, part; 1893 p 124 § 46, part; Code 1881 § 2753, part; 1854 p 428 § 2, part; RRS § 4141, part. (viii) 1943 c 139 § 1, part; Code 1881 § 2766, part; 1863 p 557 § 1, part; 1854 p 434 § 1, part; Rem. Supp. 1943 § 4155, part. (ix) Code 1881 § 2775, part; 1863 p 559 § 1, part; 1854 p 436 § 1, part; RRS § 4176, part. (x) 1909 c 97 p 280 § 1, part; 1903 c 104 § 13, part; 1899 c 142 § 5, part; 1897 c 118 § 30, part; 1890 p 355 § 10, part; Code 1881 § 3170, part; RRS § 4767, part. (xi) 1890 p 35 § 5, part; RRS § 9934, part. (xii) 1925 ex.s. c 130 § 55, part; 1891 c 140 § 46, part; 1890 p 548 § 50, part; RRS § 11138, part.]

Auditor as registrar of titles, bond for: RCW 65.12.055.

Examiner of titles, bond: RCW 65.12.090.

Health officer, seaports, bond: RCW 70.16.010.

Public officers, official bonds, Code of 1881, county application: RCW 42.08.010–42.08.050.

Public officers, official bonds, 1890 act, county application: RCW 42.08.060–42.08.170.

36.16.060 Place of filing oaths and bonds. Every county officer, before entering upon the duties of his office, shall file his oath of office in the office of the county auditor and his official bond in the office of the county clerk: *Provided*, That the official bond of the county clerk, after first being recorded by the county auditor, shall be filed in the office of the county treasurer.

Oaths and bonds of deputies shall be filed in the offices in which the oaths and bonds of their principals are required to be filed. [1963 c 4 § 36.16.060. Prior: 1955 c 157 § 8; prior: (i) 1895 c 53 § 2, part; RRS § 71, part. (ii) 1890 p 35 § 5, part; RRS § 9934, part.]

36.16.070 Deputies and employees. In all cases where the duties of any county office are greater than can be performed by the person elected to fill it, the officer may employ deputies and other necessary employees with the consent of the board of county commissioners. The

board shall fix their compensation and shall require what deputies shall give bond and the amount of bond required from each. The sureties on deputies' bonds must be approved by the board and the premium therefor is a county expense.

A deputy may perform any act which his principal is authorized to perform. The officer appointing a deputy or other employee shall be responsible for the acts of his appointees upon his official bond and may revoke each appointment at pleasure. [1969 ex.s. c 176 § 92; 1963 c 4 § 36.16.070. Prior: 1959 c 216 § 3; 1957 c 219 § 2; prior: (i) Code 1881 § 2716; 1869 p 312 § 10; 1863 p 550 § 7; 1854 p 425 § 7; RRS § 4093. (ii) Code 1881 § 2741; 1863 p 553 § 4; 1854 p 427 § 4; RRS § 4108. (iii) Code 1881 § 2767, part; 1871 p 110 § 1, part; 1863 p 557 § 2, part; 1854 p 434 § 2, part; RRS § 4160, part. (iv) 1905 c 60 § 1; RRS § 4177. (v) 1905 c 60 § 2; RRS § 4178. (vi) 1905 c 60 § 3; RRS § 4179. (vii) 1949 c 200 § 1, part; 1945 c 87 § 1, part; 1937 c 197 § 3, part; 1925 ex.s. c 148 § 6, part; Rem. Supp. 1949 § 4200–5a, part. (viii) 1943 c 260 § 1; Rem. Supp. 1943 § 4200–5b.]

County clerk, deputies of: Chapter 2.32 RCW.

36.16.087 Deputies and employees—County treasurer—Prior deeds validated. In all cases in which the county treasurer of any county in the state of Washington shall have executed a tax deed or deeds prior to February 21, 1903, either to his county or to any private person or persons or corporation whomsoever, said deed or deeds shall not be deemed invalid by reason of the county treasurer who executed the same not having affixed a seal of office to the same, or having affixed a seal not an official seal; nor shall said deed or deeds be deemed invalid by reason of the fact that at the date of the execution of said deed or deeds there was in the state of Washington no statute providing for an official seal for the office of county treasurer. [1963 c 4 § 36.16.087. Prior: 1903 c 15 § 2; RRS § 4126. Formerly RCW 36.16.080.]

36.16.090 Office space. The boards of county commissioners of the several counties of the state shall provide a suitable furnished office for each of the county officers in their respective courthouses. [1963 c 4 § 36.16.090. Prior: 1893 c 82 § 1; Code 1881 § 2677; 1869 p 306 § 15; 1854 p 422 § 15; RRS § 4032. SLC–RO–14.]

County superintendent of schools, office, office supplies: RCW 28A.21.120.

36.16.100 Offices to be open certain days and hours. All county and precinct offices shall be kept open for the transaction of business during such days and hours as the board of county commissioners shall by resolution prescribe. [1963 c 4 § 36.16.100. Prior: 1955 ex.s. c 9 § 2; prior: 1951 c 100 § 1; 1941 c 113 § 1, part; Rem. Supp. 1941 § 9963–1, part.]

36.16.110 Vacancies in office. The board of county commissioners in each county shall, at its next regular or special meeting after being appraised of any vacancy in

any county, township, precinct, or road district office of the county, fill the vacancy by the appointment of some person qualified to hold such office, and the officers thus appointed shall hold office until the next general election, and until their successors are elected and qualified. [1963 c 4 § 36.16.110. Prior: 1927 c 163 § 1; RRS § 4059; prior: Code 1881 § 2689; 1867 p 57 § 28.]

36.16.120 Officers must complete business. All county officers shall complete the business of their offices, to the time of the expiration of their respective terms, and in case any officer, at the close of his term, leaves to his successor official labor to be performed, which it was his duty to perform, he shall be liable to his successor for the full value of such services. [1963 c 4 § 36.16.120. Prior: 1890 p 315 § 43; RRS § 4031.]

36.16.130 Group false arrest insurance for law enforcement personnel. Any county may contract with an insurance company authorized to do business in this state to provide group false arrest insurance for its law enforcement personnel and pursuant thereto may use such portion of its revenues to pay the premiums therefor as the county may determine. [1963 c 127 § 2.]

36.16.136 Liability insurance for officers and employees. The board of county commissioners of each county may purchase liability insurance with such limits as they may deem reasonable for the purpose of protecting their 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. [1969 ex.s. c 59 § 1.]

36.16.138 Liability insurance for officers and employees of municipal corporations and political subdivisions authorized. Any board of commissioners, council, or board of directors or other governing board of any county, city, town, school district, port district, public utility district, sewer district, water district, irrigation district, or other municipal corporation or political subdivision is authorized to purchase insurance to protect and hold personally harmless any of its commissioners, council members, directors, or other governing board members, and any of its other officers, employees, and agents from any action, claim, or proceeding instituted against the foregoing individuals arising out of the performance, purported performance, or failure of performance, in good faith of duties for, or employment with, such institutions and to hold these individuals harmless from any expenses connected with the defense, settlement, or monetary judgments from such actions, claims, or proceedings. The purchase of such insurance for any of the foregoing individuals and the policy limits shall be discretionary with the municipal corporation or political subdivision, and such insurance shall not be considered to be compensation for these individuals.

The provisions of this section are cumulative and in addition to any other provision of law authorizing any municipal corporation or political subdivision to purchase liability insurance. [1975 c 16 § 1.]

Liability insurance for officers and employees authorized: RCW 28A-58.423, 28B.10.660, 35.21.205, 52.08.090, 53.08.205, 54.16.095, 56.08.105, 57.08.105 and 87.03.162.

36.16.140 Public auction sales, where held. Public auction sales of property conducted by or for the county or an officer thereof shall be held at such places on county property as the board of county commissioners may direct. [1965 ex.s. c 23 § 6.]

Building permit—County must require payroll estimate under industrial insurance act: RCW 51.12.070.

Port district must submit park or recreational facility plans to county: RCW 53.08.270.

Public lands—Place of sale—Hours: RCW 79.01.196.

Sales of county property, where held: RCW 36.34.080.

Sports stadiums, cities, counties, may acquire and operate: Chapter 67.28 RCW.

Stolen and abandoned vehicles, sales where held: RCW 46.52.110-46.52.119.

Tax sales, where held: RCW 84.64.080, 84.64.270.

Chapter 36.17

SALARIES OF COUNTY OFFICERS

Sections

- 36.17.010 Salary full compensation.
- 36.17.020 Schedule of salaries.
- 36.17.031 Reimbursement for travel allowances and allowances in lieu of actual expenses.
- 36.17.040 Payment of salaries of officers and employees.
- 36.17.045 Deductions for contributions, payments and dues, authorized.
- 36.17.050 Salary warrant may be withheld.
- 36.17.055 Salary adjustment for county legislative authority office—Ratification and validation of preelection action.

Cemetery and morgue employees, salary of: RCW 68.12.020.

Chief custodian of voting machines, salary: RCW 29.33.140.

Compensation of county officials: State Constitution Art. 11 § 5 (Amendment 57).

County commissioners, compensation and/or expenses determining towns boundaries: RCW 35.27.060.

flood control by counties jointly, duties: RCW 86.13.060.

metropolitan council member: RCW 35.58.160.

pest exterminator: RCW 17.12.060.

State committee on salaries to study salaries of elective county officials: RCW 43.03.028.

36.17.010 Salary full compensation. The county officers of the counties of this state, according to their class, shall receive a salary for the services required of them by law, or by virtue of their office, which salary shall be full compensation for all services of every kind and description rendered by them. [1963 c 4 § 36.17.010. Prior: 1890 p 312 § 32; RRS § 4210.]

36.17.020 Schedule of salaries. (1) The salaries of the following county officers of class A counties and counties of the first, second, third, fourth, fifth, sixth, seventh, eighth and ninth classes, as determined by the last preceding federal census, or as may be determined under the provisions of RCW 36.13.020 to 36.13.075, inclusive, shall be per annum respectively as follows:

Class A counties: Auditor, sixteen thousand dollars; clerk, sixteen thousand dollars; treasurer, sixteen thousand dollars; sheriff, seventeen thousand seven hundred dollars; assessor, sixteen thousand dollars; prosecuting

attorney, twenty-two thousand five hundred dollars; members of board of county commissioners, seventeen thousand seven hundred dollars; coroner, fifteen thousand dollars;

Counties of the first class: Auditor, fourteen thousand five hundred dollars; clerk, fourteen thousand five hundred dollars; treasurer, fourteen thousand five hundred dollars; sheriff, sixteen thousand dollars; assessor, fourteen thousand five hundred dollars; prosecuting attorney, twenty-two thousand five hundred dollars; members of board of county commissioners, sixteen thousand dollars; coroner, eight thousand dollars;

Counties of the second class: Auditor, thirteen thousand five hundred dollars; clerk, thirteen thousand five hundred dollars; treasurer, thirteen thousand five hundred dollars; sheriff, thirteen thousand five hundred fifty dollars; assessor, thirteen thousand five hundred dollars; prosecuting attorney, twenty-one thousand five hundred dollars; members of board of county commissioners, thirteen thousand five hundred dollars; coroner, five thousand dollars;

Counties of the third class: Auditor, twelve thousand five hundred dollars; clerk, twelve thousand five hundred dollars; treasurer, twelve thousand five hundred dollars; assessor, twelve thousand five hundred dollars; sheriff, twelve thousand five hundred dollars; prosecuting attorney, twenty-one thousand five hundred dollars; members of the board of county commissioners, twelve thousand five hundred dollars; coroner, three thousand six hundred dollars;

Counties of the fourth class: Auditor, eleven thousand dollars; clerk, eleven thousand dollars; treasurer, eleven thousand dollars; assessor, eleven thousand dollars; sheriff, eleven thousand dollars; prosecuting attorney, in such a county in which there is no state university, thirteen thousand dollars; prosecuting attorney, in such a county in which there is a state university or college, fifteen thousand dollars; members of the board of county commissioners, ten thousand dollars;

Counties of the fifth class: Auditor, nine thousand one hundred fifty dollars; clerk, nine thousand one hundred fifty dollars; treasurer, nine thousand one hundred fifty dollars; sheriff, ten thousand two hundred dollars; assessor, nine thousand one hundred fifty dollars; prosecuting attorney, twelve thousand dollars; members of the board of county commissioners, eight thousand five hundred dollars;

Counties of the sixth class: Auditor, nine thousand one hundred fifty dollars; clerk, nine thousand one hundred fifty dollars; treasurer, nine thousand one hundred fifty dollars; assessor, nine thousand one hundred fifty dollars; sheriff, ten thousand two hundred dollars; prosecuting attorney, nine thousand dollars; members of the board of county commissioners, six thousand four hundred dollars;

Counties of the seventh class: Auditor, eight thousand three hundred dollars; clerk, eight thousand three hundred dollars; treasurer, eight thousand three hundred dollars; assessor, eight thousand three hundred dollars; sheriff, nine thousand five hundred dollars; prosecuting attorney, nine thousand dollars; members of the board of

county commissioners, five thousand nine hundred fifty dollars;

Counties of the eighth class: Auditor, eight thousand three hundred dollars; clerk, eight thousand three hundred dollars; treasurer, eight thousand three hundred dollars; assessor, eight thousand three hundred dollars; sheriff, nine thousand five hundred dollars; prosecuting attorney, nine thousand dollars; members of board of county commissioners, five thousand nine hundred fifty dollars;

Counties of the ninth class: Auditor-clerk, seven thousand four hundred fifty dollars; sheriff, eight thousand five hundred dollars; treasurer-assessor, seven thousand four hundred fifty dollars; prosecuting attorney, nine thousand dollars; members of the board of county commissioners, five thousand five hundred dollars.

(2) The salaries of the following county officers in counties with a population over five hundred thousand shall be per annum respectively as follows: Auditor, clerk, treasurer, sheriff, members of board of county commissioners, coroners, eighteen thousand dollars; assessor, nineteen thousand dollars; and prosecuting attorney, twenty-seven thousand five hundred dollars.

Beginning January 1, 1974:

The salaries of the following county officers of class AA and A counties and counties of the first, second, third, fourth, fifth, sixth, seventh, eighth and ninth classes, as determined by the last preceding federal census, or as may be determined under the provisions of RCW 36.13.020 to 36.13.075, inclusive, shall be per annum respectively as follows:

Class AA counties: Prosecuting attorney, thirty thousand three hundred dollars;

Class A counties: Auditor, seventeen thousand six hundred dollars; clerk, seventeen thousand six hundred dollars; treasurer, seventeen thousand six hundred dollars; sheriff, nineteen thousand five hundred dollars; assessor, seventeen thousand six hundred dollars; prosecuting attorney, twenty-four thousand eight hundred dollars; members of board of county commissioners, nineteen thousand five hundred dollars; coroner, sixteen thousand five hundred dollars;

Counties of the first class: Auditor, sixteen thousand dollars; clerk, sixteen thousand dollars; treasurer, sixteen thousand dollars; sheriff, seventeen thousand six hundred dollars; assessor, sixteen thousand dollars; prosecuting attorney, twenty-four thousand eight hundred dollars; members of board of county commissioners, seventeen thousand six hundred dollars; coroner, eight thousand eight hundred dollars;

Counties of the second class: Auditor, fourteen thousand nine hundred dollars; clerk, fourteen thousand nine hundred dollars; treasurer, fourteen thousand nine hundred dollars; assessor, fourteen thousand nine hundred dollars; sheriff, fourteen thousand nine hundred dollars; prosecuting attorney, twenty-three thousand seven hundred dollars; members of the board of county commissioners, fourteen thousand nine hundred dollars; coroner, five thousand five hundred dollars;

Counties of the third class: Auditor, thirteen thousand eight hundred dollars; clerk, thirteen thousand eight

hundred dollars; treasurer, thirteen thousand eight hundred dollars; assessor, thirteen thousand eight hundred dollars; sheriff, thirteen thousand eight hundred dollars; prosecuting attorney, twenty-three thousand seven hundred dollars; members of the board of county commissioners, thirteen thousand eight hundred dollars; coroner, four thousand dollars;

Counties of the fourth class: Auditor, twelve thousand one hundred dollars; clerk, twelve thousand one hundred dollars; treasurer, twelve thousand one hundred dollars; sheriff, twelve thousand one hundred dollars; assessor, twelve thousand one hundred dollars; prosecuting attorney in such a county in which there is no state university or college, fourteen thousand three hundred dollars; in such a county in which there is a state university or college, sixteen thousand five hundred dollars; members of the board of county commissioners, eleven thousand dollars;

Counties of the fifth class: Auditor, ten thousand one hundred dollars; clerk, ten thousand one hundred dollars; treasurer, ten thousand one hundred dollars; assessor, ten thousand one hundred dollars; sheriff, eleven thousand two hundred dollars; prosecuting attorney, thirteen thousand two hundred dollars; members of the board of county commissioners, nine thousand four hundred dollars;

Counties of the sixth class: Auditor, ten thousand one hundred dollars; clerk, ten thousand one hundred dollars; treasurer, ten thousand one hundred dollars; assessor, ten thousand one hundred dollars; sheriff, eleven thousand two hundred dollars; prosecuting attorney, nine thousand nine hundred dollars; members of the board of county commissioners, seven thousand dollars;

Counties of the seventh class: Auditor, nine thousand one hundred dollars; clerk, nine thousand one hundred dollars; treasurer, nine thousand one hundred dollars; assessor, nine thousand one hundred dollars; sheriff, ten thousand five hundred dollars; prosecuting attorney, nine thousand nine hundred dollars; members of board of county commissioners, six thousand five hundred dollars;

Counties of the eighth class: Auditor, nine thousand one hundred dollars; clerk, nine thousand one hundred dollars; treasurer, nine thousand one hundred dollars; sheriff, ten thousand five hundred dollars; assessor, nine thousand one hundred dollars; prosecuting attorney, nine thousand nine hundred dollars; members of the board of county commissioners, six thousand five hundred dollars;

Counties of the ninth class: Auditor-clerk, eight thousand two hundred dollars; treasurer-assessor, eight thousand two hundred dollars; sheriff, nine thousand four hundred dollars; prosecuting attorney, nine thousand nine hundred dollars; members of the board of county commissioners, six thousand one hundred dollars.

The county legislative authority of such county is authorized to increase or decrease the salary of such office: *Provided*, That the legislative authority of the county shall not reduce the salary of any official below the amount which such official was receiving on January 1, 1973.

One-half of the salary of each prosecuting attorney shall be paid by the state. [1973 1st ex.s. c 88 § 2; 1971 ex.s. c 237 § 1; 1969 ex.s. c 226 § 1; 1967 ex.s. c 77 § 2;

1967 c 218 § 3; 1963 c 164 § 1; 1963 c 4 § 36.17.020. Prior: 1957 c 219 § 3; prior: (i) 1953 c 264 § 1; 1949 c 200 § 1, part; 1945 c 87 § 1, part; 1937 c 197 § 3, part; 1933 c 136 § 6, part; 1925 ex.s. c 148 § 6, part; 1919 c 168 § 2, part; Rem. Supp. 1949 § 4200-5a, part. (ii) 1921 c 184 § 2; RRS § 4203.]

Severability—1971 ex.s. c 237: "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 237 § 4.]

Effective date—1971 ex.s. c 237: "This act shall take effect on January 1, 1972." [1971 ex.s. c 237 § 5.] The above sections apply to RCW 36.17.020 and 36.27.060 and the repeal of RCW 36.32.320.

Eighth class counties, combined office of auditor and clerk, salary: RCW 36.16.032.

Salaries of prosecuting attorneys in third class counties: RCW 36.27.060.

36.17.031 Reimbursement for travel allowances and allowances in lieu of actual expenses. See RCW 42.24.090.

36.17.040 Payment of salaries of officers and employees. The salaries of county officers and employees of counties other than counties of the eighth and ninth classes may be paid twice monthly out of the county treasury, and the county auditor, for services rendered from the first to the fifteenth day, inclusive, may, not later than the twentieth day of the month, draw his warrant upon the county treasurer in favor of each of such officers and employees for the amount of salary due him, and such auditor, for services rendered from the sixteenth to the last day, inclusive, may similarly draw his warrant, not later than the fifth day of the following month, and the county commissioners may enter an order on the record journal empowering him so to do: *Provided*, That if the board of county commissioners do not adopt the semimonthly pay plan, they, by resolution, shall designate the first pay period as a draw day. The draw day period shall be from the first day to the fifteenth day of the month, inclusive. Not more than forty percent of said earned monthly salary of each such county officer or employee shall be paid to him on the draw day and the payroll deductions of such officer or employee shall not be deducted from the salary to be paid on the draw day. The draw day shall not be later than the twentieth day of each month. The balance of the earned monthly salary of each such officer or employee shall be paid not later than the fifth day of the following month.

In counties of eighth and ninth classes salaries shall be paid monthly unless the commissioners by resolution adopt the foregoing draw day procedure. [1963 c 4 § 36.17.040. Prior: 1959 c 300 § 1; 1953 c 37 § 1; 1890 p 314 § 37; RRS § 4220.]

36.17.045 Deductions for contributions, payments and dues, authorized. Employees of the counties shall have the right to voluntarily authorize the monthly deduction of their pledges to the United Good Neighbor or its successor, monthly payment to a credit unit, and monthly dues to a labor union, from their salaries or wages. When such written authorization is received by

the county auditor, he shall make such monthly deduction. [1963 c 164 § 3.]

36.17.050 Salary warrant may be withheld. The auditor shall not draw his warrant for the salary of any officer until the latter shall have first filed his duplicate receipt with the auditor, properly signed by the treasurer, showing he has made the last required monthly statement and settlement. [1963 c 4 § 36.17.050. Prior: 1890 p 314 § 38; RRS § 4221.]

36.17.055 Salary adjustment for county legislative authority office—Ratification and validation of pre-election action. See RCW 36.40.205.

Chapter 36.18 FEES OF COUNTY OFFICERS

Sections

36.18.010	Auditor's fees.
36.18.020	Clerk's fees.
36.18.025	Allocation of portion of filing fees for judges' salaries.
36.18.030	Coroner's fees.
36.18.040	Sheriff's fees.
36.18.045	Treasurer's fees.
36.18.050	Fees in special cases.
36.18.060	Fees payable in advance.
36.18.070	Single mileage chargeable when.
36.18.080	Fee schedule to be kept posted.
36.18.090	Itemized receipt to be given.
36.18.100	Fee book to be kept.
36.18.110	Monthly statement to county auditor.
36.18.120	Statements to be checked.
36.18.130	Errors or irregularities.
36.18.140	Payment of fees to county treasurer.
36.18.150	Verified statement of fees.
36.18.160	Penalty for taking illegal fees.
36.18.170	Penalty for failure to pay over fees.
36.18.180	Office to be declared vacant on conviction.

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, one dollar;

For filing a release of chattel mortgage, conditional sale contract, or miscellaneous instrument, one dollar: *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), two dollars; for each additional legal size page, one dollar; for indexing each name over two, ten 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 administering an oath or taking an affidavit, with or without seal, two dollars;

For issuing marriage license, seven 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);

For searching records per hour, four dollars;

For recording plats, twenty-five cents for each lot except cemetery plats for which the charge shall be ten cents per lot; also one dollar for each acknowledgment, dedication, and description: *Provided*, That there shall be a minimum fee of fifteen dollars per plat;

For filing of miscellaneous records, not listed above, two dollars;

For making marginal notations on original recording when blanket assignment or release of instrument is filed for record, each notation, twenty-five cents;

For recording of miscellaneous records, not listed above, for first legal size page, two dollars; for each additional legal size page, one dollar. [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.]

Effective date—1967 c 26: The effective date of the above amendment was January 1, 1968, see note following RCW 43.20.070.

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 thirty-two 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 thirty-two 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 five 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 the filing of an affidavit for garnishment, 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 thirty-two 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 thirty-two 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 three dollars.

(15) 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 thirty-two dollars.

(16) 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.

(17) No fee shall be collected when a petition for relinquishment of parental rights is filed pursuant to RCW 26.36.010. [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.]

Effective date—1972 ex.s. c 20: "This act shall take effect July 1, 1972." [1972 ex.s. c 20 § 3.]

Rules of court: Cf. RAP 14.3, 18.22.

36.18.025 Allocation of portion of filing fees for judges' salaries. An amount equal to seven dollars from each filing fee paid pursuant to subsections (1), (2), (11) and (12) of RCW 36.18.020, as now or hereafter amended, shall be allocated to the payment of the monthly salaries of the judges of the superior courts, the court of appeals and the supreme court in the following manner:

(1) Three dollars of each such amount shall be paid into the county treasury and allocated to payment of the salaries of judges of the superior courts in the county; and

(2) Four dollars of each such amount shall be collected by the county treasurer and shall be transmitted by him each month to the state treasurer for deposit in the state general fund to aid in the payment of salaries of the judges of the superior courts, the court of appeals and the supreme court. [1972 ex.s. c 20 § 2.]

Effective date—1972 ex.s. c 20: See note following RCW 36.18.020.

36.18.030 Coroner's fees. Coroners shall collect for their official services, the following fees:

For each inquest held, besides mileage, twenty dollars.

For issuing a venire, two dollars.

For drawing all necessary writings, two dollars for first page and one dollar for each page thereafter.

For mileage each way, per mile, ten cents.

For performing the duties of a sheriff, he shall receive the same fees as a sheriff would receive for the same service. [1963 c 4 § 36.18.030. Prior: 1959 c 263 § 7; 1907 c 56 § 1, part, p 93; 1903 c 151 § 1, part, p 296; 1893 c 130 § 1, part, p 424; Code 1881 § 2086, part, p 360; 1869 p 372 § 7, part; 1863 p 391 § 1, part, p 396; 1861 p 34 § 1, part, p 39; 1854 p 368 § 1, part, p 373; RRS §§ 497, part, 4185.]

36.18.040 Sheriff's fees. Sheriffs shall collect the following fees for their official services: For service of each summons and complaint, and return thereon, on each defendant, besides mileage, three dollars;

For making a return of "not found" in the county upon a summons, besides mileage actually traveled, two dollars;

For levying each writ of attachment or writ of execution upon real or personal property, besides mileage, four dollars and fifty cents;

For filing copy of writ of attachment or writ of execution with auditor, three dollars plus auditor's filing fee;

For chattel mortgage foreclosure (short form), levy four dollars and fifty cents; posting notice, two dollars; service of notice, three dollars;

For serving writ of possession or restitution without aid of the county, besides mileage, four dollars and fifty cents;

For serving writ of possession or restitution with aid of the county, besides mileage, seven dollars and fifty cents;

For service and return of subpoena, upon each person served, besides mileage, one dollar and fifty cents;

For summoning each juror, besides mileage, one dollar and fifty cents;

For serving an arrest warrant in any action or proceeding, besides mileage, six dollars;

For serving or executing any other writ or process in a civil action or proceeding, besides mileage, three dollars and fifty cents;

For taking and approving any bond, in a civil action or proceeding, required by law to be taken or approved by him, except indemnity bonds, three dollars and fifty cents;

For each mile actually and necessarily traveled by him in going to or returning from any place of service, or attempted service, fifteen cents;

For making a deed to lands sold upon execution or order of sale or other decree of court, to be paid by the purchaser, nine dollars;

For making copies of papers when sufficient copies are not furnished, one dollar for first page and fifty cents per each additional page;

For the service of any process for which no other fee is provided for herein, three dollars and fifty cents;

For the making of any return for which no other fee is provided herein, three dollars and fifty cents;

For the execution of any process for which no other fee is provided herein, six dollars;

For the service of affidavit and bond in replevin, three dollars and fifty cents for each defendant; approval of bond, three dollars and fifty cents; taking property, three dollars and fifty cents;

For posting notices of sale, or postponement, three dollars and fifty cents besides mileage;

For certificate of sale of real property, seven dollars and fifty cents;

For serving notice of redemption, three dollars and fifty cents; certificate of redemption, seven dollars and fifty cents;

For making a return of no property found, two dollars;

For estray sales, crying sale, three dollars and fifty cents, besides mileage;

For conducting sale of personal property pursuant to exemption [execution] or order of sale, five dollars. [1975 1st ex.s. c 94 § 1; 1963 c 4 § 36.18.040. Prior: 1959 c 263 § 8; 1951 c 51 § 6; 1907 c 56 § 1, part, p 91; 1903 c 151 § 1, part, p 294; 1893 c 130 § 1, p 422; Code 1881 § 2086, part, p 356; 1869 p 364 § 1, part, p 365; 1865 p 94 § 1, part, p 97; 1863 p 391 § 1, part, p 392; 1861 p 34 § 1, part, p 35; 1854 p 368 § 1, part, p 369; RRS § 497, part.]

36.18.045 Treasurer's fees. County treasurers shall collect the following fees for their official services:

For preparing and certifying copies, with or without seal for the first legal size page, two dollars, for each additional legal size page, one dollar. [1963 c 4 § 36.18.045. Prior: 1959 c 263 § 10.]

36.18.050 Fees in special cases. Every officer who shall be called on or required to perform service for which no fees or compensation are provided for in this chapter shall be allowed fees similar and equal to those allowed him for services of the same kind for which allowance is made herein. [1963 c 4 § 36.18.050. Prior: Code 1881 § 2098; 1869 p 374 § 20; 1863 p 398 § 5; 1861 p 41 § 5; 1854 p 375 § 4; RRS § 4234.]

36.18.060 Fees payable in advance. The officers mentioned in this chapter shall not, in any case, except for the state or county, perform any official services unless the fees prescribed therefor are paid in advance, and on such payment the officer must perform the services required. For every failure or refusal to perform official duty when the fees are tendered, the officer is liable on his official bond. [1963 c 4 § 36.18.060. Prior: 1890 p 315 § 39; RRS § 506.]

36.18.070 Single mileage chargeable when. When any sheriff, constable or coroner serves more than one process in the same cause or on the same person not requiring more than one journey from his office, he shall receive mileage only for the most distant service. [1963 c 4 § 36.18.070. Prior: Code 1881 § 2094; 1869 p 373 § 16; RRS § 501.]

36.18.080 Fee schedule to be kept posted. Every county officer entitled to collect fees from the public shall keep posted in his office a plain and legible statement of the fees allowed by law and failure so to do shall subject the officer to a fine of one hundred dollars and costs, to be recovered in any court of competent jurisdiction. [1963 c 4 § 36.18.080. Prior: 1890 p 315 § 41; RRS § 4223. Cf. Code 1881 § 2091; 1869 p 373 § 13.]

36.18.090 Itemized receipt to be given. Every officer, when requested so to do, shall make out a bill of his fees in every case, and for any services, specifying each particular item thereof, and receipt the same when it is paid, which bill of fees shall always be subject to examination and correction by the courts. Any officer who fails to comply with the requirements of this section shall be liable to the person paying the fees in treble the amount so paid. [1963 c 4 § 36.18.090. Prior: (i) 1890 p 315 § 40; RRS § 4222. (ii) Code 1881 § 2102; 1869 p 374 § 24; 1863 p 398 § 3; 1861 p 41 § 3; 1854 p 376 § 6; RRS § 4235.]

36.18.100 Fee book to be kept. Each county and precinct officer authorized to receive fees shall keep a fee book, open to public inspection during office hours, in which must be entered at once and detailed all fees or compensation of whatever nature collected or chargeable. On the first Monday of every month, the officer must add up each column in his fee book to the first of the month, and set down the totals. On the expiration of the term of such officer he must deliver to the county auditor all fee books kept by him. [1963 c 4 § 36.18.100. Prior: 1890 p 313 § 34; RRS § 4212. Cf. Code 1881 § 2087; 1869 p 372 § 9.]

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 term of office submit to the county auditor a statement and copy of his fee book for the month last past, duly verified as provided in RCW 36.18.150: *Provided*, That the county auditor shall submit the statement and copy of his fee book to the county clerk. [1963 c 4 § 36.18.110. Prior: 1907 c 65 § 1; RRS § 4214.]

36.18.120 Statements to be checked. The county auditor and county clerk shall check the statements submitted them with the fee book, and the records pertaining thereto, and if they are found to be correct shall return them after having attached thereto their official certificates. [1963 c 4 § 36.18.120. Prior: 1907 c 65 § 2; RRS § 4215.]

36.18.130 Errors or irregularities. If any errors or irregularities are found by the checking officer he shall immediately notify the officer interested, and if within three days after such notification the errors or irregularities are not corrected by such officer, the checking officer shall notify the board of county commissioners in writing and upon receipt of such notification the board shall proceed against such officer in the manner provided by law. [1963 c 4 § 36.18.130. Prior: 1907 c 65 § 4; RRS § 4216.]

36.18.140 Payment of fees to county treasurer. All salaried county officers shall charge and collect for the use of their respective counties, and pay into the county treasury on the first Monday in each month, all the fees now or hereafter allowed by law, paid or chargeable in all cases during the preceding month except such fees as are a charge against the county or state. No officer may retain to his own use any money paid him by virtue of his office. [1963 c 4 § 36.18.140. Prior: (i) 1893 c 81 § 1; RRS § 4218. (ii) 1890 p 313 § 33; RRS § 4211.]

36.18.150 Verified statement of fees. The fees and compensation collected and chargeable for the county in each month and paid to the county treasurer on the first Monday of the following month, must be accompanied by a statement and copy of the fee book for the month last past, duly verified by the officer making such payment, and certified to by the proper officer. The affidavit shall be in the following form:

State of Washington, }
County of ----- } ss.

I, ----- county -----, do swear that the fee book in my office contains a true statement in detail of all fees and compensation of every kind and nature, for official services rendered by me, paid or chargeable, my deputies or assistants, for the month of -----, A.D. 19--, and that said fee book shows the full amount received or chargeable in said month, and since my last monthly payment; and neither myself, nor to my knowledge or belief, any of my deputies or assistants, has rendered any official services, except for the county or state, which is not fully set out in said fee book; and that the foregoing statement thereof is a full, true, and complete copy thereof.

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

The certificate of the checking officer shall be in the following form:

State of Washington, }
County of ----- } ss.

This is to certify that I have checked the records of the office of the county ----- for the month of -----, 19--, and find the same to be properly entered on his fee book, and that the foregoing statement is a full, true and complete copy thereof.

Witness my hand and official seal this ----- day of -----, 19--.

[1963 c 4 § 36.18.150. Prior: 1907 c 65 § 3; 1890 p 313 § 35; RRS § 4213.]

36.18.160 Penalty for taking illegal fees. If any officer takes more or greater fees than are allowed by law he shall be subject to prosecution, and on conviction, shall be removed from office and fined in a sum not exceeding one thousand dollars. [1963 c 4 § 36.18.160. Prior: Code 1881 § 2090; 1869 p 373 § 12; RRS § 4225. Cf. RCW 9.33.040.]

36.18.170 Penalty for failure to pay over fees. Any salaried county or precinct officer, who fails to pay to the county treasury all sums that have come into his hands for fees and charges for the county, or by virtue of his office, whether under the laws of this state or of the United States, shall be guilty of embezzlement, and upon conviction thereof shall be punished by imprisonment in the penitentiary not less than one year nor more than three years: *Provided*, That upon conviction, his office shall be declared to be vacant by the court pronouncing sentence. [1963 c 4 § 36.18.170. Prior: 1893 c 81 § 2; RRS § 4226. Cf. RCW 42.20.070.]

36.18.180 Office to be declared vacant on conviction. The board of county commissioners of any county in this state, upon receiving a certified copy of the record of conviction of any officer for receiving illegal fees, or where the officer collects fees and fails to account for the same, upon proof thereof must declare his office vacant and appoint his successor. [1963 c 4 § 36.18.180. Prior: 1890 p 315 § 42; RRS § 4224.]

Chapter 36.21
COUNTY ASSESSOR

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Township assessors, board of review, duties vested in: RCW 45.54.020.

Transfer of ownership of mobile home, county assessor notified: RCW 46.12.105.

Washington Clean Air Act, assessors' duties under: RCW 70.94.095.

36.21.011 Assessor may appoint deputies and engage expert appraisers—Employment and classification plans for appraisers. Any assessor who deems it necessary to enable him to complete the listing and the valuation of the property of his county within the time prescribed by law, (1) may appoint one or more well qualified persons to act as his assistants or deputies who shall not engage in the private practice of appraising within the county in which he is employed without the written permission of the county assessor filed with the county auditor; and each such assistant or deputy so appointed shall, under the direction of the assessor, after taking the required oath, perform all the duties enjoined upon, vested in or imposed upon assessors, and (2) may contract with any persons, firms or corporations, who are expert appraisers, to assist in the valuation of property.

To assist each assessor in obtaining adequate and well qualified assistants or deputies, the state department of personnel, after consultation with the Washington state association of county assessors, the Washington state

association of counties, and the department of revenue, shall establish by July 1, 1967, and shall thereafter maintain, a classification and salary plan for those employees of an assessor who act as appraisers. The plan shall recommend the salary range and employment qualifications for each position encompassed by it, and shall, to the fullest extent practicable, conform to the classification plan, salary schedules and employment qualifications for state employees performing similar appraisal functions.

If an assessor intends to put such plan into effect in his county, he shall inform the department of revenue and the board of county commissioners of this intent in writing. The department of revenue and the board may thereupon each designate a representative, and such representative or representatives as may be designated by the department of revenue or the board, or both, shall form with the assessor a committee. The committee so formed may, by unanimous vote only, determine the required number of certified appraiser positions and their salaries necessary to enable the county assessor to carry out the requirements relating to revaluation of property in chapter 84.41 RCW. The determination of the committee shall be certified to the board of county commissioners. The committee provided for herein may be formed only once in a period of four calendar years.

After such determination, the assessor may provide, in each of his four next succeeding annual budget estimates, for as many positions as are established in such determination. Each board of county commissioners to which such a budget estimate is submitted shall allow sufficient funds for such positions. An employee may be appointed to a position covered by the plan only if the employee meets the employment qualifications established by the plan. [1973 1st ex.s. c 11 § 1; 1971 ex.s. c 85 § 2; 1967 ex.s. c 146 § 7; 1963 c 4 § 36.21.011. Prior: 1955 c 251 § 10.]

36.21.015 Qualifications for persons assessing real property—Examination. Any person having the responsibility of valuing real property for purposes of taxation including persons acting as assistants or deputies to a county assessor under RCW 36.21.011 as now or hereafter amended, shall have first:

(1) Graduated from an accredited high school or passed a high school equivalency examination;

(2) Had at least one year of experience in transactions involving real property, in appraisal of real property, or in assessment of real property, or at least one year of experience in a combination of the three;

(3) Become knowledgeable in repair and remodeling of buildings and improvement of land, and in the significance of locality and area to the value of real property; and

(4) Become knowledgeable in the standards for appraising property set forth by the department of revenue.

The department of personnel shall prepare with the advice of the department of revenue and administer an examination on the subjects of subsections (3) and (4), and no person shall assess real property for purposes of

taxation without having passed said examination. A person passing said examination shall be certified accordingly by the director of the department of personnel: *Provided, however,* That this section shall not apply to any person who prior to *the effective date of this act shall have either:

(1) Been certified as a real property appraiser by the department of personnel.

(2) Attended and satisfactorily completed the assessor's school operated jointly by the department of revenue and the Washington state assessors association: *Provided further,* That the department of revenue shall be required to report to the 1973 legislature as to the extent of compliance to the provision of this section by each county within this state. [1971 ex.s. c 288 § 17; 1971 ex.s. c 27 § 1.]

***Reviser's note:** "the effective date of this act" first appeared in 1971 ex.s. c 27 § 1. The effective date of 1971 ex.s. c 27 was August 9, 1971. The effective date of 1971 ex.s. c 288 was May 21, 1971.

Savings—Severability—1971 ex.s. c 288: See notes following RCW 84.40.030.

36.21.020 Duties as to assessment in first class cities.

The county assessor in each county in which there is a city of the first class, as soon as the county and state boards of equalization have finally fixed the valuation of the property in such county for state and county taxation in each year, shall certify to the city comptroller of each city of the first class in such county a summary of the valuation of all real estate and personal property in such city, or subject to taxation therein, as shown by the assessment roll of the county, as finally fixed by said boards and also a list of all residents of such city liable to pay a poll tax.

The county assessor, in making up his assessment roll for the county, shall place the property within the limits of any such city subject to taxation therein in as compact a form as practicable on the roll, so that the city taxes may be extended in the same manner as state and county taxes are extended, and that portion of said assessment roll embracing persons and property subject to taxation in such city shall constitute also the assessment roll of such city of the first class for the levy and collection of the taxes thereof.

When by reason of a change in the boundaries of any such city or otherwise, the rate of taxation is required to differ in different districts thereof, the real and personal property in each district shall be properly segregated for that purpose, and such segregation shall duly appear in the summary certified as aforesaid. [1963 c 4 § 36.21.020. Prior: 1893 c 71 § 1; RRS § 11318.]

36.21.030 Ex officio assessor in other cities. For the purpose of assessment of all property in all cities and towns of other than the first class, the county assessor of the county wherein such city or town is situated shall be ex officio assessor. [1963 c 4 § 36.21.030. Prior: 1893 c 72 § 2; RRS § 11329.]

36.21.040 New construction building permits—
"Issuer" defined. "Issuer" means any state, county, city, or town agency from which it is necessary to receive a

permit before proceeding with construction of any building. [1963 c 4 § 36.21.040. Prior: 1955 c 129 § 1.]

Registration of contractor required before issuance of building permit:
RCW 18.27.110.

36.21.050 New construction building permits—
Required—County commissioners' duties—Cities
excepted. The county commissioners of every county shall provide for the issuance of a building permit for the construction or alteration of any building within the county, for which the value of the material exceeds five hundred dollars except that where any city within the county issues such permits for all buildings within its jurisdiction, it shall not be necessary for the county to issue building permits for the construction or alteration of buildings within any such city. Every application for a building permit as required herein shall contain a legal description of the property upon which the building is to be constructed or altered. [1963 c 4 § 36.21.050. Prior: 1955 c 129 § 2.]

36.21.060 New construction building permits—
Transmission to county assessor. Whenever any issuer issues a building permit for the construction of any building, such issuer shall immediately transmit a copy of the permit to the county assessor of the county in which such building is to be constructed. [1963 c 4 § 36.21.060. Prior: 1955 c 129 § 3.]

36.21.070 New construction building permits—
Appraisal of building. Upon receipt of such copy, the county assessor shall, within six months of the date of issue of such permit, proceed to make a physical appraisal of the building or buildings covered by the permit. [1963 c 4 § 36.21.070. Prior: 1955 c 129 § 4.]

36.21.080 New construction building permits—
When property placed on assessment rolls—Destroyed
property, reduction in value. (1) The county assessor is authorized to place any property under the provisions of RCW 36.21.040 through 36.21.080 on the assessment rolls for the purposes of tax levy up to May 31st of each year. The assessed valuation of property under the provisions of RCW 36.21.040 through 36.21.080 shall be considered as of the April 30th immediately preceding the date that the property is placed on the assessment rolls.

(2) If, on or before December 31 in any calendar year, any real or personal property placed upon the assessment roll of that year is destroyed in whole or in part, the true cash value of such property shall be reduced for that year by an amount determined as follows:

(a) First take the true cash value of such taxable property and deduct therefrom the true cash value of the remaining property.

(b) Then divide any amount remaining by twelve and multiply the quotient by the number of months or major fraction thereof remaining after the date of the destruction of the property. [1975 1st ex.s. c 120 § 1; 1974 ex.s. c 196 § 7; 1963 c 4 § 36.21.080. Prior: 1955 c 129 § 5.]

Severability—1974 ex.s. c 196: See note following RCW 84.56.020.

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Chapter 36.22 COUNTY AUDITOR

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Veterans honorable discharge, auditor to record without fee: RCW 73.04.030-73.04.042.

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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) Shall, with the county commissioners, count the money in the county treasury at the January, April, July and October settlements and make and verify statements in duplicate, showing:

The amount of money that ought to be in the treasury;

The amount and kind of money actually therein.

(9) As clerk of the board of county commissioners he 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. [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.]

36.22.020 Publisher of commission proceedings—Custodian of commissioners' seal. It shall be the duty of the county auditor of each county, within fifteen days after the adjournment of each regular term, to publish a summary of the proceedings of the board of county

commissioners at such term, in any newspaper published in the county or having a general circulation therein, or the auditor may post copies of such proceedings in three of the most public places in the county. The seal of the county commissioners for each county, used by the county auditor as clerk to attest the proceedings of the board of county commissioners, shall be and remain in the custody of the county auditor as clerk of the board, and said auditor is hereby authorized to use such seal in attestation of all his official acts, whether as clerk of said board, as auditor or recorder of deeds; and all certificates, exemplifications of records, or other acts by him performed as county auditor, certified under the seal of said county commissioners, heretofore made or hereafter to be made pursuant to this section, in this state, shall be as valid and legally binding as though attested by a seal of office of the said county auditor. [1963 c 4 § 36.22-.020. Prior: Code 1881 § 2724; 1869 p 313 § 17; RRS §§ 4102, 4103. Formerly RCW 36.16.080, 36.22.020, and 36.22.130.]

36.22.030 May administer oaths. Auditors and their deputies may administer oaths necessary in the performance of their duties and in all other cases where oaths are required by law to be administered and take acknowledgments of deeds and other instruments in writing: *Provided*, That any deputy county auditor, in administering such oath or taking such acknowledgment, shall certify to the same in his own name as deputy, and not in the name of his principal, and shall attach thereto the seal of the office: *Provided*, That all oaths administered or acknowledgments taken by any deputy of any county auditor certifying to the same in the name of his principal by himself as such deputy, prior to the taking effect of chapter 119, Laws of 1893 be and the same are hereby legalized and made valid and binding. [1963 c 4 § 36.22.030. Prior: 1893 c 119 § 6; Code 1881 § 2717; 1869 p 312 § 11; 1863 p 550 § 8; 1854 p 425 § 8; RRS § 4094.]

36.22.040 Duty to audit claims against county. The county auditor shall audit all claims, demands, and accounts against the county which by law are chargeable to the county, except such cost or fee bills as are by law to be examined or approved by some other judicial tribunal or officer. Such claims as it is his duty to audit shall be presented to the board of county commissioners for their examination and allowance. [1963 c 4 § 36.22-.040. Prior: 1893 c 119 § 1, part; Code 1881 § 2710, part; 1869 p 310 § 5, part; 1863 p 549 § 5, part; 1854 p 425 § 5, part; RRS § 4086, part.]

36.22.050 Issuance of warrants—Multiple warrants. For claims allowed by the county commissioners, and also for cost bills and other lawful claims duly approved by the competent tribunal designated by law for their allowance, he shall draw a warrant on the county treasurer, made payable to the claimant or his order, bearing date from the time of and regularly numbered in the order of their issue. If there is not sufficient cash in the county treasury to cover such claims or cost bills, or if a claimant requests, the auditor may issue a

number of smaller warrants, the total principal amounts of which shall equal the amount of said claim or cost bill. [1975 c 31 § 1; 1969 ex.s. c 87 § 1; 1963 c 4 § 36.22.050. Prior: (i) 1893 c 119 § 1, part; Code 1881 § 2710, part; 1869 p 310 § 5, part; 1863 p 549 § 5, part; 1854 p 425 § 5, part; RRS § 4086, part. (ii) 1893 c 48 § 2; RRS § 4087.]

36.22.060 Record of warrants. He shall carefully keep proper warrant books, and when a warrant is issued the stub shall be carefully retained, upon which shall be recorded the number, date, name of payee, amount, nature of claims or services briefly stated and by whom allowed. In all cases where multiple warrants are issued for one claim the auditor must preserve as many stub entries as there have been warrants issued, noting upon each stub the claim for which it was issued and the number of warrants which aggregate the amount of the entire claim allowed. [1963 c 4 § 36.22.060. Prior: 1893 c 119 § 1, part; Code 1881 § 2710, part; 1869 p 310 § 5, part; 1863 p 549 § 5, part; 1854 p 425 § 5, part; RRS § 4086, part.]

36.22.070 Original claims to be retained. He shall also retain all original bills and indorse thereon claimant's name, nature of claim, the action had, and if a warrant was issued, date and number the voucher or claim the same as the warrant. [1963 c 4 § 36.22.070. Prior: 1893 c 119 § 1, part; Code 1881 § 2710, part; 1869 p 310 § 5, part; 1863 p 549 § 5, part; 1854 p 425 § 5, part; RRS § 4086, part.]

36.22.080 Claims of auditor. All claims of the county auditor against the county for services shall be audited and allowed by the board of county commissioners as other claims are audited and allowed. Such warrants shall in all respects be audited, approved, issued, numbered, registered, and paid the same as any other county warrant. [1963 c 4 § 36.22.080. Prior: 1893 c 119 § 1, part; Code 1881 § 2710, part; 1869 p 310 § 5, part; 1863 p 549 § 5, part; 1854 p 425 § 5, part; RRS § 4086, part.]

36.22.090 Warrants of political subdivisions. All warrants for the payment of claims against diking, ditch, drainage and irrigation districts and school districts of the second class, who do not issue their own warrants, as well as political subdivisions within the county for which no other provision is made by law, shall be drawn and issued by the county auditor of the county wherein such subdivision is located upon vouchers properly approved by the governing body thereof. [1975 c 43 § 31; 1973 c 111 § 4; 1963 c 4 § 36.22.090. Prior: 1915 c 74 § 1; RRS § 4096.]

Effective date—Severability—1975 c 43: See notes following RCW 28A.57.140.

Severability—1973 c 111: See note following RCW 28A.60.328.

36.22.100 Cancellation of unclaimed warrants. Registered or interest bearing county warrants not presented within one year of the date of their call, and all other county warrants not presented within one year of the

date of their issue shall be canceled by the legislative authority of the county and the auditor and treasurer of the county shall cancel all record of such warrants, so as to leave the funds as if such warrants had never been drawn. [1971 ex.s. c 120 § 1; 1963 c 4 § 36.22.100. Prior: 1909 c 170 § 1; 1886 p 161 § 1; RRS § 4097.]

36.22.110 Auditor cannot act as attorney or lobbyist—Incompatibility. The person holding the office of county auditor, or deputy, or performing its duties, shall not practice as an attorney or represent any person who is making any claim against the county, or who is seeking to procure any legislative or other action by the board of county commissioners. The county auditor, during his term of office, and any deputy appointed by him is disqualified from performing the duties of any other county officer or acting as deputy for any other county officer. Nor shall any other county officer or his deputy act as auditor or deputy, or perform any of the duties of said office. [1963 c 4 § 36.22.110. Prior: Code 1881 § 2722; 1869 p 312 § 12; 1863 p 550 § 9; 1854 p 425 § 9; RRS § 4100.]

36.22.120 Temporary clerk may be appointed. In case the auditor is unable to attend to the duties of his office during any session of the board of county commissioners, and has no deputy by him appointed in attendance, the board may temporarily appoint a suitable person not by law disqualified from acting as such to perform the auditor's duties. [1963 c 4 § 36.22.120. Prior: Code 1881 § 2723; 1869 p 313 § 15; 1863 p 550 § 12; 1854 p 425 § 11; RRS § 4101.]

36.22.140 Auditor deputy state supervisor. Each county auditor shall be ex officio deputy supervisor of the division of municipal corporations and in such capacity shall be under the direction of the chief supervisor, but he shall receive no additional salary or compensation by virtue thereof and shall perform no duties as such, except in connection with county business. [1963 c 4 § 36.22.140. Prior: 1909 c 76 § 12; RRS § 9962.]

36.22.150 Duty of retiring auditor or his representative in case of death. Each auditor, on retiring from office, shall deliver to his successor the seal of office and all the books, records, and instruments of writing belonging to the office, and take his receipt therefor. In case of the death of the auditor, his legal representatives shall deliver over the seal, books, records and papers. [1963 c 4 § 36.22.150. Prior: Code 1881 § 2725; 1869 p 314 § 22; RRS § 4104.]

Chapter 36.23 COUNTY CLERK

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Veterans, clerk to furnish marital status certificates to free: RCW 73.04.120.

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36.23.020 New bond may be required. When the judge or judges of any court, or a majority of them, believe that the clerk of the court does not have a good and sufficient bond on file, or that the bond is not large enough in amount, such judge or judges shall enter an order requiring him, within such time as may be specified in the order, to execute and present to them a good and sufficient bond, in such sum as may be fixed by the order. In case of his failure to file the bond within ten days from the expiration of the date fixed the judge or judges shall declare the office vacant. [1963 c 4 § 36.23-.020. Prior: 1895 c 53 § 3; RRS § 72.]

36.23.030 Records to be kept. The clerk of the superior court at the expense of the county shall keep the following records:

(1) A record in which he shall enter all appearances and the time of filing all pleadings in any cause;

(2) A docket in which before every session, he shall enter the titles of all causes pending before the court at that session in the order in which they were commenced, beginning with criminal cases, noting in separate columns the names of the attorneys, the character of the action, the pleadings on which it stands at the commencement of the session. One copy of this docket shall be furnished for the use of the court and another for the use of the members of the bar;

(3) A record for each session in which he shall enter the names of witnesses and jurors, with time of attendance, distance of travel, and whatever else is necessary to enable him to make out a complete cost bill;

(4) A record in which he shall record the daily proceedings of the court, and enter all verdicts, orders, judgments, and decisions thereof, which shall be signed by the judge; but the court shall have full control of all

entries in said record at any time during the session in which they were made;

(5) An execution docket and also one for a final record in which he shall make a full and perfect record of all criminal cases in which a final judgment is rendered, and all civil cases in which by any order or final judgment the title to real estate, or any interest therein, is in any way affected, and such other final judgments, orders, or decisions as the court may require;

(6) A journal in which shall be entered all orders, decrees, and judgments made by the court and the minutes of the court in probate proceedings;

(7) A record of wills and bonds shall be maintained. Originals shall be placed in the original file and shall be preserved or duplicated pursuant to RCW 36.23.065;

(8) A record of letters testamentary, administration and guardianship in which all letters testamentary, administration and guardianship shall be recorded;

(9) A record of claims shall be entered in the appearance docket under the title of each estate or case, stating the name of each claimant, the amount of his claim and the date of filing of such;

(10) A memorandum of the files, in which at least one page shall be given to each estate or case, wherein shall be noted each paper filed in the case, and the date of filing each paper;

(11) Such other records as are prescribed by law and required in the discharge of the duties of his office. [1967 ex.s. c 34 § 2; 1963 c 4 § 36.23.030. Prior: (i) 1923 c 130 § 1; Code 1881 § 2179; 1863 p 417 § 6; 1854 p 366 § 6; RRS § 75. (ii) 1917 c 156 § 2; RRS § 1372. (iii) 1917 c 156 § 57; Code 1881 § 1384; 1863 p 219 § 118; 1860 p 181 § 85; RRS § 1427. (iv) 1917 c 156 § 72; Code 1881 § 1411; 1863 p 221 § 130; 1860 p 183 § 97; RRS § 1442.]

36.23.040 Custody and delivery of records. The clerk shall be responsible for the safe custody and delivery to his successor of all books and papers belonging to his office. [1963 c 4 § 36.23.040. Prior: Code 1881 § 2181; 1863 p 418 § 8; 1854 p 367 § 8; RRS § 76.]

36.23.065 Destruction and reproduction of court records—Destruction of receipts for expenses under probate proceedings. Notwithstanding any other law relating to the destruction of court records, the county clerk may cause to be destroyed all documents, records, instruments, books, papers, depositions, and transcripts, in any action or proceeding in the superior court, or otherwise filed in his office pursuant to law, if all of the following conditions exist:

(1) Six years have elapsed since the filing of any paper in the action or proceeding and the records of the county clerk do not show that the action or proceeding is pending on appeal in any court.

(2) The county clerk maintains for the use of the public a photographic film, microphotographic, photostatic or similar reproduction of each document, record, instrument, book, paper, deposition, or transcript so destroyed: *Provided*, That all receipts and canceled checks filed by a personal representative pursuant to RCW 11.76.100 and complying with condition (1)

above, may be removed from the file by order of the court and destroyed the same as an exhibit pursuant to RCW 36.23.070.

(3) At the time of the taking of said photographic film, microphotographic, photostatic or similar reproduction, the county clerk or other person under whose direction and control the same was taken, attached thereto, or to the sealed container in which the same was placed and has been kept, or incorporated in said photographic film, microphotographic, photostatic or similar reproduction, a certification that the copy is a correct copy of the original, or of a specified part thereof, as the case may be, the date on which taken, and the fact it was taken under his direction and control. The certificate must be under the official seal of the certifying officer, if there be any, or if he be the clerk of a court having a seal, under the seal of such court.

(4) The county clerk promptly seals and stores at least one original negative of each such photographic film, microphotographic, photostatic or similar reproduction in such manner and place as reasonably to assure its preservation indefinitely against loss, theft, defacement, or destruction. [1973 c 14 § 1; 1971 c 29 § 1; 1963 c 4 § 36.23.065. Prior: 1957 c 201 § 1.]

36.23.067 Reproduced court records have same force and effect as original. Any print, whether enlarged or not, from any photographic film, including any photographic plate, microphotographic film, or photostatic negative or similar reproduction, of any original record, document, instrument, book, paper, deposition or transcript which has been processed in accordance with the provisions of RCW 36.23.065, and has been certified by the county clerk under his official seal as a true copy, may be used in all instances, including introduction in evidence in any judicial or administrative proceeding, that the original record, document, instrument, book, paper, deposition or transcript might have been used, and shall have the full force and effect of said original for all purposes. [1963 c 4 § 36.23.067. Prior: 1957 c 201 § 2.]

36.23.070 Destruction of court exhibits—Preservation for historical purposes. A county clerk may at any time more than six years after the entry of final judgment in any action apply to the superior court for an authorizing order and, upon such order being signed and entered, destroy any exhibits, unopened depositions and reporters' notes which have theretofore been filed in such cause: *Provided*, That reporters' notes in criminal cases must be preserved for at least fifteen years: *Provided further*, That any exhibits which are deemed to possess historical value may be directed to be delivered by the clerk to libraries or historical societies. [1973 c 14 § 2; 1967 ex.s. c 34 § 3; 1963 c 4 § 36.23.070. Prior: 1957 c 201 § 3; 1947 c 277 § 1; Rem. Supp. 1947 § 81-1.]

36.23.080 Office at county seat. The office of the clerk of the superior court shall be kept at the county seat of the county of which he is clerk. [1963 c 4 § 36.23.080. Prior: 1891 c 57 § 1; RRS § 73, part. Cf. Code 1881 § 2125.]

Chapter 36.24 COUNTY CORONER

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State hospitals for the mentally ill, report of death of patient in, given coroner: RCW 72.23.190.

Vehicle of as emergency vehicle: RCW 46.04.040.

36.24.010 To act as sheriff under certain conditions. The coroner shall perform the duties of the sheriff in all cases where the sheriff is interested or otherwise incapacitated from serving; and whenever the coroner acts as sheriff he shall possess the powers and perform all the duties of sheriff, and shall be liable on his official bond in like manner as the sheriff would be, and shall be entitled to the same fees as are allowed by law to the sheriff for similar services: *Provided*, That nothing herein contained shall prevent the court from appointing a suitable person to discharge such duties, as provided by RCW 36.28.090. [1963 c 4 § 36.24.010. Prior: 1897 c 21 § 1; Code 1881 § 2776; 1863 p 559 § 2; 1854 p 436 § 2; RRS § 4180.]

36.24.020 Inquests. Any coroner, in his discretion, may hold an inquest if he suspects that the death of a person was unnatural, or violent, or resulted from unlawful means, or from suspicious circumstances, or was of such a nature as to indicate the possibility of

death by the hand of the deceased or through the instrumentality of some other person: *Provided*, That, except under suspicious circumstances, no inquest shall be held following a traffic death.

The coroner shall summon six good and lawful persons to serve as jurors and to hear all the evidence concerning the death and to inquire into and render a true verdict on the cause of death.

The prosecuting attorney having jurisdiction shall be notified in advance of any such inquest to be held, and at his discretion may be present at and assist the coroner in the conduct of the same. The coroner may adjourn the inquest from time to time as he may deem necessary.

The costs of inquests shall be borne by the county in which the inquest is held. [1963 c 4 § 36.24.020. Prior: 1953 c 188 § 3; Code 1881 § 2777; 1863 p 560 § 3; 1854 p 436 § 3; RRS § 4181.]

36.24.030 Penalty for nonattendance of juror. Every person summoned as a juror who fails to appear without having a reasonable excuse shall forfeit a sum not exceeding twenty dollars, to be recovered by the coroner, in the name of the state, before any justice of the peace of the county. The penalty when collected shall be paid over to the county treasurer for the use of the county. [1963 c 4 § 36.24.030. Prior: Code 1881 § 2778; 1863 p 560 § 4; 1854 p 436 § 4; RRS § 4182.]

36.24.040 Duty of coroner's jury—Oath. When four or more of the jurors attend, they shall be sworn by the coroner to inquire who the person was, and when, where, and by what means he came to his death, and into the circumstances attending his death, and to render a true verdict therein, according to the evidence afforded them, or arising from the inspection of the body. [1963 c 4 § 36.24.040. Prior: Code 1881 § 2779; 1863 p 560 § 5; 1854 p 436 § 5; RRS § 4183.]

36.24.050 Power to summon witnesses—Subpoenas. The coroner may issue subpoenas for witnesses returnable forthwith or at such time and place as he may appoint, which may be served by any competent person. He must summon and examine as witnesses, on oath by him administered, every person, who, in his opinion or that of any of the jury, has any knowledge of the facts. A witness served with a subpoena may be compelled to attend and testify, or be punished by the coroner for disobedience, in like manner as upon a subpoena issued by a justice of the peace. [1963 c 4 § 36.24.050. Prior: (i) 1901 c 131 § 1, part; Code 1881 § 2780, part; 1863 p 560 § 6, part; 1854 p 436 § 6, part; RRS § 4184, part. (ii) Code 1881 § 2781; 1863 p 560 § 7; 1854 p 437 § 7; RRS § 4186.]

36.24.060 Power to employ physician or surgeon—Compensation. The coroner may summon a surgeon or physician to inspect the body and give under oath a professional opinion as to the cause of death. The fees for the coroner's physician or surgeon shall not be less than ten dollars. [1963 c 4 § 36.24.060. Prior: (i) 1901 c 131 § 1, part; Code 1881 § 2780, part; 1863 p 560 § 6, part; 1854 p 436 § 6, part; RRS § 4184, part.]

36.24.070 Verdict of jury. After hearing the testimony, the jury shall render its verdict and certify the same in writing signed by the jurors, and setting forth who the person killed is, if known, and when, where and by what means he came to his death; or if he was killed, or his death was occasioned by the act of another by criminal means, who is guilty thereof, if known. [1963 c 4 § 36.24.070. Prior: 1953 c 188 § 4; Code 1881 § 2782; 1863 p 560 § 8; 1854 p 437 § 8; RRS § 4187.]

36.24.080 Testimony reduced to writing in certain cases and witnesses recognized. In all cases where murder or manslaughter is supposed to have been committed, the testimony of witnesses taken before the coroner's jury shall be reduced to writing by the coroner, or under his direction, and he shall also recognize such witnesses to appear and testify in the superior court of the county, and shall forthwith file the written testimony, inquisition, and recognizance with the clerk of such court. [1963 c 4 § 36.24.080. Prior: Code 1881 § 2783; 1863 p 561 § 9; 1854 p 437 § 9; RRS § 4188.]

36.24.090 Procedure where accused is under arrest. If the person charged with the commission of the offense has been arrested before the inquisition has been filed, the coroner shall deliver the recognizance and the inquisition, with the testimony taken, to the magistrate before whom such person may be brought, who shall return the same, with the depositions and statements taken before him to the clerk of the superior court of the county. [1963 c 4 § 36.24.090. Prior: Code 1881 § 2784; 1863 p 561 § 10; 1854 p 437 § 10; RRS § 4189.]

36.24.100 Procedure where accused is at large—Warrant of arrest. If the jury finds that the person was killed and the party committing the homicide is ascertained by the inquisition, but is not in custody, the coroner shall issue a warrant for the arrest of the person charged, returnable forthwith to the nearest magistrate. [1963 c 4 § 36.24.100. Prior: Code 1881 § 2785; 1863 p 561 § 11; 1854 p 437 § 11; RRS § 4190.]

36.24.110 Form of warrant. The coroner's warrant shall be in substantially the following form:

State of Washington, }
County of ----- } ss.

To any sheriff or constable of the county.

An inquisition having been this day found by the coroner's jury, before me, stating that A B has come to his death by the act of C D, by criminal means (or as the case may be, as found by the inquisition), you are therefore commanded, in the name of the state of Washington, forthwith to arrest the above named C D, and take him before the nearest or most accessible magistrate in this county.

Given under my hand this ----- day of -----, A.D. 19--.

E F, coroner of the county of -----

[1963 c 4 § 36.24.110. Prior: Code 1881 § 2786; 1863 p 561 § 12; 1854 p 437 § 12; RRS § 4191.]

36.24.120 Service of warrant. The coroner's warrant may be served in any county, and the officers serving it shall proceed thereon, in all respects, as upon a warrant of arrest. [1963 c 4 § 36.24.120. Prior: Code 1881 § 2787; 1863 p 561 § 13; 1854 p 438 § 13; RRS § 4192.]

36.24.130 Property of deceased. The coroner must, within thirty days after the inquest upon a dead body, deliver to the county treasurer any money or other property which may be found upon the body, unless claimed in the meantime by the legal representatives of the deceased. If he fails to do so, the treasurer may proceed against the coroner to recover the same by a civil action in the name of the county. [1963 c 4 § 36.24.130. Prior: Code 1881 § 2789; 1863 p 562 § 15; 1854 p 438 § 15; RRS § 4194.]

36.24.140 Duty of treasurer. Upon the delivery of money to the treasurer, he shall place it to the credit of the county. If it is property other than money, he shall, within thirty days, sell it at public auction, upon reasonable public notice, and place the proceeds to the credit of the county. [1963 c 4 § 36.24.140. Prior: Code 1881 § 2790; 1863 p 562 § 16; 1854 p 438 § 16; RRS § 4195.]

36.24.150 Delivery to representatives. If the money in the treasury is demanded within six years by the legal representatives of the deceased, the treasurer shall pay it to them after deducting the fees and expenses of the coroner and of the county in relation to the matter, or the same may be so paid at any time thereafter, upon the order of the board of county commissioners of the county. [1963 c 4 § 36.24.150. Prior: Code 1881 § 2791; 1863 p 562 § 17; 1854 p 438 § 17; RRS § 4196.]

36.24.155 Undisposed of remains—Entrusting to funeral homes or mortuaries. Whenever anyone shall die within a county without making prior plans for the disposition of his body and there is no other person willing to provide for the disposition of the body, the county coroner shall cause such body to be entrusted to a funeral home in the county where the body is found. Disposition shall be on a rotation basis, which shall treat equally all funeral homes or mortuaries desiring to participate, such rotation to be established by the coroner after consultation with representatives of the funeral homes or mortuaries in the county or counties involved. [1969 ex.s. c 259 § 2.]

Undisposed of remains, disposition of: RCW 68.08.230.

36.24.160 Justice of the peace may act as coroner. If the office of coroner is vacant, or he is absent or unable to attend, the duties of his office may be performed by any justice of the peace in the county with the like authority and subject to the same obligations and penalties as the coroner. For such service a justice of the peace shall be entitled to the same fees, payable in the same manner. [1963 c 4 § 36.24.160. Prior: (i) Code 1881 § 2793; 1863 p 562 § 19; 1854 p 438 § 19; RRS §

4198. (ii) Code 1881 § 2795; 1863 p 562 § 21; 1854 p 438 § 21; RRS § 4199.]

36.24.170 Coroner not to practice law. The coroner shall not appear or practice as attorney in any court, except in defense of himself or his deputies. [1963 c 4 § 36.24.170. Prior: 1891 c 45 § 4, part; Code 1881 § 2770, part; 1863 p 558 § 5, part; 1854 p 434 § 5, part; RRS § 4171, part.]

36.24.175 Coroner not to be owner or employee of funeral home or mortuary—Class AA, class A, first, second and third class counties. In class AA, class A, first, second and third class counties no person shall be qualified for the office of county coroner as provided for in RCW 36.16.030 who is an owner or employee of any funeral home or mortuary. [1969 ex.s. c 259 § 3.]

36.24.180 Audit of coroner's account. Before auditing and allowing the account of the coroner the board of county commissioners shall require from him a verified statement in writing, accounting for all money or other property found upon persons on whom inquests have been held by him, and that the money or property mentioned in it has been delivered to the legal representatives of the deceased, or to the county treasurer. [1963 c 4 § 36.24.180. Prior: Code 1881 § 2792; 1863 p 562 § 18; 1854 p 438 § 18; RRS § 4197.]

Chapter 36.26 PUBLIC DEFENDER

Sections	
36.26.010	Definitions.
36.26.020	Public defender district—Creation—Office of public defender.
36.26.030	Selection committee.
36.26.040	Public defender—Qualifications—Term.
36.26.050	Reports—Records—Costs and expenses.
36.26.060	Compensation—Office—Assistants, clerks, investigators, etc.
36.26.070	Duty to represent indigent defendants.
36.26.080	Duty to counsel, defend and prosecute appeals.
36.26.090	Appointment of attorney other than public defender.
36.26.900	Chapter cumulative and nonexclusive.

36.26.010 Definitions. As used in this chapter:

(1) "County commissioners" or "board of county commissioners" means and includes:

(a) Any single board of county commissioners, county council, or other governing body of any county which has neither a board of county commissioners nor a county council denominated as such; and

(b) The governing bodies, including any combination or mixture of more than one board of county commissioners, county council, or otherwise denominated governing body of a county, of any two or more contiguous counties electing to participate jointly in the support of any intercounty public defender.

(2) "District" or "public defender district" means any one or more entire counties electing to employ a public defender; and no county shall be divided in the creation of any public defender district. [1969 c 94 § 1.]

36.26.020 Public defender district—Creation—
Office of public defender. The board of county commissioners of any single county or of any two or more territorially contiguous counties or acting in cooperation with the governing authority of any city located within the county or counties may, by resolution or by ordinance, or by concurrent resolutions or concurrent ordinances, constitute such county or counties or counties and cities as a public defender district, and may establish an office of public defender for such district. [1969 c 94 § 2.]

36.26.030 Selection committee. The board of county commissioners of every county electing to become or to join in a public defender district shall appoint a selection committee for the purpose of selecting a full or part time public defender for the public defender district. Such selection committee shall consist of one member of each board of county commissioners, one member of the superior court from each county, and one practicing attorney from each county within the district. [1969 c 94 § 3.]

36.26.040 Public defender—Qualifications—
Term. Every public defender and every assistant public defender must be a qualified attorney licensed to practice law in this state; and the term of the public defender shall coincide with the elected term of the prosecuting attorney. [1969 c 94 § 4.]

36.26.050 Reports—Records—Costs and expenses. The public defender shall make an annual report to each board of county commissioners within his district. If any public defender district embraces more than one county or a cooperating city, the public defender shall maintain records of expenses allocable to each county or city within the district, and shall charge such expenses only against the county or city for which the services were rendered or the costs incurred. The boards of county commissioners of counties and the governing authority of any city participating jointly in a public defender district are authorized to provide for the sharing of the costs of the district by mutual agreement, for any costs which cannot be specifically apportioned to any particular county or city within the district.

Expenditures by the public defender shall be subject to the provisions of chapter 36.40 RCW and other statutes relating to expenditures by counties or cities. [1969 c 94 § 5.]

36.26.060 Compensation—Office—Assistants, clerks, investigators, etc. (1) The board of county commissioners shall:

(a) Fix the compensation of the public defender and of any staff appointed to assist him in the discharge of his duties: *Provided*, That the compensation of the public defender shall not exceed that of the county prosecutor in those districts which comprise only one county;

(b) Provide office space, furniture, equipment and supplies for the use of the public defender suitable for the conduct of his office in the discharge of his duties, or provide an allowance in lieu of facilities and supplies.

(2) The public defender may appoint as many assistant attorney public defenders, clerks, investigators, stenographers and other employees as the board of county commissioners considers necessary in the discharge of his duties as a public defender. [1969 c 94 § 6.]

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 under the provisions of RCW 10.01.110; 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. [1969 c 94 § 7.]

36.26.080 Duty to counsel, defend and prosecute appeals. Whenever the public defender represents any indigent person held in custody without commitment or charged with any criminal offense, he must (1) counsel and defend such person, and (2) prosecute any appeals and other remedies, whether before or after conviction, which he considers to be in the interests of justice. [1969 c 94 § 8.]

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 the provisions of RCW 10.01.110 and *10.01.112. [1969 c 94 § 9.]

*Reviser's note: RCW "10.01.112" was recodified as RCW 4.88.330 by 1975 1st ex.s. c 261 § 2.

36.26.900 Chapter cumulative and nonexclusive. The provisions of this chapter shall be cumulative and non-exclusive and shall not affect any other remedy, particularly in counties electing not to create the office of public defender: *Provided*, That nothing herein shall be construed to prevent the appointment of a full time or part

time assigned—counsel administrator for the purpose of maintaining a centrally administered system for the assignment of counsel to represent indigent persons. [1969 c 94 § 10.]

Chapter 36.27 PROSECUTING ATTORNEY

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- 36.27.005 Defined.
- 36.27.010 Eligibility to office.
- 36.27.020 Duties.
- 36.27.030 Disability of prosecuting attorney.
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- Autopsy reports, prosecuting attorney may know contents of:* RCW 68.08.105.
- County canvassing board, prosecuting attorney as member:* RCW 29.62.020, 39.40.030.
- Defined for diking, drainage or sewerage improvement district purposes:* RCW 85.08.010.
- Dissolution of inactive port districts:* Chapter 53.47 RCW.
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- air pollution control regulations:* Chapter 70.94 RCW.
 - antifreeze vending:* RCW 19.04.090.
 - apple advertising commission law:* RCW 15.24.180.
 - baseball contracts with minors:* RCW 67.04.110, 67.04.120.
 - cigarette excise tax forfeiture proceeding:* RCW 82.24.140.
 - cities and towns, third class cities, proceedings attacking validity of consolidation or annexation:* RCW 35.24.440.
 - civil service for sheriff's office:* RCW 41.14.170.
 - compulsory attendance of school children:* RCW 28A.27.110.
 - copyright violations:* RCW 19.24.140.
 - dairy and dairy products law:* RCW 15.32.750.
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 - dental hygienists, licensing of:* RCW 18.29.100.
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 - diking, drainage and sewerage improvement districts:* Chapter 85.08 RCW.
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 - railroad grade crossings as nuisance, abatement of:* RCW 81.53.190.
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 - registered professional nurses, licensing of:* RCW 18.88.260.
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 - river and harbor improvement districts:* Chapter 88.32 RCW.
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 - school districts, violations applicable to:* Chapter 28A.87 RCW.
 - securities act:* RCW 21.20.410.
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 - soft tree fruits commission law:* RCW 15.28.290.
 - standards, grades and packs violations:* RCW 15.17.260.
 - support of dependent children:* Chapter 74.20 RCW.
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 - certificates of delinquency:* Chapter 84.64 RCW.
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 - unfair practices act:* RCW 19.90.130.
 - uniform reciprocal enforcement of support act:* Chapter 26.21 RCW.
 - veterans, employment, reemployment rights:* RCW 73.16.061.
 - veterinary practice without license:* RCW 18.92.235.
 - vital statistics:* Chapter 70.58 RCW.
 - wages, payment and collection of:* RCW 49.48.050.
 - Washington animal remedy act:* RCW 15.52.340.
 - Washington commercial feed law:* Chapter 15.53 RCW.
 - Washington fertilizer act:* RCW 15.54.470.
 - Washington pesticide act:* Chapter 15.58 RCW.
 - Washington state agricultural enabling act of 1961:* RCW 15.65.550.
 - Washington state seed law:* Chapter 15.49 RCW.
 - water code:* RCW 90.03.100, 90.03.350.
 - weed districts:* Chapter 17.04 RCW.
 - wharves, eminent domain of county to provide:* RCW 88.24.070.
 - wheat commission act:* RCW 15.63.230.
 - wiping rags regulations:* Chapter 70.72 RCW.
- Fisheries law enforcement, default by prosecuting attorney, attorney general to act:* RCW 75.08.275.
- Gambling activities, as affecting:* Chapter 9.46 RCW.
- Governor may request action by:* RCW 43.06.010(6).
- Justice court districting committee, as member of:* RCW 3.38.010.
- Pawnbroker's records open to inspection by:* RCW 19.60.030.
- Second-hand dealers' records open to inspection by:* RCW 19.60.030.
- Support of dependent children, records available for use in proceedings relating to:* RCW 74.20.280.
- Uniform reciprocal enforcement of support act, prosecuting attorney may enter into agreement where attorney general will carry out duties under:* RCW 74.20.210.
- Vehicle of is emergency vehicle:* RCW 46.04.040.
- Washington habitual traffic offenders act, prosecuting attorney's duties:* Chapter 46.65 RCW.

36.27.005 Defined. Prosecuting attorneys are attorneys authorized by law to appear for and represent the state and the counties thereof in actions and proceedings before the courts and judicial officers. [1963 c 4 § 36.27.005. Prior: 1891 c 55 § 3; RRS § 113.]

36.27.010 Eligibility to office. No person shall be eligible to the office of prosecuting attorney in any county of this state, unless he is a qualified elector

therein, and has been admitted as an attorney and counselor of the courts of this state. [1963 c 4 § 36.27.010. Prior: 1891 c 55 § 4; RRS § 4128. Cf. 1883 p 72 § 7.]

36.27.020 Duties. The prosecuting attorney shall:

(1) Be legal adviser of the board of county commissioners, giving them his written opinion when required by the board or the chairman thereof touching any subject which the board may be called or required to act upon relating to the management of county affairs;

(2) Be legal adviser to all county and precinct officers and school directors in all matters relating to their official business, and when required he shall draw up all instruments of an official nature for the use of said officers;

(3) Appear for and represent the state, county, and all school districts subject to the supervisory control and direction of the attorney general in all criminal and civil proceedings in which the state or his county or any school district in his county may be a party;

(4) Prosecute all criminal and civil actions in which the state or his county may be a party, defend all suits brought against the state or his county, and prosecute actions upon forfeited recognizances and bonds and actions for the recovery of debts, fines, penalties, and forfeitures accruing to the state or his county;

(5) Attend and appear before and give advice to the grand jury when cases are presented to it for consideration and draw all indictments when required by the grand jury;

(6) Institute and prosecute proceedings before magistrates for the arrest of persons charged with or reasonably suspected of felonies when he has information that any such offense has been committed and he shall for that purpose attend when required by them if he is not then in attendance upon the superior court;

(7) Carefully tax all cost bills in criminal cases and take care that no useless witness fees are taxed as part of the costs and that the officers authorized to execute process tax no other or greater fees than the fees allowed by law;

(8) Receive all cost bills in criminal cases before justices of the peace at the trial of which he was not present, before they are lodged with the board of county commissioners for payment, whereupon he may retax the same and he must do so if the board of county commissioners deems any bill exorbitant or improperly taxed;

(9) Present all violations of the election laws which may come to his knowledge to the special consideration of the proper jury;

(10) Examine at least once in each year the public records and books of the auditor, assessor, treasurer, superintendent of schools, and sheriff of his county and report to the board of county commissioners every failure, refusal, omission, or neglect of such officers to keep such records and books as required by law;

(11) Examine once in each year the official bonds of all county and precinct officers and report to the board of county commissioners any defect in the bonds of any such officer;

(12) Make an annual report to the governor as of the 31st of December of each year setting forth the amount

and nature of business transacted by him in that year with such other statements and suggestions as he may deem useful;

(13) Send to the state liquor control board at the end of each year a written report of all prosecutions brought under the state liquor laws in the county during the preceding year, showing in each case, the date of trial, name of accused, nature of charges, disposition of case, and the name of the judge presiding;

(14) Seek to reform and improve the administration of criminal justice and stimulate efforts to remedy inadequacies or injustice in substantive or procedural law. [1975 1st ex.s. c 19 § 1; 1963 c 4 § 36.27.020. Prior: (i) 1911 c 75 § 1; 1891 c 55 § 7; RRS § 116. (ii) 1886 p 65 § 5; 1883 p 73 § 10; Code 1881 § 2171; 1879 p 93 § 6; 1877 p 246 § 6; 1863 p 408 § 4; 1860 p 335 § 3; 1858 p 12 § 4; 1854 p 416 § 4; RRS § 4130. (iii) 1886 p 61 § 7; 1883 p 73 § 12; Code 1881 § 2168; 1879 p 94 § 8; 1877 p 247 § 8; RRS § 4131. (iv) 1886 p 61 § 8; 1883 p 74 § 13; Code 1881 § 2169; 1879 p 94 § 8; 1877 p 247 § 9; RRS § 4132. (v) 1886 p 61 § 9; 1883 p 74 § 14; Code 1881 § 2170; 1879 p 94 § 9; 1877 p 247 § 10; RRS § 4133. (vi) 1886 p 62 § 13; 1883 p 74 § 18; Code 1881 § 2165; 1879 p 95 § 13; 1877 p 248 § 14; 1863 p 409 § 5; 1860 p 334 § 4; 1858 p 12 § 5; 1854 p 417 § 5; RRS § 4134. (vii) Referendum No. 24; 1941 c 191 § 1; 1886 p 63 § 18; 1883 p 76 § 24; Code 1881 § 2146; 1879 p 96 § 18; RRS § 4136. (viii) Code 1881 § 3150; 1866 p 52 § 10; RRS § 4137. (ix) 1933 ex.s. c 62 § 81, part; RRS § 7306–81, part.]

36.27.030 Disability of prosecuting attorney. When from illness or other cause the prosecuting attorney is temporarily unable to perform his duties, the court or judge may appoint some qualified person to discharge the duties of such officer in court until the disability is removed.

When any prosecuting attorney fails, from sickness or other cause, to attend a session of the superior court of his county, or is unable to perform his duties at such session, the court or judge may appoint some qualified person to discharge the duties of such session, and the appointee shall receive a compensation to be fixed by the court, to be deducted from the stated salary of the prosecuting attorney, not exceeding, however, one-fourth of the quarterly salary of the prosecuting attorney: *Provided*, That in counties wherein there is no person qualified for the position of prosecuting attorney, or wherein no qualified person will consent to perform the duties of that office, the judge of the superior court shall appoint some suitable person, a duly admitted and practicing attorney at law and resident of the state to perform the duties of prosecuting attorney for such county, and he shall receive such reasonable compensation for his services as shall be fixed and ordered by the court, to be paid by the county for which the services are performed. [1963 c 4 § 36.27.030. Prior: (i) 1891 c 55 § 5; RRS § 114. (ii) 1893 c 52 § 1; 1886 p 62 § 14; 1883 p 74 § 19; Code 1881 § 2166; 1879 p 95 § 14; 1877 p 248 § 15; 1863 p 409 § 6; 1860 p 335 § 5; 1858 p 13 § 6; 1854 p 417 § 6; RRS § 4135.]

36.27.040 Appointment of deputies—Special and temporary deputies. The prosecuting attorney may appoint one or more deputies who shall have the same power in all respects as their principal. Each appointment shall be in writing, signed by the prosecuting attorney, and filed in the county auditor's office. Each deputy thus appointed shall have the same qualifications required of the prosecuting attorney, except that such deputy need not be a resident of the county in which he serves. The prosecuting attorney may appoint one or more special deputy prosecuting attorneys upon a contract or fee basis whose authority shall be limited to the purposes stated in the writing signed by the prosecuting attorney and filed in the county auditor's office. Such special deputy prosecuting attorney shall be admitted to practice as an attorney before the courts of this state but need not be a resident of the county in which he serves and shall not be under the legal disabilities attendant upon prosecuting attorneys or their deputies except to avoid any conflict of interest with the purpose for which he has been engaged by the prosecuting attorney. The prosecuting attorney shall be responsible for the acts of his deputies and may revoke appointments at will.

Two or more prosecuting attorneys may agree that one or more deputies for any one of them may serve temporarily as deputy for any other of them on terms respecting compensation which are acceptable to said prosecuting attorneys. Any such deputy thus serving shall have the same power in all respects as if he were serving permanently.

The provisions of chapter 39.34 RCW shall not apply to such agreements. [1975 1st ex.s. c 19 § 2; 1963 c 4 § 36.27.040. Prior: 1959 c 30 § 1; 1943 c 35 § 1; 1903 c 7 § 1; 1891 c 55 § 6; 1886 p 63 § 17; 1883 p 76 § 23; Code 1881 § 2142; 1879 p 95 § 16; Rem. Supp. 1943 § 115.]

36.27.045 Employment of legal interns. Notwithstanding any other provision of this chapter, nothing in this chapter shall be deemed to prevent a prosecuting attorney from employing legal interns as otherwise authorized by statute or court rule. [1974 ex.s. c 6 § 1.]

36.27.050 Special emoluments prohibited. No prosecuting attorney shall receive any fee or reward from any person, on behalf of any prosecution, or for any of his official services, except as provided in this title, nor shall he be engaged as attorney or counsel for any party in any action depending upon the same facts involved in any criminal proceeding. [1963 c 4 § 36.27.050. Prior: 1888 p 189 § 1; 1886 p 62 § 12; 1883 p 74 § 17; Code 1881 § 2164; 1879 p 94 § 12; 1877 p 248 § 13; 1863 p 409 § 8; 1860 p 335 § 7; 1858 p 13 § 8; 1854 p 417 § 7; RRS § 4138.]

36.27.060 Private practice prohibited in certain counties—Deputy prosecutors. The prosecuting attorneys and their deputies of class four counties and counties with population larger than class four counties shall serve full time and shall not engage in the private practice of law: *Provided*, That deputy prosecuting attorneys in counties of the second class, third class, and fourth

class may serve part time and engage in the private practice of law if the board of county commissioners so provides. [1973 1st ex.s. c 86 § 1; 1971 ex.s. c 237 § 2; 1969 ex.s. c 226 § 2; 1963 c 4 § 36.27.060. Prior: 1941 c 46 § 2; Rem. Supp. 1941 § 4139-1.]

Effective date—1973 1st ex.s. c 86: "This 1973 amendatory act shall take effect on the second Monday in the month of January, 1975." [1973 1st ex.s. c 86 § 2.]

Severability—Effective date—1971 ex.s. c 237: See notes following RCW 36.17.020.

36.27.070 Office at county seat. The prosecuting attorney of each county in the state of Washington must keep an office at the county seat of the county of which he is prosecuting attorney. [1963 c 4 § 36.27.070. Prior: 1909 c 122 § 1; RRS § 4139.]

Chapter 36.28 COUNTY SHERIFF

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Support of dependent children, sheriff to charge no fees in connection with: RCW 74.20.300.

Surety, sheriff ineligible as: RCW 19.72.020.

Vehicle of as emergency vehicle: RCW 46.04.040.

36.28.010 General duties. The sheriff is the chief executive officer and conservator of the peace of the county. In the execution of his office, he and his deputies:

(1) Shall arrest and commit to prison all persons who break the peace, or attempt to break it, and all persons guilty of public offenses;

(2) Shall defend the county against those who, by riot or otherwise, endanger the public peace or safety;

(3) Shall execute the process and orders of the courts of justice or judicial officers, when delivered for that purpose, according to law;

(4) Shall execute all warrants delivered for that purpose by other public officers, according to the provisions of particular statutes;

(5) Shall attend the sessions of the courts of record held within the county, and obey their lawful orders or directions;

(6) Shall keep and preserve the peace in their respective counties, and quiet and suppress all affrays, riots, unlawful assemblies and insurrections, for which purpose, and for the service of process in civil or criminal cases, and in apprehending or securing any person for felony or breach of the peace, they may call to their aid such persons, or power of their county as they may deem necessary. [1965 c 92 § 1; 1963 c 4 § 36.28.010. Prior: (i) 1891 c 45 § 1; RRS § 4157. (ii) Code 1881 § 2769; 1863 p 557 § 4; 1854 p 434 § 4; RRS § 4168.]

36.28.011 Duty to make complaint. In addition to the duties contained in RCW 36.28.010, it shall be the duty of all sheriffs to make complaint of all violations of the criminal law, which shall come to their knowledge, within their respective jurisdictions. [1963 c 4 § 36.28.011. Prior: 1955 c 10 § 1. Cf. Code 1881 § 2801, part; 1869 p 264 § 311, part; RRS § 4173, part.]

36.28.020 Powers of deputies, regular and special. Every deputy sheriff shall possess all the power, and may perform any of the duties, prescribed by law to be performed by the sheriff, and shall serve or execute, according to law, all process, writs, precepts, and orders, issued by lawful authority.

Persons may also be deputed by the sheriff in writing to do particular acts; including the service of process in civil or criminal cases, and the sheriff shall be responsible on his official bond for their default or misconduct. [1963 c 4 § 36.28.020. Prior: 1961 c 35 § 2; prior: (i) Code 1881 § 2767, part; 1871 p 110 § 1, part; 1863 p 557 § 2, part; 1854 p 434 § 2, part; RRS § 4160, part. (ii) 1886 p 174 § 1; Code 1881 § 2768; 1863 p 557 § 3; 1854 p 434 § 3; RRS § 4167.]

36.28.030 New or additional bond of sheriff. Whenever the company acting as surety on the official bond of a sheriff is disqualified, insolvent, or the penalty of the bond becomes insufficient on account of recovery had thereon, or otherwise, the sheriff shall submit a new or additional bond for approval to the board of county commissioners, if in session, or, if not in session, for the approval of the chairman of such board, and file the same, when approved, in the office of the county clerk of his county, and such new or additional bond shall be in a penal sum sufficient in amount to equal the sum specified in the original bond when added to the penalty of any existing bond, so that under one or more bonds there shall always be an enforceable obligation of the surety on the official bond or bonds of the sheriff in a penal sum of not less than the amount of the bond as originally approved. [1963 c 4 § 36.28.030. Prior: 1943 c 139 § 2; Rem. Supp. 1943 § 4155-1.]

36.28.040 May demand fees in advance. No sheriff, deputy sheriff, or coroner shall be liable for any damages for neglecting or refusing to serve any civil process unless his legal fees are first tendered him. [1963 c 4 § 36.28.040. Prior: 1941 c 237 § 1, part; 1935 c 33 § 1, part; Code 1881 § 2772, part; 1863 p 558 § 7, part; 1854 p 434 § 7, part; Rem. Supp. 1941 § 4172, part.]

36.28.050 May demand indemnifying bond. If any property levied upon by virtue of any writ of attachment or execution or other order issued to the sheriff out of any court in this state is claimed by any person other than the defendant, and such person or his agent or attorney makes affidavit of his title thereto or his right to possession thereof, stating the value thereof and the basis of such right or title, the sheriff may release such levy, unless the plaintiff on demand indemnifies the sheriff against such claim by an undertaking executed by a sufficient surety.

No claim to such property by any person other than the defendant shall be valid against the sheriff, unless the supporting affidavit is made. Notwithstanding receipt of a proper claim the sheriff shall retain such property under levy a reasonable time to demand such indemnity.

Any sheriff, or other levying officer, may require an indemnifying bond of the plaintiff in all cases where he has to take possession of personal property. [1963 c 4 § 36.28.050. Prior: 1941 c 237 § 1, part; 1935 c 33 § 1, part; Code 1881 § 2772, part; 1863 p 558 § 7, part; 1854 p 434 § 7, part; Rem. Supp. 1941 § 4172, part.]

36.28.060 Duplicate receipts. The sheriff shall make duplicate receipts for all payments for his services specifying the particular items thereof, at the time of payment, whether paid by virtue of the laws of this state or of the United States. Such duplicate receipts shall be numbered consecutively for each month commencing with number one. One of such receipts shall have written or printed upon it the word "original"; and the other shall have written or printed upon it the word "duplicate." [1963 c 4 § 36.28.060. Prior: (i) 1909 c 105 § 1; RRS § 4161. (ii) 1909 c 105 § 2; RRS § 4162.]

36.28.070 Duplicate to payer. At the time of payment of any fees, the sheriff shall deliver to the person making payment, either personally or by mail, the copy of the receipt designated "duplicate." [1963 c 4 § 36.28.070. Prior: 1909 c 105 § 3; RRS § 4163.]

36.28.080 Original to be filed. The receipts designated "original" for each month shall be attached to the verified statement of fees for the corresponding month and the sheriff shall file with the county treasurer of his county all original receipts for each month with such verified statement. A sheriff shall not receive his salary for the preceding month until the provisions of this section and RCW 36.28.060 and 36.28.070 have been complied with. [1963 c 4 § 36.28.080. Prior: (i) 1909 c 105 § 4; RRS § 4164. (ii) 1909 c 105 § 5; RRS § 4165.]

36.28.090 Service of process when sheriff disqualified. When there is no sheriff of a county, or he is disqualified from any cause from discharging any particular duty, it shall be lawful for the officer or person commanding or desiring the discharge of that duty to appoint some suitable person, a citizen of the county, to execute the same: *Provided*, That final process shall in no case be executed by any person other than the legally authorized officer; or in case he is disqualified, some suitable person appointed by the court, or judge thereof, out of which the process issues, who shall make such appointment in writing; and before such appointment shall take effect, the person appointed shall give security to the party interested for the faithful performance of his duties, which bond of suretyship shall be in writing, approved by the court or judge appointing him, and be placed on file with the papers in the case. [1963 c 4 § 36.28.090. Prior: Code 1881 § 745; 1869 p 172 § 687; RRS § 4170.]

36.28.100 Employment of prisoners. The sheriff or director of public safety shall employ all able bodied persons sentenced to imprisonment in the county jail in such manner and at such places within the county as may be directed by the legislative authority of the county. [1973 1st ex.s. c 154 § 54; 1963 c 4 § 36.28.100. Prior: 1909 c 249 § 27; RRS § 2279.]

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

36.28.110 Sheriff not to practice law. No sheriff or deputy sheriff shall appear or practice as attorney in any

court, except in their own defense. [1963 c 4 § 36.28-.110. Prior: 1891 c 45 § 4, part; Code 1881 § 2770, part; 1863 p 558 § 5, part; 1854 p 434 § 5, part; RRS § 4171, part.]

36.28.120 Duty of retiring sheriffs, constables and coroners—Successors' duties. All sheriffs, constables and coroners, upon the completion of their term of office and the qualification of their successors, shall deliver and turn over to their successors all writs and other processes in their possession not wholly executed, and all personal property in their possession or under their control held under such writs or processes, and take receipts therefor in duplicate, one of which shall be filed in the office from which such writ or process issued as a paper in the action, which receipt shall be good and sufficient discharge to such officer of and from further charge of the execution of such writs and processes; and they shall also deliver to their successors all official papers and property in their possession or under their control. The successors shall execute or complete the execution of all such writs and processes, and finish and complete all business turned over to them. [1963 c 4 § 36.28.120. Prior: 1895 c 17 § 1; RRS § 4174.]

36.28.130 Actions by successors and by officials after expiration of term of office validated. In all cases where any sheriff, constable or coroner has executed any writ or other process delivered to him by his predecessor, or has completed any business commenced by his predecessor under any writ or process, and has completed any other business commenced by his predecessor, and in all cases where any sheriff, constable or coroner has executed any writ or other process, or completed any business connected with his office after the expiration of his term of office, which writ or process he had commenced to execute, or which business he had commenced to perform, prior to the expiration of his term of office, such action shall be valid and effectual for all purposes. [1963 c 4 § 36.28.130. Prior: 1895 c 17 § 2; RRS § 4175.]

36.28.140 Penalty for violation of RCW 36.28.060 through 36.28.080. Any sheriff violating any of the provisions of RCW 36.28.060, 36.28.070 or 36.28.080, or failing to perform any of the duties required thereby, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than ten dollars nor more than fifty dollars for each offense. [1963 c 4 § 36.28.140. Prior: 1909 c 105 § 6; RRS § 4166.]

36.28.150 Liability for fault or misconduct. Whenever any sheriff neglects to make due return of any writ or other process delivered to him to be executed, or is guilty of any default or misconduct in relation thereto, he shall be liable to fine or attachment, or both, at the discretion of the court, subject to appeal, such fine, however, not to exceed two hundred dollars; and also to an action for damages to the party aggrieved. [1963 c 4 § 36.28.150. Prior: Code 1881 § 2771; 1863 p 558 § 6; 1854 p 434 § 6; RRS § 4169.]

36.28.160 Office at county seat. The sheriff must keep his office at the county seat of the county of which he is sheriff. [1963 c 4 § 36.28.160. Prior: 1891 c 45 § 2; RRS § 4158. SLC-RO-14.]

36.28.170 Standard uniform for sheriffs and deputies. The executive secretary of the Washington state association of elected county officials, upon written approval of a majority of the sheriffs in the state, shall file with the secretary of state a description of a standard uniform which may be withdrawn or modified by re-filing in the same manner as originally filed. A uniform of the description so filed shall thereafter be reserved exclusively for the use of sheriffs and their deputies: *Provided*, That the filing of a standard uniform description shall not make mandatory the adoption of said uniform by any county sheriff or his deputies. [1963 c 50 § 1.]

36.28.180 Uniform allowance. A county may from available funds provide for a uniform allowance for the sheriff and his deputies. [1963 c 50 § 2.]

36.28.190 City contracts to obtain sheriff's office law enforcement services. See RCW 41.14.250-41.14.280.

Chapter 36.28A ASSOCIATION OF SHERIFFS AND POLICE CHIEFS

Sections

36.28A.010 Declarations.

36.28A.010 Declarations. The Washington association of sheriffs and police chiefs is hereby declared to be a combination of units of local government: *Provided*, That such association shall not be considered an "employer" within the meaning of RCW 41.26.030(2) or 41.40.010(4): *Provided further*, That no compensation received as an employee of the association shall be considered salary for purposes of the provisions of any retirement system created pursuant to the general laws of this state: *Provided further*, That such association shall not qualify for inclusion under the unallocated two mills of the property tax of any political subdivision: *Provided further*, That the association shall not have the authority to assess any excess levy or bond measure. [1975 1st ex.s. c 172 § 1.]

Chapter 36.29 COUNTY TREASURER

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- commercial waterway districts: Chapter 91.06 RCW.*
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- constables (cities over 5,000), remittance of fines and fees: Chapter 3.16 RCW.*
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- diking and drainage, intercounty districts: Chapter 85.24 RCW.*
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water districts

generally: Title 57 RCW.

local improvement districts: Chapter 57.16 RCW.

local improvement guaranty fund: RCW 57.20.030.

maintenance fund, special funds: RCW 57.20.140.

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Duties under Washington Clean Air Act: RCW 70.94.094.

Flood control districts (1937 act), treasurer as ex officio district treasurer: RCW 86.09.313.

Intercounty weed district, treasurer as ex officio treasurer of: RCW 17.06.060.

Irrigation districts

generally, treasurer as ex officio treasurer: RCW 87.03.440.

refunding bonds (1929 act), payable at office of: RCW 87.22.165.

Misappropriation by: RCW 42.20.090.

Public depositaries—Deposit and investment of public funds: Chapter 39.58 RCW.

Public utility districts, treasurer as ex officio treasurer of: RCW 54.24.010.

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Recording of town plats, proceedings for violations brought in name of treasurer: RCW 58.08.035.

School districts, treasurer as ex officio treasurer of: RCW 28A.48.100.

Sewer district revenue bonds to be payable at treasurer's office: RCW 56.16.060, 56.16.070, 56.16.130.

Taxes, property, penalty for nonperformance of duty: RCW 84.09.040.

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Weed district, treasurer as ex officio treasurer of: RCW 17.04.250.

36.29.010 General duties. The county treasurer:

(1) Shall receive all money due the county and disburse it on warrants issued and attested by the county auditor;

(2) Shall issue a receipt in duplicate for all money received other than taxes; he shall deliver immediately to the person making the payment the original receipt and the duplicate he shall file immediately in the office of the county auditor;

(3) Shall write on the face of all warrants when paid, the date of redemption, and his signature;

(4) Shall indorse on the face of all warrants presented for which there are not sufficient funds for payment, "not paid for want of funds" and the date of such indorsement over his signature;

(5) Shall give notice by publication in a legal newspaper published or circulated in the county when there are funds to redeem outstanding warrants or by posting at three public places in the county if there is no such newspaper;

(6) Shall pay interest at the legal rate upon all warrants from the date of the indorsement "not paid for

want of funds" to the date of publishing or posting the notice of redemption;

(7) Shall arrange and keep his books so that the amount received and paid out on account of separate funds or specific appropriations shall be exhibited in separate accounts, as well as the whole receipts and expenditures by one general account;

(8) Shall keep his books, accounts, and vouchers open at all times to the inspection and examination of the board of county commissioners and the grand jury;

(9) Shall make a verified statement to the board of county commissioners at its July session showing the whole amount of his collections during the preceding year (stating particularly the source of each portion of revenue) from all sources paid into the county treasury, the funds among which the same was distributed, together with the amount of each fund, the total amount of warrants certified to him by the county auditor, the total amount of warrants paid by him during the same time, the total amount of warrants remaining unpaid on the thirtieth day of June immediately preceding, the funds on which the same are drawn, and generally make a full and specific showing of the financial condition of the county;

(10) Shall make a complete settlement with the board of county commissioners, as required by law and shall, at the expiration of his term of office, deliver to his successor all public money, books, and papers in his possession. In the event of his death before the expiration of his term, his legal representatives must deliver up all official money, books, accounts, papers, and documents which come into their possession. [1963 c 4 § 36.29.010. Prior: (i) 1893 c 104 § 1; Code 1881 § 2740; 1863 p 553 § 3; 1854 p 427 § 3; RRS § 4109. (ii) Code 1881 § 2742; 1863 p 553 § 5; 1854 p 427 § 5; RRS § 4110. (iii) Code 1881 § 2743; 1863 p 553 § 6; 1854 p 427 § 6; RRS § 4111. (iv) 1895 c 73 § 4; Code 1881 § 2744; 1863 p 553 § 7; 1854 p 427 § 7; RRS § 4113. (v) Code 1881 § 2745; 1863 p 553 § 8; RRS § 4114. (vi) 1893 c 104 § 3; Code 1881 § 2748; 1863 p 554 § 11; 1854 p 428 § 11; RRS § 4120. (vii) Code 1881 § 2750; 1863 p 554 § 13; 1854 p 428 § 13; RRS § 4121. (viii) 1895 c 73 § 3; RRS § 4122.]

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 own possession until disbursed according to law. He shall not place the same in the possession of any person to be used for any purpose; nor shall he 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 banks, trust companies and mutual savings banks which are doing business in this state, up to the amount of insurance afforded such accounts by

the federal deposit insurance corporation, or in accounts in savings and loan associations which are doing business in this state, up to the amount of insurance afforded such accounts by the federal savings and loan insurance corporation, 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 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 193, Laws of 1969 ex. sess.: *Provided*, Five percent of the interest or earnings, with an annual minimum of ten dollars or 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.

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 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 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 193, Laws of 1969 ex. sess.: *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. [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.]

***Reviser's note:** "chapter 193, Laws of 1969 ex. sess." consists of chapter 39.58 RCW, the amendments by 1969 ex.s. c 193 to RCW 35.38.010-35.38.040, 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 to the repeal of RCW 35.38.070-35.38.110, 36.48.030, 36.48.100-36.48.150, 43.85.050, and 43.85.080-43.85.120.

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.

Mutual savings banks—Deposit or investment of public funds: RCW 32.12.100.

36.29.025 Official seal. The county treasurer in each of the organized counties of the state of Washington, shall be by his county provided with a seal of office for the authentication of all tax deeds, papers, writing and documents required by law to be certified or authenticated by him. Such seal shall bear the device of cross-keys and the words: Official Seal Treasurer ----- County, Washington; and an imprint of such seal, together with the certificate of the county treasurer that such seal has been regularly adopted, shall be filed in the office of the county auditor of such county. [1963 c 4 § 36.29.025. Prior: 1903 c 15 § 1; RRS § 4125.]

36.29.030 Order of redemption of warrants. All warrants drawn on the funds of the county shall be redeemed by the treasurer in the order of their issuance. [1963 c 4 § 36.29.030. Prior: 1893 c 104 § 2; 1886 p 162 § 1; Code 1881 § 2747; 1863 p 554 § 10; 1854 p 428 § 10; RRS § 4115.]

36.29.040 Interest on unpaid warrants. All county, school, city and town warrants, and taxing district warrants when not otherwise provided for by law, shall be paid according to their number, date and issue, and when not paid upon presentation shall draw interest from and after their presentation to the proper treasurers. No compound interest shall be paid directly or indirectly on any such warrants. [1963 c 4 § 36.29.040. Prior: 1893 c 48 § 1, part; RRS § 4116, part.]

36.29.050 Interest to be entered on warrant register. When the county treasurer redeems any warrant on which interest is due, he shall enter on his warrant register account the amount of interest paid, distinct from the principal. [1969 ex.s. c 48 § 1; 1963 c 4 § 36.29.050. Prior: Code 1881 § 2746; 1863 p 554 § 9; 1854 p 427 § 9; RRS § 4117.]

36.29.060 Warrant calls. Whenever the county treasurer has in his hands the sum of five hundred dollars belonging to any fund upon which warrants are outstanding, he shall make a call for such warrants to that amount in the order of their issue, and he shall cause such call to be published in some newspaper published in the county in the first issue of such newspaper after such sum has been accumulated, and if there is no such newspaper, the call shall be posted in three conspicuous places in the county. The call shall describe by number the warrants called, and specify the funds upon which they were drawn: *Provided*, That the board of county commissioners may prescribe a less sum than five hundred dollars, upon the accumulation of which the call

shall be made as to any particular fund: *Provided further*, That if the warrant longest outstanding on any fund exceeds the sum of five hundred dollars, or exceeds the sum fixed by the board of county commissioners, no call need be made for warrants on such fund until the amount due on such warrant has accumulated. No more than two calls for the redemption of warrants shall be made by the treasurer in any month. The treasurer shall pay on demand, in the order of their issue, any warrants when there shall be in the treasury sufficient funds applicable to such payment. [1963 c 4 § 36.29.060. Prior: 1895 c 152 § 1, part; RRS § 4118, part.]

36.29.070 Penalty for failure to call. Any treasurer who knowingly fails to call for or pay any warrant in accordance with the provisions of RCW 36.29.060 shall be deemed guilty of a misdemeanor, and on conviction thereof, be fined not less than twenty-five dollars nor more than five hundred dollars, and such conviction shall be sufficient cause for removal from office. [1963 c 4 § 36.29.070. Prior: 1895 c 152 § 2, part; RRS § 4119, part.]

36.29.080 Quarterly settlement with commissioners. The county treasurer shall attend with his books and vouchers before the board of county commissioners at its regular quarterly sessions in January, April, July and October and settle his accounts before the board.

For all money received by him, he shall file a certified statement, showing under separate headings amounts received from each and every source.

For all money disbursed by him since the date of the last preceding settlement, the board shall allow the treasurer the following credits:

(1) The amount of principal and interest paid on account of redemption of warrants issued upon the several funds of the county,

(2) The amount paid the state treasurer since the last preceding settlement, as per vouchers,

(3) The amount paid on account of redemption of warrants issued by the several school districts of the county,

(4) All claims for credits or disbursements not above specified.

At such settlement he shall also present, together with the vouchers and claims for credits, a certified list of such vouchers and claims arranged numerically under the separate headings of the funds from which they have been paid or on which the claims have accrued, or are made, which list must be checked, compared and made to correspond with the treasurer's books and vouchers by the board of county commissioners and the auditor at the time of the settlement.

On completion of such comparison, the list, when found to be correct, shall be certified to by the chairman of the board and attested by the auditor, and shall, together with the vouchers and claims presented, be filed in the office of the auditor, and the county treasurer shall be given credit therefor in the record of proceedings of the board. The record shall show the amount credited on account of each fund, and whether for principal or interest. The auditor shall thereupon deliver to

the county treasurer a transcript of the order and forthwith proceed to credit such officer with the sums therein specified. [1963 c 4 § 36.29.080. Prior: 1893 c 104 § 4; 1886 p 52 § 21; Code 1881 § 2947; RRS § 4123.]

36.29.090 Suspension of treasurer. Whenever an action based upon official misconduct is commenced against any county treasurer the county commissioners may suspend him from office until such suit is determined, and may appoint some person to fill the vacancy. [1963 c 4 § 36.29.090. Prior: 1895 c 73 § 2; Code 1881 § 2749; 1863 p 554 § 12; 1854 p 428 § 12; RRS § 4124.]

36.29.100 Ex officio collector of first class city taxes. The county treasurer of each county in which there is a city of the first class is ex officio collector of city taxes of such city, and before entering upon the duties of his office he shall execute in favor of the city and file with the clerk thereof a good and sufficient bond, the penal sum to be fixed by the city council, such bond to be approved by the mayor of such city or other authority thereof by whom the bond of the city treasurer is required to be approved. All special assessments and special taxation for local improvements assessed on property benefited shall be collected by the city treasurer. [1963 c 4 § 36.29.100. Prior: 1895 c 160 § 1; 1893 c 71 § 4; RRS § 11321.]

36.29.110 To account monthly for city taxes. All city taxes collected shall belong to the city and the county treasurer shall, on or before the tenth day of each month, turn over all such taxes so collected for the previous month to the city treasurer, and take a receipt therefor in duplicate, and at the same time he shall certify to the city comptroller the amounts of taxes so collected and turn over and deliver with such certificate one copy of the receipt of the city treasurer therefor. The county treasurer shall also render to the city comptroller, on or before the tenth day of each month, between the first day of January and the first day of May a statement of all taxes collected for such city during the preceding month. [1963 c 4 § 36.29.110. Prior: 1905 c 157 § 1; 1895 c 160 § 2; 1893 c 71 § 5; RRS § 11322.]

36.29.120 Ex officio collector of other city taxes. For the purpose of collection of all taxes levied for cities and towns of other than the first class, the county treasurer of the county wherein such city or town is situated shall be ex officio tax collector. [1963 c 4 § 36.29.120. Prior: 1893 c 72 § 3; RRS § 11330.]

36.29.130 Duty to collect taxes. The county treasurer, upon receipt of the tax roll, shall proceed to collect and receipt for the municipal taxes extended thereon at the same time and in the same manner as he proceeds in the collection of other taxes on such roll. [1963 c 4 § 36.29.130. Prior: 1893 c 72 § 7; RRS § 11334.]

36.29.140 Monthly return. The county treasurer shall make a certified return at the end of each month to the city or town treasurer of the amounts collected by

him on account of such taxes from the time he commences the collection thereof until the whole thereof collected are paid over. [1963 c 4 § 36.29.140. Prior: 1893 c 72 § 8; RRS § 11335.]

36.29.150 First class city to pay clerk hire. Each city of the first class shall pay to the county one thousand dollars per annum for clerk hire. [1963 c 4 § 36.29.150. Prior: 1895 c 160 § 4; 1893 c 71 § 10; RRS § 11327.]

36.29.160 Duty to segregate certified assessments and charges in public utility, sewer, water, and county road improvement districts. The county treasurer shall make segregation, collect, and receive from any owner or owners of any subdivision or portion of any lot, tract or parcel of land upon which assessments or charges have been made or may be made hereafter in public utility districts, sewer districts, water districts, or county road improvement districts, under the terms of Title 54 RCW, Title 56 RCW, Title 57 RCW, or chapter 36.88 RCW, such portion of the assessments or charges levied or to be levied against such lot, tract or parcel of land in payment of such assessment or charges as the board of commissioners of the public utility district, sewer district, the water district commissioners or the board of county commissioners, respectively, shall certify to be chargeable to such subdivision, which certificate shall state that such property as segregated is sufficient security for the assessment or charges. Upon making collection upon any such subdivision the county treasurer shall note such payment upon his records and give receipt therefor. [1963 c 4 § 36.29.160. Prior: 1959 c 142 § 2; 1953 c 210 § 1.]

36.29.170 Office at county seat. The county treasurer shall keep his office at the seat of justice of his county, and shall keep the same open for transaction of business during business hours; and he and his deputy are authorized to administer all oaths necessary in the discharge of the duties of his office. [1963 c 4 § 36.29.170. Prior: Code 1881 § 2742; 1863 p 553 § 5; 1854 p 427 § 5; RRS § 4110.]

36.29.180 Fees for handling, etc., funds of political subdivisions pursuant to assessment roll—Irrigation districts excepted. The county treasurer, in all instances where required by law to handle, collect, disburse and account for the funds collected pursuant to the assessment roll of any political subdivision within the county, may charge and collect a fee for his services according to but not to exceed the following schedule:

For up to a five year term assessment roll, a fee of two dollars per account;

For a six to ten year term assessment roll, a fee of three dollars per account;

For an eleven to fifteen year term assessment roll, a fee of four dollars per account;

For an assessment roll of over fifteen years, a fee of five dollars per account.

Such fees shall be a charge against the district, shall be included as a part of the cost of the improvement, and shall be credited to the county current expense fund

by the county treasurer from moneys received following publication of the assessment roll. The provisions of this section shall not apply to irrigation district assessments. [1963 c 4 § 36.29.180. Prior: 1961 c 270 § 1.]

Chapter 36.32 COUNTY COMMISSIONERS

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 - bailiffs of the superior court: RCW 2.32.360.*
 - billiard table, pigeon-hole table: RCW 67.14.050.*
 - bonds of public officers: Chapter 42.08 RCW.*
 - bowling alleys: RCW 67.14.050.*
 - cemetery districts: Chapter 68.16 RCW.*
 - cities and towns*
 - advancement of classification: Chapter 35.06 RCW.*
 - agreements on planning, establishing, construction, etc., of streets: Chapter 35.77 RCW.*
 - annexation of unincorporated areas: Chapter 35.13 RCW.*
 - county aid on street construction, etc.: RCW 47.24.050.*
 - disincorporation of: Chapter 35.07 RCW.*
 - erection of drawbridges in: Chapter 35.74 RCW.*
 - general indebtedness bonds, county tax levy to pay: RCW 35.37.120.*
 - incorporation of intercounty areas as: Chapter 35.04 RCW.*
 - incorporation proceedings: Chapter 35.02 RCW.*
 - incorporation proceedings for first class city: Chapter 35.03 RCW.*
 - L.I.D. assessments of county property: RCW 35.44.140, 35.49.070.*
 - civil service for sheriff's office: Chapter 41.14 RCW.*
 - clerks of justices of peace: RCW 3.12.090.*
 - combined city-county health department: Chapter 70.08 RCW.*
 - commercial waterway districts: Chapter 91.04 RCW.*
 - constables' bond: Chapters 3.08, 3.12 RCW.*
 - county airport districts: Chapter 14.08 RCW.*
 - county and city tuberculosis hospitals: Chapter 70.30 RCW.*
 - county circulating libraries: Chapter 27.16 RCW.*
 - county flood control: Chapter 86.12 RCW.*
 - county held tax-title property: Chapter 84.64 RCW.*
 - county road fund, illegal use of: RCW 47.08.100.*
 - penalty: RCW 47.08.110.*
 - county road projects if let to highway commission where matching funds: RCW 47.08.080.*
 - county superintendent of schools: Chapter 28A.21 RCW.*
 - county teachers institute: Chapter 28A.21 RCW.*
 - county tuberculosis funds: Chapter 70.32 RCW.*
 - court commissioners salary: RCW 2.24.030.*
 - dancing, dance halls, license to conduct: Chapter 67.12 RCW.*
 - deaf, mute or blind youth, schooling of: Chapter 72.40 RCW.*
 - devices to protect fish in lakes: RCW 90.24.050.*
 - diking and drainage intercounty districts: Chapter 85.24 RCW.*
 - diking districts: Chapter 85.05 RCW.*
 - reorganization of (1917 act): Chapter 85.20 RCW.*
 - reorganization of (1933 act): Chapter 85.22 RCW.*
 - diking, drainage and sewerage improvement districts: Chapter 85.08 RCW.*
 - federal aid to: Chapter 85.12 RCW.*
 - maintenance costs and levies: Chapter 85.16 RCW.*
 - refunding bonds: Chapter 85.09 RCW.*
 - diking, drainage district benefits to roads, how paid: RCW 85.07-.040, 85.07.050.*
 - diseased animals: RCW 16.36.070.*
 - drainage districts: Chapter 85.06 RCW.*
 - reorganization of (1917 act): Chapter 85.20 RCW.*
 - reorganization of (1933 act): Chapter 85.22 RCW.*
 - drawbridges, municipal: RCW 35.74.020, 35.74.030.*
 - elections*
 - creating new precincts: RCW 29.04.040, 29.04.050.*
 - precinct officers: Chapter 29.45 RCW.*
 - special: RCW 29.13.010.*
 - voting machines: Chapter 29.33 RCW.*
 - electric franchises and rights of way: RCW 80.32.010.*
 - emergency services: Chapter 38.52 RCW.*
 - eminent domain by counties: Chapter 8.08 RCW.*
 - eminent domain by county, wharves for: RCW 88.24.070.*
 - federal property, purchase of: Chapter 39.32 RCW.*
 - federal tax lien index: RCW 60.68.020.*
 - ferry system tariffs and charges, review committee: RCW 47.60.310.*
 - fire protection district commissioner vacancy: RCW 52.12.050.*
 - fire protection districts: Chapters 52.04, 52.08, 52.12, 52.16 RCW.*
 - flood control by counties jointly: Chapter 86.13 RCW.*
 - flood control districts (1937 act): Chapter 86.09 RCW.*
 - flood control zone districts: Chapter 86.15 RCW.*
 - funding indebtedness of counties: Chapter 39.52 RCW.*
 - game, use of state lands for game purposes: RCW 77.12.360-77.12.390.*
 - health districts: Chapter 70.46 RCW.*
 - hospital districts: Chapter 70.44 RCW.*
 - house of detention, truant school: RCW 13.04.135, Chapter 13.16 RCW.*
 - housing authority act: Chapter 35.82 RCW.*
 - housing projects, cooperation: Chapter 35.83 RCW.*
 - human remains: Chapter 68.08 RCW.*
 - industrial development districts: Chapter 53.25 RCW.*
 - infected horticultural premises: RCW 15.04.060.*
 - intercounty rural library districts: Chapter 27.12 RCW.*
 - intercounty weed districts: Chapter 17.06 RCW.*
 - internal revenue taxes, lien for: RCW 60.68.020.*
 - irrigation and rehabilitation district rules and regulations: RCW 87.84.090.*
 - irrigation districts*
 - director divisions: Chapter 87.04 RCW.*
 - dissolution of districts with bonds: Chapter 87.53 RCW.*
 - generally: Chapter 87.03 RCW.*
 - joint control of: Chapter 87.80 RCW.*
 - merger with drainage, joint drainage or consolidated drainage improvement district: RCW 87.03.720-87.03.745.*
 - joint aid river and harbor improvements: RCW 88.32.230-88.32.235.*
 - justice court clerks, assistants: Chapter 3.54 RCW.*
 - justice court commissioners: RCW 3.42.040.*
 - justice court facilities: RCW 3.58.050.*
 - justice courts and other inferior courts, 1961 act: Chapters 3.30, 3.34, 3.38, 3.42, 3.46, 3.50, 3.54, 3.58, 3.62, 3.66, 3.70, 3.74 RCW.*
 - justices of the peace: Chapters 3.04, 3.12, 3.14, and 3.16 RCW.*
 - juvenile court law: Chapter 13.04 RCW.*
 - legal aid (class AA, A and first class counties): Chapter 2.50 RCW.*
 - liquor*

- retail license: RCW 67.14.040.
 sale or other disposition of: RCW 67.14.020.
 wholesale license: RCW 67.14.050.
 medical care by state, in county hospitals: Chapter 74.09 RCW.
 metropolitan municipal corporations: Chapter 35.58 RCW.
 mineral and petroleum leases on county lands: Chapter 78.16 RCW.
 mines, abandoned mining shafts and excavations: Chapter 78.12 RCW.
 mosquito control districts: Chapter 17.28 RCW.
 motor vehicle maximum speed limits outside cities and towns: RCW 46.61.400–46.61.425.
 night court, appointment of justice of peace for: RCW 3.24.020.
 orphan, homeless or neglected children, surrender of to benevolent society: Chapter 26.37 RCW.
 parks, bathing beaches, public camps, acquisition and operation of: Chapter 67.20 RCW.
 pest districts: Chapter 17.12 RCW.
 planning commission: Chapter 35.63 RCW.
 plats, petitions to change: Chapter 58.12 RCW.
 port districts
 annexation of land to: Chapter 53.04 RCW.
 commissioner elections: Chapter 53.12 RCW.
 consolidation of: Chapter 53.46 RCW.
 formation of: Chapter 53.04 RCW.
 public cemetery and morgue: RCW 68.12.010, 68.12.020.
 public health funds: RCW 70.12.010, 70.12.030.
 public lands
 rights of way over for roads, county wharves: RCW 79.01.340.
 tide and shorelands, petition for replat: RCW 79.01.456.
 public utility districts: Chapters 54.08, 54.40 RCW.
 privilege tax: Chapter 54.28 RCW.
 public waterway districts: Chapter 91.08 RCW.
 railroad crossing signals, warning devices: RCW 81.53.261–81.53.281.
 railroad grade crossings: Chapter 81.53 RCW.
 reclamation districts (1,000,000) acres: Chapter 89.30 RCW.
 reforestation: Chapter 76.12 RCW.
 county exchange of land to block up holdings: RCW 76.12.050–76.12.060.
 reforestation or selectively harvested forest lands: Chapter 84.28 RCW.
 right to back and hold waters over county roads: RCW 90.28.010, 90.28.020.
 river and harbor improvement districts: Chapter 88.32 RCW.
 river and harbor improvements by counties jointly: RCW 88.32-.180–88.32.220.
 roads, closure of: Chapter 47.48 RCW.
 roads and bridges, limited access facilities: Chapter 47.52 RCW.
 rodent control: Chapter 17.16 RCW.
 rural county library districts: Chapter 27.12 RCW.
 rural pool halls, billiard halls and bowling alleys, licensing of: Chapter 67.12 RCW.
 school district organization: Chapter 28A.57 RCW.
 school districts
 penalties relating to: Chapter 28A.87 RCW.
 second and third class, expenditures: Chapter 28A.60 RCW.
 validation of indebtedness: Chapter 28A.52 RCW.
 school funds: Chapter 28A.44 RCW.
 section and corner lines, establishment of: Chapter 58.04 RCW.
 sewer districts
 annexation of territory to: Chapter 56.24 RCW.
 generally: Title 56 RCW.
 withdrawing territory from: RCW 56.28.010.
 special districts in class AA and class A counties, disincorporation of: Chapter 57.90 RCW.
 state forestry board, grants of county lands to for offices, warehouses, etc.: RCW 76.12.040–76.12.045.
 state highways, acquisition of county lands for: RCW 47.12.040.
 stock restricted areas: Chapter 16.24 RCW.
 street railways: Chapter 81.64 RCW.
 superior court special sessions: RCW 2.08.140, 2.08.150.
 taxes, excise tax on real estate sales: Chapter 28A.45 RCW.
 property
 certificates of delinquency: Chapter 84.64 RCW.
 collection of: Chapter 84.56 RCW.
 levy of: Chapter 84.52 RCW.
 listing of: Chapter 84.40 RCW.
 reassessment procedure: Chapter 84.24 RCW.
 reforestation lands: Chapter 84.28 RCW.
 revaluation: Chapter 84.41 RCW.
 temporary gates across highways: RCW 16.60.080.
 temporary quarters for court: RCW 2.28.141.
 towns, uncertain boundaries: RCW 35.27.040–35.27.060.
 townships
 county aid to: RCW 45.56.050.
 disorganization of: Chapter 45.76 RCW.
 county-wide: Chapter 45.80 RCW.
 division of county into: Chapter 45.08 RCW.
 officers resignations: Chapter 45.20 RCW.
 organization of: Chapters 45.04, 45.08, 45.12 RCW.
 traffic control devices: Chapter 47.36 RCW.
 traffic schools: Chapter 46.83 RCW.
 underground storage of natural gas, lease of county lands for: RCW 80.40.070.
 United States reclamation areas, contracts to bring county lands into: RCW 89.12.110.
 vacations in unincorporated towns: RCW 58.11.010–58.11.030.
 veterans, indigent, deceased, burial of: RCW 73.08.070.
 veterans' meeting places, rent by county: RCW 73.04.080.
 veterans' relief: Chapter 73.08 RCW.
 vouchers on public funds: Chapter 42.24 RCW.
 water districts
 annexation of property to: Chapter 57.24 RCW.
 board of commissioners, vacancy of entire board: RCW 57.12.020.
 consolidation of: Chapter 57.32 RCW.
 generally: Title 57 RCW.
 withdrawal of territory from: Chapter 57.28 RCW.
 weed district tax on county lands: RCW 17.04.180.
 weed districts: Chapter 17.04 RCW.
 weed extermination areas: Chapter 17.08 RCW.
 weed extermination subdistricts: RCW 17.08.150.
 wharves, authorizing of and prescribing rates: RCW 88.24.020.
 Flood control district (1937 act) board, commissioner to act for absent member: RCW 86.09.292.
 Flood control zone districts, commissioners as ex officio supervisors: RCW 86.15.050.
 Health districts: Chapter 70.46 RCW.
 Justice court districting committee, commissioner as member of: RCW 3.38.010.
 Map of taxing districts for tax purposes, commissioners to furnish: RCW 84.40.100.
 Metropolitan council, commissioner as member of: RCW 35.58.120.
 Metropolitan sewer advisory committee, commissioner as member: RCW 35.58.210.
 Metropolitan water advisory committee, commissioner as member: RCW 35.58.230.
 Newspapers published in county, commissioners may have filed with historical society: RCW 27.28.040.
 Port district commissioner vacancies, commissioners to fill, when: RCW 53.12.150.
 Property tax adviser: RCW 84.48.140.
 Rangers, commissioners as ex officio: RCW 76.04.080.
 Reclamation district commission, commissioner as member of: RCW 89.30.055.
 Revenue, department of, to advise commissioners: RCW 84.08.020.
 Review board, commissioner as member of: RCW 35.13.171.
 Solid waste collection districts: Chapter 36.58A RCW.
 Townships, disorganization of
 commissioner as receiver: Chapter 45.76 RCW.
 county-wide, commissioner as receiver: Chapter 45.80 RCW.
 Traffic safety commission, member of association of county commissioners appointed to: RCW 43.59.030.
 United States townsite law, dedication of streets, etc., under commissioners may alienate: RCW 58.28.440.

36.32.005 "County commissioners" defined. The term "county commissioners" when used in this title or any other provision of law shall include the governmental

authority empowered to so act under the provisions of a charter adopted by any county of the state. [1971 ex.s. c 117 § 1.]

36.32.010 Board of commissioners established—
Quorum. There is established in each organized county in this state a board of county commissioners, to consist of three qualified electors, and two of said board of commissioners shall constitute a quorum to do business. [1963 c 4 § 36.32.010. Prior: Code 1881 § 2663; 1869 p 303 § 1; 1867 p 52 § 1; 1863 p 540 § 1; 1854 p 420 § 1; RRS § 4036.]

36.32.020 Commissioner districts. The board of county commissioners of each county shall divide their county into three commissioner districts so that each district shall comprise as nearly as possible one-third of the population of the county: *Provided*, That the territory comprised in any voting precincts of such districts shall remain compact, and shall not be divided by the lines of said districts: *Provided further*, That the foregoing requirement of equal population among commissioner districts may be disregarded, at the discretion of the county commissioners, in the following instances:

(1) The commissioners of any county composed entirely of islands may divide their county into three commissioner districts without regard to population, except that if any single island is included in more than one district, the districts on such island shall comprise, as nearly as possible, equal populations;

(2) The commissioners of any county having a population of fifteen thousand inhabitants or less, in which no totally intracounty highway connection exists between the county seat and a major geographic area of the county, may disregard population in the formation of commissioner districts to the extent that one commissioner district encompassing the unconnected portion of the county may be established without regard to its population.

The lines of the districts shall not be changed oftener than once in four years and only when a full board of commissioners is present. The districts shall be designated as districts numbered one, two and three. [1970 ex.s. c 58 § 1; 1963 c 4 § 36.32.020. Prior: 1893 c 39 § 2; 1890 p 317 §§ 1, 2; RRS § 4037.]

36.32.030 Terms of commissioners. The terms of office of county commissioners shall be four years and until their successors are elected and qualified. At the expiration of the present term of office of each county commissioner, each county commissioner thereafter shall be elected for a term of four years. [1963 c 4 § 36.32.030. Prior: 1951 c 89 § 1. Formerly: (i) 1891 c 97 §§ 1, 2; RRS § 4038. (ii) 1891 c 67 § 3; RRS § 4039. (iii) 1891 c 89 § 4; RRS § 4040. (iv) 1891 c 67 § 5; RRS § 4041.]

36.32.040 Nomination by districts. The qualified electors of each county commissioner district, and they only, shall nominate from among their own number, candidates for the office of county commissioner of such commissioner district to be voted for at the following

general election. Such candidates shall be nominated in the same manner as candidates for other county and district offices are nominated in all other respects. [1963 c 4 § 36.32.040. Prior: 1909 c 232 § 1; RRS § 4043.]

36.32.050 Elected by entire county. County commissioners shall be elected by the qualified voters of the county and the person receiving the highest number of votes for the office of commissioner for the district in which he resides shall be declared duly elected from that district. [1963 c 4 § 36.32.050. Prior: 1895 c 110 § 1; 1893 c 39 § 1; 1891 c 67 § 6; 1890 p 317 § 3; RRS § 4042.]

36.32.060 Conditions of official bond. The bond of each county commissioner shall be payable to the county, and it shall be conditioned that the commissioner shall well and faithfully discharge the duties of his office, and not approve, audit, or order paid any illegal, unwarranted, or unjust claim against the county for personal services. [1963 c 4 § 36.32.060. Prior: 1955 c 157 § 10; prior: 1921 c 132 § 1, part; 1893 c 75 § 7, part; RRS § 4046, part.]

36.32.070 Vacancies on board. Whenever there is a vacancy in the board of county commissioners, it shall be filled as follows:

(1) If there are three vacancies, the governor of the state shall appoint two of the officers. The two commissioners thus appointed shall then meet and select the third commissioner. If the two appointed commissioners fail to agree upon selection of the third after the expiration of five days from the day they were appointed, the governor shall appoint the remaining commissioner.

(2) Whenever there are two vacancies in the office of county commissioner, the governor shall appoint one commissioner, and the two commissioners then in office shall appoint the third commissioner. If they fail to agree upon a selection after the expiration of five days from the day of the governor's appointment, the governor shall appoint the third commissioner.

(3) Whenever there is one vacancy in the office of county commissioner, the two remaining commissioners shall fill the vacancy. If the two commissioners fail to agree upon a selection after the expiration of five days from the day the vacancy occurred, the governor shall appoint the third commissioner. [1963 c 4 § 36.32.070. Prior: 1933 c 100 § 1; RRS § 4038-1.]

36.32.080 Quarterly sessions. The board of county commissioners shall hold regular sessions at the county seat commencing on the first Mondays of January, April, July and October, at each of which it may transact any business required or permitted by law, and it may adjourn from time to time as deemed expedient or desirable in order to properly transact the business of the county. [1963 c 4 § 36.32.080. Prior: 1893 c 105 § 1; Code 1881 § 2667; 1869 p 303 § 5; 1867 p 53 § 5; 1863 p 541 § 5; 1854 p 420 § 5; RRS § 4047. Cf. 1893 c 75 § 1; RRS § 4048.]

36.32.090 Special sessions. The board of county commissioners may hold special sessions when the business of the county requires the same by ten days' notice from two of the commissioners to the third, or by the written consent of the three commissioners filed with the county auditor. No special session shall exceed three days. The notice thereof shall state the time of holding the session and the business to be transacted. [1963 c 4 § 36.32.090. Prior: Code 1881 § 2669; 1869 p 304 § 7; 1867 p 53 § 7; 1863 p 541 § 7; 1854 p 420 § 7; RRS § 4049. Cf. 1893 c 75 § 2; RRS § 4050.]

36.32.100 Chairman of board—Election, powers. The board of county commissioners at their first session after the general election shall elect one of its number to preside at its meetings. He shall sign all documents requiring the signature of the board, and his signature as chairman of the board shall be as legal and binding as if all members had affixed their names. In case the chairman is absent at any meeting of the board, all documents requiring the signature of the board shall be signed by both members present. [1963 c 4 § 36.32.100. Prior: Code 1881 § 2676; 1869 p 305 § 14; 1867 p 55 § 14; 1863 p 542 § 14; 1854 p 421 § 14; RRS § 4051.]

36.32.110 Clerk of board. The county auditor shall be the clerk of the board of county commissioners, and shall attend its meetings and keep a record of its proceedings. [1963 c 4 § 36.32.110. Prior: Code 1881 § 2668; 1869 p 304 § 6; 1867 p 53 § 6; 1863 p 541 § 6; 1854 p 420 § 6; RRS § 4052.]

36.32.120 Powers of legislative authority. The legislative authorities of the several counties shall:

(1) Provide for the erection and repairing of court houses, jails, and other necessary public buildings for the use of the county;

(2) Lay out, discontinue, or alter county roads and highways within their respective counties, and do all other necessary acts relating thereto according to law, except within cities and towns which have jurisdiction over the roads within their limits;

(3) License and fix the rates of ferriage; grant grocery and other licenses authorized by law to be by them granted;

(4) Fix the amount of county taxes to be assessed according to the provisions of law, and cause the same to be collected as prescribed by law: *Provided*, That the legislative authority of a county may permit all moneys, assessments and taxes belonging to or collected for the use of any county, including any amounts representing estimates for future assessments and taxes, to be deposited by any taxpayer prior to the due date thereof with the treasurer or other legal depository for the benefit of the funds to which they belong to be credited against any future tax or assessment that may be levied or become due from the taxpayer: *Provided further*, That the taxpayer, with the concurrence of the county legislative authority, may designate the particular fund against which such prepayment of future tax or assessment shall be credited;

(5) Allow all accounts legally chargeable against the county not otherwise provided for, and audit the accounts of all officers having the care, management, collection, or disbursement of any money belonging to the county or appropriated to its benefit;

(6) Have the care of the county property and the management of the county funds and business and in the name of the county prosecute and defend all actions for and against the county, and such other powers as are or may be conferred by law;

(7) Make and enforce, by appropriate resolutions or ordinances, all such police and sanitary regulations as are not in conflict with state law, and within the unincorporated area of the county may adopt by reference Washington state statutes and recognized codes and/or compilations printed in book form relating to the construction of buildings, the installation of plumbing, the installation of electric wiring, health, or other subjects, and may adopt such codes and/or compilations or portions thereof, together with amendments thereto, or additions thereto: *Provided*, That except for Washington state statutes, there shall be filed in the county auditor's office three copies of such codes and compilations ten days prior to their adoption by reference, and one copy shall also be filed with the city clerk of each city within the county: *Provided further*, That no such regulation, code, compilation, and/or statute shall be effective unless before its adoption, a public hearing has been held thereon by the county legislative authority of which at least ten days' notice has been given. Any violation of such regulations, ordinances, codes, compilations, and/or statutes or resolutions shall constitute a misdemeanor. The notice must set out a copy of the proposed regulations; or if a code is adopted by reference the notice shall set forth the full official title and a statement describing the general purpose of such code. The notice shall also include the day, hour, and place of hearing and must be given by publication in the newspaper in which legal notices of the county are printed;

(8) Have power to compound and release in whole or in part any debt due to the county when in their opinion the interest of their county will not be prejudiced thereby, except in cases where they or any of them are personally interested;

(9) Have power to administer oaths or affirmations necessary in the discharge of their duties and commit for contempt any witness refusing to testify before them with the same power as justices of the peace. [1975 1st ex.s. c 216 § 1; 1967 ex.s. c 59 § 1; 1963 c 4 § 36.32-.120. Prior: 1961 c 27 § 2; prior: (i) 1947 c 61 § 1; 1943 c 99 § 1; Code 1881 § 2673; 1869 p 305 § 11; 1867 p 54 § 11; 1863 p 542 § 11; 1854 p 421 § 11; Rem. Supp. 1947 § 4056. (ii) Code 1881 § 2681; 1869 p 307 § 20; 1867 p 56 § 20; 1863 p 543 § 20; 1854 p 422 § 20; RRS § 4061. (iii) Code 1881 § 2687; 1869 p 308 § 26; 1867 p 57 § 26; 1863 p 545 § 28; 1854 p 423 § 22; RRS § 4071.]

36.32.125 Adoption of certain regulations proscribed. Nothing in this chapter shall permit the counties to adopt, by reference or by ordinance, regulations relating

to the subject matter contained in chapters 19.28, 43.22, 70.79, or 70.87 RCW. [1971 ex.s. c 117 § 2.]

Adoption of chapter provisions by ordinance proscribed: RCW 19.28.210.

36.32.130 Postponement of action. When only two members are present at a meeting of the board, and a division takes place on any question, the matter under consideration shall be postponed to the next subsequent meeting. [1963 c 4 § 36.32.130. Prior: Code 1881 § 2671; 1869 p 304 § 9; 1867 p 53 § 9; 1863 p 541 § 9; 1854 p 421 § 9; RRS § 4055.]

36.32.135 Official seal. The county commissioners of each county shall have and use a seal for the purpose of sealing their proceedings, and copies of the same when signed and sealed by the said county commissioners, and attested by their clerk, shall be admitted as evidence of such proceedings in the trial of any cause in any court in this state; and until such seal shall be provided, the private seal of the chairman of such board of county commissioners shall be adopted as a seal. [1963 c 4 § 36.32.135. Prior: Code 1881 § 2672; 1854 p 421 § 10; RRS § 4069. Formerly RCW 36.16.080.]

36.32.140 Record of proceedings. The board of county commissioners shall cause to be recorded, in a book kept for that purpose, all their proceedings and determinations touching all matters properly cognizable before it; and all books, accounts, vouchers, and papers, touching the business or property of the county shall be carefully kept by the clerk, and be open to public inspection. [1963 c 4 § 36.32.140. Prior: Code 1881 § 2675; 1869 p 305 § 13; 1867 p 54 § 13; 1863 p 542 § 13; 1854 p 421 § 13; RRS § 4072.]

36.32.150 Transcribing mutilated records. The county commissioners shall, when any of the county records become so mutilated that their handling becomes dangerous to the safety of such records, and when in the judgment of the county commissioners it may become necessary to, order the transcribing of said records at a sum not exceeding eight cents per folio of one hundred words, in books to be provided for that purpose by the county. [1963 c 4 § 36.32.150. Prior: 1893 c 14 § 1; RRS § 4065.]

36.32.155 Transcribing mutilated records—Prior transcribing validated. All records transcribed by order of any board of county commissioners in this state prior to the effective date of chapter 14, Laws of 1893, shall be and are hereby declared the legal records of said county the same as if transcribed under the provisions of RCW 36.32.150 through 36.32.170. [1963 c 4 § 36.32.155. Prior: 1893 c 14 § 4; RRS § 4068.]

36.32.160 Transcribing mutilated records—Auditor to direct transcribing, certify. The books containing the transcribed records shall be certified by the county auditor, under whose direction the transcribing was done, as being true copies of the original. [1963 c 4 § 36.32.160. Prior: 1893 c 14 § 2; RRS § 4066.]

36.32.170 Transcribing mutilated records—Original records to be preserved. All the original record books, after the transcribing thereof, shall be filed away in the auditor's office and only be used in case of contest on the correctness of the transcribed records. [1963 c 4 § 36.32.170. Prior: 1893 c 14 § 3; RRS § 4067.]

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. At the January, April, July and October sessions, the board of county commissioners, together with the auditor, shall count the funds in the county treasury, and ascertain whether it contains the proper amount. [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.]

36.32.200 Special attorneys, employment of. It shall be unlawful for the board of county commissioners to employ, contract with, or pay any special attorney or counsel to perform any duty which the attorney general or any prosecuting attorney is authorized or required by law to perform, unless the contract of employment of such special attorney or counsel has been first reduced to writing and approved by the superior court judge of the county or a majority of the judges in writing endorsed thereon. This section shall not prohibit the appointment of deputy prosecuting attorneys in the manner provided by law. [1963 c 4 § 36.32.200. Prior: 1905 c 25 § 1; RRS § 4075.]

36.32.210 Inventory of county personal property—Individual commissioner inventory statement—Contents. (1) Each county commissioner of the several counties of the state of Washington shall, on the first Monday of March of each year beginning with the year 1964, file with the auditor of the county wherein such commissioner resides a statement verified by oath of such county commissioner showing for the twelve months period ending December 31st of the preceding year, the following:

(a) A full and complete inventory of all tools, machinery, equipment and appliances belonging to the district of such commissioner used or intended to be used in any public work, except the repair, construction or maintenance of any road, within said county for which public funds are to be expended in whole or in part and which said inventory shall be segregated to show the following subheads:

(i) The equipment on hand, together with a statement of the date when acquired, the amount paid therefor, the present value, the estimated life thereof and a sufficient description to fully identify such property;

(ii) All equipment of every kind or nature sold or disposed of in any manner during such preceding twelve months period, together with the name of the purchaser, the amount paid therefor, whether or not the same was

sold at public or private sale, the reason for such disposal and a sufficient description to fully identify the same;

(iii) All the equipment purchased during said period, together with the date of purchase, the amount paid therefor, whether or not the same was bought under competitive bidding, the price paid therefor and the probable life thereof, the reason for making the purchase and a sufficient description to fully identify such property;

(b) The exact amount of money derived from sources other than tax levy coming into possession or under the control of such commissioner for or on account of such district or of the commissioner making such statement; with the name of the party paying the same, the source from which derived, why so derived, and the date of its reception.

(c) The person to whom such money or any part thereof was paid and why so paid and the date of such payment.

(2) No county commissioner shall maintain official records which duplicate the records of the county road engineer or any part thereof. [1969 ex.s. c 182 § 2; 1963 c 108 § 1; 1963 c 4 § 36.32.210. Prior: 1931 c 95 § 1; RRS § 4056-1. FORMER PARTS OF SECTION: (i) 1931 c 95 § 2; RRS § 4056-2, now codified as RCW 36.32.213. (ii) 1931 c 95 § 3; RRS § 4056-3, now codified as RCW 36.32.215.]

State building code: Chapter 19.27 RCW.

36.32.213 Inventory of county personal property—
Inventory by board. It shall be the duty of the board of county commissioners to make an inventory of all personal property of said county, bought out of the general fund, or any other fund of the county, which inventory shall contain the same information and be compiled in the same manner as provided in RCW 36.32.210 for the separate commissioner districts, provided that the same must be verified by all members of the board. [1963 c 4 § 36.32.213. Prior: 1931 c 95 § 2; RRS § 4056-2. Formerly RCW 36.32.210, part.]

36.32.215 Inventory of county personal property—
Filing and publication. Such inventories shall be filed with the county auditor as a public record and shall be open to the inspection of the public, provided further that such county auditor shall cause such inventory and/or inventories to be published once in the official newspaper of such county within five days after the filing thereof. [1963 c 4 § 36.32.215. Prior: 1931 c 95 § 3; RRS § 4056-3. Formerly RCW 36.32.210, part.]

36.32.220 Inventory of county personal property—
Penalty. Any county commissioner failing to file such statement or wilfully making any false or incorrect statement therein or aiding or abetting in the making of any false or incorrect statement shall be guilty of a gross misdemeanor. [1963 c 4 § 36.32.220. Prior: 1931 c 95 § 4; RRS § 4056-4.]

36.32.225 Inventory of county personal property—
Prosecutions. It is the duty of the prosecuting attorney

of each county to within three days from the calling to his attention of any violation to institute proceedings against such offending official and in addition thereto to prosecute appropriate action to remove such commissioner from office. [1963 c 4 § 36.32.225. Prior: 1931 c 95 § 5; RRS § 4056-5. Formerly RCW 36.32.230, part.]

36.32.230 Inventory of county personal property—
Taxpayer's action. Any taxpayer of such county is hereby authorized to institute said action in conjunction with or independent of the action of the prosecuting attorney. [1963 c 4 § 36.32.230. Prior: 1931 c 95 § 6; RRS § 4056-6. FORMER PART OF SECTION: 1931 c 95 § 5; RRS § 4057-5, now codified as RCW 36.32.225.]

36.32.240 Competitive bids—
Purchasing department. In any county the board of county commissioners may by resolution establish a county purchasing department and thereafter such department shall contract on a competitive basis for all public works and purchase or lease on a competitive basis all supplies, materials, and equipment, for all departments of the county, exclusive of the county hospital, pursuant to the provisions hereof and under such rules as the board shall by resolution adopt, except for such contracts and purchases as shall be made pursuant to RCW 36.77.060, 36.77.070 and 36.82.130, and except for such contracts and purchases for the printing of election ballots, voting machine labels and all other election material containing the names of candidates and ballot titles: *Provided*, That in all class AA or class A counties or in any county of the first class it shall be mandatory that a purchasing department be established. [1974 ex.s. c 52 § 1; 1967 ex.s. c 144 § 15; 1963 c 4 § 36.32.240. Prior: 1961 c 169 § 1; 1949 c 33 § 1; 1945 c 61 § 1; Rem. Supp. 1949 § 10322-15.]

36.32.250 Competitive bids—
Procedure in awarding contracts—
Bid deposits—
Contractor's bond. No contract, lease or purchase shall be entered into by the county legislative authority or by any elected or appointed officer of such county until after bids have been submitted to the county legislative authority upon specifications therefor. Such specifications shall be in writing and shall be filed with the clerk of the county legislative authority for public inspection, and an advertisement thereof stating the date after which bids will not be received, the character of the work to be done, or material, equipment, or service to be purchased, and that specifications therefor may be seen at the office of the clerk of the county legislative authority, shall be published in the county official newspaper and in a legal newspaper of general circulation in or as near as possible to that part of the county in which such work is to be done: *Provided however*, That if the county official newspaper is a newspaper of general circulation covering at least forty percent of the residences in that part of the county in which such work is to be done publication of an advertisement of the applicable specifications in the county official newspaper only shall be sufficient. Such advertisements shall be published at least once in each

week for two consecutive weeks prior to the last date upon which bids will be received and as many additional publications as shall be determined by the county legislative authority. The bids shall be in writing, shall be filed with the clerk, shall be opened and read in public at a meeting of the county legislative authority on the date named therefor in said advertisements, and after being opened, shall be filed for public inspection. No bid shall be considered for public work unless it is accompanied by a bid deposit in the form of a surety bond, postal money order, cash, cashier's check, or certified check in an amount equal to five percent of the amount of the bid proposed. The contract for the public work, lease or purchase shall be awarded to the lowest responsible bidder; taking into consideration the quality of the articles or equipment to be purchased or leased. Any or all bids may be rejected for good cause. The county legislative authority shall require from the successful bidder for such public work a contractor's bond in the amount and with the conditions imposed by law. Should the bidder to whom the contract is awarded fail to enter into the contract and furnish the contractor's bond as required within ten days after notice of the award, exclusive of the day of notice, the amount of the bid deposit shall be forfeited to the county and the contract awarded to the next lowest and best bidder. The bid deposit of all unsuccessful bidders shall be returned after the contract is awarded and the required contractor's bond given by the successful bidder is accepted by the county legislative authority. In the letting of any contract, lease or purchase involving less than one thousand dollars advertisement and competitive bidding may be dispensed with on order of the county legislative authority. Notice of intention to let contracts, enter into lease agreements or to make purchases involving amounts exceeding five hundred dollars and less than one thousand dollars, shall be posted by the county legislative authority on a bulletin board in its office not less than three days prior to making such purchase, lease or contract. Wherever possible, supplies shall be purchased in quantities for a period of at least three months, and not to exceed one year. Supplies generally used throughout the various departments shall be standardized insofar as possible, and may be purchased and stored for general use by all of the various departments which shall be charged for the supplies when withdrawn from the purchasing department. [1975 1st ex.s. c 230 § 1; 1967 ex.s. c 144 § 16; 1967 c 97 § 1; 1965 c 113 § 1; 1963 c 4 § 36.32.250. Prior: 1945 c 61 § 2; Rem. Supp. 1945 § 10322-16.]

36.32.260 Competitive bids—Purchasing agent. In any county having a purchasing department the board of county commissioners shall appoint a county purchasing agent, who shall be the head of such purchasing department. The county purchasing agent shall have had previous purchasing experience as purchasing agent of a commercial, industrial, institutional, or governmental plant or agency, and shall be placed under such bond as the board may require. The board may establish a central storeroom or storerooms in charge of the county purchasing agent in which supplies and equipment may

be stored and issued upon proper requisition by department heads. The purchasing agent shall be responsible for maintaining perpetual inventories of supplies and equipment and shall at least yearly, or oftener when so required by the board, report to the county commissioners a balancing of the inventory record with the actual amount of supplies or equipment on hand. [1963 c 4 § 36.32.260. Prior: 1961 c 169 § 2; 1945 c 61 § 3; Rem. Supp. 1945 § 10322-17.]

36.32.270 Competitive bids—Emergency purchases. In the event of an emergency when the public interest or property of the county would suffer material injury or damage by delay, upon resolution of the board of county commissioners declaring the existence of such emergency and reciting the facts constituting the same, the board may waive the requirements of this chapter with reference to any purchase or contract. [1963 c 4 § 36.32.270. Prior: 1961 c 169 § 3; 1945 c 61 § 4; Rem. Supp. 1945 § 10322-18.]

36.32.272 Purchase or lease of capital outlay equipment—Commissioners may elect to adopt provisions for, designate kinds of equipment. The board of county commissioners may elect to adopt the provisions of RCW 36.32.274, 36.32.276, 36.32.278 and may, by resolution, designate the kinds of equipment subject thereto. [1967 ex.s. c 144 § 17.]

36.32.274 Purchase or lease of capital outlay equipment—County equipment and rental revolving fund—Creation—Transfer of sums from current expense fund. In accordance with the provisions of RCW 36.32.272, in every county in which there is now or is hereafter established a county purchasing department, there is created a county fund to be known as the "county equipment and rental revolving fund". On July 30, 1967, the county treasurer of such counties shall transfer to said fund all sums remaining in the county current expense fund budgeted for the purchase or lease of capital outlay equipment. [1967 ex.s. c 144 § 18.]

36.32.276 Purchase or lease of capital outlay equipment—Authorization by purchasing agent required—Existing contracts. In accordance with the provisions of RCW 36.32.272, after July 30, 1967, no warrants shall be issued for the purchase or lease of capital outlay equipment unless they have been authorized by the county purchasing agent: *Provided*, That sums allocated to existing contracts for the purchase or lease of such equipment shall be authorized by the purchasing agent upon the written request of the officer or employee who has executed such contract: *Provided, further*, That no option for purchase or extension of time in such existing contracts may be exercised unless approved by the purchasing agent. [1967 ex.s. c 144 § 19.]

36.32.278 Purchase or lease of capital outlay equipment—Charges for use of equipment—Fiscal procedure. In accordance with the provisions of RCW 36.32.272, the county purchasing agent, subject to the

supervision of the board of county commissioners shall establish charges to be paid by county officers and county departments for the use of such equipment. The charge shall be sufficient to amortize the cost of purchasing, maintaining or leasing such equipment, which amounts shall be credited as income to the county equipment and revolving fund and charged on a monthly basis against the account of the officer or agent using such equipment. Moneys derived from the charges for such equipment shall be disbursed from the county equipment and revolving fund by the county treasurer by warrants drawn by the county auditor on vouchers duly authorized by the purchasing agent. [1967 ex.s. c 144 § 20.]

36.32.280 Regulation of watercourses. The state in the exercise of its sovereign and police power authorizes any county alone or acting jointly with any other county to regulate and control the flow of waters, both navigable and nonnavigable, within such county or counties, for the purpose of preventing floods which may threaten or cause damage, public or private. [1963 c 4 § 36.32.280. Prior: 1921 c 30 § 1; RRS § 4057-1.]

36.32.290 Regulation of watercourses—Removal of obstructions. When the board of county commissioners of any county deems it essential to the public interest for flood prevention purposes it may remove drifts, jams, logs, debris, gravel, earth, stone or bars forming obstructions to the stream, or other material from the beds, channels, and banks of watercourses in any manner deemed expedient, including the deposit thereof on bars not forming obstructions to the stream, or on subsidiary or high water channels of such watercourses. [1963 c 4 § 36.32.290. Prior: 1921 c 30 § 2; RRS § 4057-2.]

36.32.300 Regulation of watercourses—Trees may be removed from river banks. When any forest trees are situated upon the bank of any watercourse or so close thereto as to be in danger of falling into it, the owner or occupant of any of the premises shall be notified to remove them forthwith. The notice shall be based upon a resolution or order of the county commissioners and may be given by mail to the last known address of the owner or occupant. If the trees are not removed within ten days after the date of the notice, the county may thereupon fell them. [1963 c 4 § 36.32.300. Prior: 1921 c 30 § 3; RRS § 4057-3.]

36.32.310 Compensation for extra services. Whenever a member of the board of county commissioners of any county has a claim for compensation for per diem and expenses for attendance upon any special session of the board or a claim for compensation for extra services or expenses incurred as such commissioners, including services performed as road commissioner, the claim shall be verified by him and after being approved by a majority of the board of county commissioners of the county shall be filed with the clerk of the superior court and be approved by a judge of the superior court of such county or any superior court judge holding court in such county.

The judge may make such investigation as he deems necessary to determine the correctness of the claim and may, after such investigation, approve or reject any part of such claim. If the judge so approve the claim or any part thereof the same shall be certified by the clerk under the seal of his office and be returned to the county auditor who shall draw a warrant therefor. The court shall not be required oftener than once in each month to pass upon such claims and it may fix a time in each month by general order filed with the clerk of the board of county commissioners on or before which such claims must be filed with the clerk of the court. [1963 c 4 § 36.32.310. Prior: 1921 c 100 § 1; 1911 c 66 § 1; RRS § 4053.]

36.32.330 Appeals from board's action. Any person may appeal to the superior court from any decision or order of the board of county commissioners. Such appeal shall be taken within twenty days after the decision or order, and the appellant shall within that time serve notice of appeal on the county commissioners. The notice shall be in writing and shall be delivered to at least one of the county commissioners personally, or left with the county auditor. The appellant shall, within ten days after service of the notice of appeal give a bond to the county with one or more sureties, to be approved by the county auditor, conditioned for the payment of all costs which shall be adjudged against him on such appeal in the superior court. The practice regulating appeals from and writs of certiorari to justice's courts shall, insofar as applicable, govern in matters of appeal from a decision or order of the board of county commissioners.

Nothing herein contained shall be construed to prevent a party having a claim against any county in this state from enforcing the collection thereof by civil action in any court of competent jurisdiction after the same has been presented to and filed as provided by law and disallowed in whole or in part by the board of county commissioners of the proper county. Such action must, however, be commenced within the time limitation provided in RCW 36.45.030. [1963 c 4 § 36.32.330. Prior: 1957 c 224 § 5; 1893 c 121 § 1; Code 1881 § 2695; 1869 p 308 § 29; 1867 p 57 § 29; 1863 p 545 § 30; 1854 p 423 § 24; RRS § 4076. Cf. 1879 p 143 §§ 1, 2.]

36.32.335 Coordination of county administrative programs—Legislative declaration. The public necessity for the coordination of county administrative programs, especially in the fields of highways and social security, be and is hereby recognized. [1963 c 4 § 36.32.335. Prior: 1939 c 188 § 1; RRS § 4077-2.]

36.32.340 Coordination of county administrative programs—Duties incident to. The county commissioners shall take such action as is necessary to effect coordination of their administrative programs, prepare reports annually on the operations of all departments under their jurisdiction, and submit biennially to the governor and the legislature their joint recommendations on procedural changes which would increase the efficiency of

any department. [1963 c 4 § 36.32.340. Prior: 1939 c 188 § 2; RRS § 4077-3.]

36.32.350 Coordination of county administrative programs—Coordinating agency—Agency reimbursement. County commissioners may designate the Washington state association of counties as a coordinating agency in the execution of duties imposed by RCW 36.32.335 through 36.32.360 and reimburse the association from county current expense funds in the county commissioners' budget for the costs of any such services rendered: *Provided*, That the total of such reimbursements from any county in any calendar year shall not exceed a sum equal to the amount which would be raised by a levy of one-half of one cent per thousand dollars of assessed value against the taxable property of the county. Such reimbursement shall be paid on vouchers submitted to the county auditor and approved by the board of county commissioners in the manner provided for the disbursement of other current expense funds and the vouchers shall set forth the nature of the service rendered, supported by affidavit that the service has actually been performed. [1973 1st ex.s. c 195 § 30; 1971 ex.s. c 85 § 3; 1970 ex.s. c 47 § 1; 1963 c 4 § 36.32.350. Prior: 1947 c 49 § 1; 1939 c 188 § 3; Rem. Supp. 1947 § 4077-4.]

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Associations of municipal corporations or municipal officers to furnish information to legislature and governor: RCW 44.04.170.

36.32.360 Coordination of county administrative programs—Attendance at conventions authorized. County commissioners are hereby authorized to take such other and further action as may be deemed necessary to the compliance with the intent of RCW 36.32.335 through 36.32.360, including attendance at such state or district meetings as may be required to formulate the reports directed in RCW 36.32.340. [1963 c 4 § 36.32.360. Prior: 1939 c 188 § 4; RRS § 4077-5.]

36.32.370 Land surveys. Except as otherwise provided in this title, the board of county commissioners, through a surveyor employed by it shall execute all surveys of land that may be required by the county. The certificate of the surveyor so employed of any survey made of lands within the county shall be presumptive evidence of the facts therein contained. [1963 c 4 § 36.32.370. Prior: (i) 1895 c 77 § 3; RRS § 4144. (ii) 1895 c 77 § 4; RRS § 4145.]

36.32.380 Land surveys—Record of surveys. Except as otherwise provided in this title, the board of county commissioners shall cause to be recorded in a suitable book all surveys except such as are made for a temporary purpose. The record book shall be so constructed as to have one page for diagrams to be numbered progressively and the opposite page for notes and remarks; no diagram shall be so constructed as to scale less than one inch to twenty chains. [1963 c 4 § 36.32.380. Prior: 1895 c 77 § 5; RRS § 4150.]

36.32.390 Nonmonthly employees, vacations and sick leaves. Each employee of any county in this state who is employed on an hourly or per diem basis, who shall have worked fifteen hundred hours or more in any one year may in the discretion of the board of county commissioners be given the same vacations and sick leaves as are provided for the employees of the county employed on a monthly basis. [1963 c 4 § 36.32.390. Prior: 1951 c 187 § 1.]

36.32.400 Health care and group insurance. Any county by a majority vote of its board of county commissioners may enter into contracts to provide health care services and/or group insurance for the benefit of its employees, and may pay all or any part of the cost thereof. Any two or more counties, by a majority vote of their respective boards of county commissioners may, if deemed expedient, join in the procuring of such health care services and/or group insurance, and the board of county commissioners of each participating county may, by appropriate resolution, authorize their respective counties to pay all or any portion of the cost thereof.

Nothing in this section shall impair the eligibility of any employee of a county, municipality, or other political subdivision under RCW 41.04.205. [1975-'76 2nd ex.s. c 106 § 7; 1963 c 4 § 36.32.400. Prior: 1957 c 106 § 1; 1955 c 51 § 1.]

36.32.410 Participation in Economic Opportunity Act programs. The board of county commissioners of any county is hereby authorized and empowered in its discretion by resolution or ordinance passed by a majority of the board, to take whatever action it deems necessary to enable the county to participate in the programs set forth in the Economic Opportunity Act of 1964 (Public Law 88-452; 78 Stat. 508), as amended. Such participation may be engaged in as a sole county operation or in conjunction or cooperation with the state, any other county, city, or municipal corporation, or any private corporation qualified under said Economic Opportunity Act. [1971 ex.s. c 177 § 1; 1965 c 14 § 1.]

36.32.420 Youth agencies—Establishment authorized. See RCW 35.21.630.

36.32.430 Parks, may designate name of. The board of county commissioners is authorized to designate the name of any park established by the county. [1965 ex.s. c 76 § 3.]

May acquire property for park, recreational, viewpoint, greenbelt, conservation, historic, scenic, or view purposes: RCW 36.34.340.

36.32.440 Staff to aid in purchasing, poverty programs, parks, emergency services, budget, etc., authorized. The board of county commissioners of the several counties may employ such staff as deemed appropriate to serve the several boards directly in matters including, but not limited to purchasing, poverty and relief programs, parks and recreation, emergency services, budgetary preparations set forth in RCW 36.40.010-36.40.050, code enforcement and general administrative coordination. Such authority shall in no way infringe

upon or relieve the county auditor of responsibilities contained in RCW 36.22.010(9) and 36.22.020. [1974 ex.s. c 171 § 3; 1969 ex.s. c 252 § 3.]

36.32.450 Tourist promotion. Any county in this state acting through its council or other legislative body shall have power to expend moneys and conduct promotion of resources and facilities in the county or general area by advertising, publicizing, or otherwise distributing information for the purpose of attracting visitors and encouraging tourist expansion. [1971 ex.s. c 61 § 1.]

36.32.460 Employee safety award programs. The board of county commissioners may establish an employee safety award program to reward and encourage the safe performance of assigned duties by county employees.

The board may establish standards and regulations necessary or appropriate for the proper administration and for otherwise accomplishing the purposes of such program.

The board may authorize every department head and other officer of county government who oversees or directs county employees to make the determination as to whether an employee safety award will be made.

Such awards shall be made annually from the county general fund by warrant on vouchers duly authorized by the board according to the following schedule based upon safe and accident-free performance:

5 years	\$ 2.50
10 years	5.00
15 years	7.50
20 years	10.00
25 years	12.50
30 years	20.00:

Provided, That the board may give such department heads and other officers overseeing and directing county employees discretion to purchase a noncash award of equal value in lieu of the cash award. If a noncash award is given the warrants shall be made payable to the business enterprise from which the noncash award is purchased.

However, safety awards made to persons whose safe and accident-free performance has directly benefited the county road system shall be made from the county road fund by warrant on vouchers duly authorized by the board. [1971 c 79 § 1.]

36.32.470 Fire protection, ambulance or other emergency services provided by municipal corporations within county—Financial and other assistance authorized. The legislative authority of any county shall have the power to furnish, upon such terms as the board may deem proper, with or without consideration, financial or other assistance to any municipal corporation, or political subdivision within such county for the purpose of implementing the fire protection, ambulance, medical or other emergency services provided by such municipal corporation, or political subdivision: *Provided*, That no such municipal corporation or political subdivision shall be authorized to expend any funds or property received

as part of such assistance for any purpose, or in any manner, for which it could not otherwise legally expend its own funds. [1974 ex.s. c 51 § 1.]

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**Chapter 36.33
COUNTY FUNDS**

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- 36.33.020 Cumulative reserve fund—Purposes—Election to allow other specified use.
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River improvement fund: Chapter 86.12 RCW.

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Savings and loan associations, county funds may be invested in: RCW 33.52.010.

Taxes for city and town purposes: State Constitution Art. 11 § 12.

Teachers institute fund: RCW 28A.70.110.

Tuberculosis funds, moneys to go into: RCW 70.32.010.

Unclaimed property in hands of bailor, proceeds from sale of as: RCW 63.24.120.

Weed control fund, weed extermination area costs to be paid from: RCW 17.08.110.

Witness fees of county officers as: RCW 42.16.030.

36.33.010 Current expense fund. Every county shall maintain a current expense fund to which shall be credited all taxes levied for that purpose and all fees collected, fines assessed, and forfeitures adjudged in the county the proceeds of which have not been specifically allocated to any other purpose. [1963 c 4 § 36.33.010. Prior: 1945 c 85 § 1; Rem. Supp. 1945 § 5634–1.]

Moneys paid from for

 disinfection of horticultural premises: Chapter 15.08 RCW.
 offices, books, stationery for justices of the peace, constables: RCW 3.12.090, 3.14.050.

 local horticultural inspectors: RCW 15.04.070.

 public health pooling fund: RCW 70.12.040.

 weed district taxes on county lands: RCW 17.04.180.

Moneys paid into from

 disinfection of horticultural premises tax: RCW 15.08.170.

 excise tax proceeds: RCW 28A.45.050.

 fees from stray sales, etc.: RCW 16.28.140.

 horticultural tax funds: RCW 15.08.260.

 justice court fees: RCW 3.20.080.

 motor vehicle fuel tax violation fines: RCW 82.36.420.

 motor vehicle use tax collection fees: RCW 82.12.045.

 registration of land titles fees: RCW 65.12.800.

 stolen and abandoned vehicle sale proceeds: RCW 46.52.110.

 unclaimed property in hands of sheriff, sale of: RCW 63.40.030.

 use tax on motor vehicles, auditor's collection fees: RCW 82.12.045.

 vehicle licensing handling fees: RCW 46.01.140.

 violations bureau funds: RCW 3.30.090.

36.33.020 Cumulative reserve fund—Purposes—
Election to allow other specified use. Any board of county commissioners may establish by resolution a cumulative reserve fund in general terms for several different county purposes as well as for a very specific county purpose, including that of buying any specified supplies, material or equipment, or the construction, alteration or repair of any public building or work, or

the making of any public improvement. The resolution shall designate the fund as "cumulative reserve fund for ----- (naming the purpose or purposes for which the fund is to be accumulated and expended)." The moneys in said fund may be allowed to accumulate from year to year until the board of county commissioners of the county shall determine to expend the moneys in the fund for the purpose or purposes specified: *Provided*, That any moneys in said fund shall never be expended for any other purpose or purposes than those specified, without an approving vote by a majority of the electors of the county at a general or special election to allow other specified uses to be made of said fund. [1963 c 4 § 36.33.020. Prior: 1961 c 172 § 1; 1945 c 51 § 1; Rem. Supp. 1945 § 5634-10.]

36.33.030 Cumulative reserve fund—Accumulation of, current expense fund limits not to affect. An item for said cumulative reserve fund may be included in the county's annual budget or estimate of amounts required to meet public expense for the ensuing year and a tax levy made within the limits and as authorized by law for said item; and said item and levy may be repeated from year to year until, in the judgment of the board of county commissioners of the county the amount required for the specified purpose or purposes has been raised or accumulated. The board of county commissioners may accept gifts or bequests for the cumulative reserve fund and may make transfers from the current expense fund to the cumulative reserve fund. Any moneys in said fund at the end of the fiscal year shall not lapse nor shall the same be a surplus available or which may be used for any other purpose or purposes than those specified, except as herein provided, nor shall moneys in said fund be considered when computing the limitations on cash balances set out in section 4, chapter 164, Laws of 1923 as last amended by section 1, chapter 145, Laws of 1943 and RCW 36.40.090. [1963 c 4 § 36.33.030. Prior: 1961 c 172 § 2; 1945 c 51 § 2; Rem. Supp. 1945 § 5634-11.]

36.33.040 Cumulative reserve fund—Permissible uses of funds in. No money in any cumulative reserve fund shall be used for any purpose other than that for which the fund was created except:

(1) If the purpose of the creation of a cumulative reserve fund has been accomplished by the completion of the proposed building or improvement, the balance remaining in the fund may be transferred to any other cumulative reserve fund or to the county current expense fund by order of the board.

(2) If the purpose of the creation of a cumulative reserve fund ceases to exist or is abandoned, the fund or any part thereof, may be transferred to any other cumulative reserve fund or to the county current expense fund by order of the board after a public hearing thereon pursuant to a notice by publication: *Provided*, That if the amount to be transferred exceeds fifty thousand dollars, no transfer may be made until authorized by a majority of the voters of the county voting upon the question at an election. [1963 c 4 § 36.33.040. Prior: 1945 c 51 § 3; Rem. Supp. 1945 § 5634-12.]

36.33.060 Salary fund—Reimbursement. There is created in class AA and class A counties and counties of the first class a fund to be known as the salary fund, which shall be used for paying the salaries and wages of all officials and employees. In counties smaller than counties of the first class the legislative authority may by resolution establish such a salary fund. Said salary fund shall be reimbursed from any county funds or other funds under the jurisdiction or control of the county treasurer or county auditor budgeted for salaries and wages. The deposits shall be made in the exact amount of the payroll or vouchers paid from the salary fund. [1973 1st ex.s. c 38 § 1; 1971 ex.s. c 214 § 1; 1963 c 4 § 36.33.060. Prior: 1961 c 273 § 1; prior: (i) 1935 c 94 § 1; 1933 ex.s. c 14 § 1; RRS § 4201-1. (ii) 1933 ex.s. c 14 § 2; RRS § 4201-2. (iii) 1933 ex.s. c 14 § 3; RRS § 4201-3.]

36.33.065 Claims fund—Reimbursement. The legislative authority of any class county may establish by resolution a fund to be known as the claims fund, which shall be used for paying claims against the county. Such claims fund shall be reimbursed from any county funds or other funds under the jurisdiction or control of the county treasurer or county auditor budgeted for such expenditures. The deposits shall be made in the exact amount of the vouchers paid from the claims fund. [1973 1st ex.s. c 38 § 2; 1971 ex.s. c 214 § 2.]

36.33.070 Investment in warrants on tax refund fund. Whenever the county treasurer deems it expedient and for the best interests of the county he may invest any moneys in the county current expense fund in outstanding warrants on the county tax refund fund in the following manner: When he has determined the amount of moneys in the county current expense fund available for investment, he shall call, in the order of their issuance, a sufficient number of warrants drawn on the county tax refund fund as nearly as possible equaling in amount but not exceeding the moneys to be invested, and upon presentation and surrender thereof he shall pay to the holders of such warrants the face amount thereof and the accrued interest thereon out of moneys in the county current expense fund. [1963 c 4 § 36.33.070. Prior: 1943 c 61 § 1; Rem. Supp. 1943 § 5545-10.]

36.33.080 Investment in warrants on tax refund fund—Procedure upon purchase—Interest on. Upon receipt of any such warrant on the tax refund fund the county treasurer shall enter the principal amount thereof, and accrued interest thereon, as a suspense credit upon his records, and shall hold the warrant until it with interest, if any, is paid in due course out of the county tax refund fund, and upon such payment, the amount thereof shall be restored to the county current expense fund. The refund warrants held by the county treasurer shall continue to draw interest until the payment thereof out of the county tax refund fund, which interest accruing subsequent to acquisition of the warrants by the county treasurer shall be paid into the county current expense fund. [1963 c 4 § 36.33.080. Prior: 1943 c 61 § 2; Rem. Supp. 1943 § 5545-11.]

36.33.090 Investment in warrants on tax refund fund—Breaking of warrants authorized. Whenever it appears to the county treasurer that the face amount plus accrued interest of the tax refund warrant next eligible for investment exceeds by one hundred dollars the amount of moneys in the county current expense fund available for investment, the county treasurer may notify the warrant holder who shall thereupon apply to the county auditor for the breaking of the warrant and the county auditor upon such application shall take up the original warrant and reissue, as of the date which the original warrant bears, two new refund warrants one of which shall be in an amount approximately equaling, with accrued interest, the amount of moneys in the county current expense fund determined by the county treasurer to be available for investment. The new warrants when issued shall be callable and payable in the same order with respect to other outstanding tax refund warrants as the original warrant in lieu of which the new warrants were issued. [1963 c 4 § 36.33.090. Prior: 1943 c 61 § 3; Rem. Supp. 1943 § 5545-12.]

36.33.100 Investment in warrants on tax refund fund—Purchased warrants as cash. In making settlements of accounts between outgoing and incoming county treasurers, any county tax refund warrant in which money in the county current expense fund has been invested shall be deemed in every way the equivalent of cash and shall be receipted for by the incoming county treasurer as such. [1963 c 4 § 36.33.100. Prior: 1943 c 61 § 4; Rem. Supp. 1943 § 5545-13.]

36.33.110 Distribution of forest reserve funds. The state treasurer shall turn over to the treasurers of the counties within United States forest reserves, the amount of money belonging to them, received from the federal government from such reserves, in accordance with Title 16, section 500, United States Code. Where the reserve is situated in more than one county the money shall be distributed in proportion to the area of the counties interested, and to that end the state treasurer is authorized and required to obtain the necessary information to enable him to make the distribution on such basis.

County commissioners of the respective counties to which the money is distributed are authorized and directed annually to distribute not less than fifty percent of said money to each school district within each such county according to the proportional number of weighted students enrolled in each such school district during the immediate preceding school year as certified by the county school superintendent of schools or the intermediate district superintendent of schools as the case may be: *Provided*, That if any such school district would suffer a decrease in its total revenue as the result of receipt of said money, such district may refuse its proportional share and the county commissioners shall thereupon redistribute such proportional share to the remaining districts in the county. The county commissioners shall expend the balance of said money for the benefit of the public roads of such county, and not otherwise. [1967 c 230 § 1; 1965 ex.s. c 140 § 1; 1963 c 4 § 36.33.110. Prior: (i) 1907 c 185 § 1; RRS § 11021. (ii)

1949 c 131 § 1; 1907 c 185 § 2; Rem. Supp. 1949 § 4057.]

Distribution of funds to school districts, forest reserve funds: RCW 28A.41.130.

36.33.120 County lands assessment fund created—Levy for. The boards of county commissioners may annually levy a tax upon all taxable property in the county, for the purpose of creating a fund to be known as "county lands assessment fund." [1963 c 4 § 36.33-120. Prior: 1929 c 193 § 1; RRS § 4027-1.]

36.33.130 County lands assessment fund created—Purpose of fund. The county lands assessment fund may be expended by the county commissioners to pay in full or in part, any assessment or installment of assessments of drainage improvement districts, diking improvement districts, or districts formed for the foregoing purposes, or assessments for road improvements, falling due against lands in the year when such lands are acquired by the county or while they are owned by the county, including lands acquired by the county for general purposes; also lands which have been acquired by the county by foreclosure of general taxes. Payment may be made of such assessments, or installments thereof, against such lands or classes of lands, and in such districts or classes of districts as the county commissioners deem advisable. No payment shall be made of any assessments or installments of assessments falling due prior to the year in which the lands were acquired by the county, nor shall any assessments be paid in advance of the time when they fall due. Assessments for maintenance and operation of dikes, drains, or other improvements of districts falling due upon such lands while owned by the county, may be paid without the payment of assessments or installments thereof for construction of the improvements, if the county commissioners elect so to do. [1963 c 4 § 36.33.130. Prior: 1929 c 193 § 2; RRS § 4027-2.]

36.33.140 County lands assessment fund created—Amount of levy. The amount of the levy in any year for the county lands assessment fund shall not exceed the estimated amount needed over and above all moneys on hand in the fund, to pay the aggregate amount of such assessments falling due against the lands in the ensuing year; and in no event shall the levy exceed twelve and one-half cents per thousand dollars of assessed value upon all taxable property in the county. [1973 1st ex.s. c 195 § 31; 1963 c 4 § 36.33.140. Prior: 1929 c 193 § 3; RRS § 4027-3.]

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

36.33.150 County lands assessment fund created—Surplus from tax sales to go into fund. Into the county lands assessment fund shall also be paid any surplus moneys from the sale by the county, pursuant to foreclosure of real estate taxes, of any lands lying in any district formed for diking or drainage purposes or for assessment of road improvements, over and above the amount necessary to redeem the general taxes and other

assessments against them, as required by law. Any surplus from any county levy for the fund, unexpended in any year, shall be carried forward in the fund to the next year. [1963 c 4 § 36.33.150. Prior: 1929 c 193 § 4; RRS § 4027-4.]

36.33.160 County lands assessment fund created—
List of lands to be furnished. Upon request the county treasurer shall furnish to the board of county commissioners on or before the first day of May of each year, or at any other date that may be found advisable, a list of all lands owned by the county, together with the amounts levied as assessments and the district in or by which such assessments are levied, against each description of said lands, as it appears on the assessment roll of the district. On or before the first day of August of each year he shall furnish to the county commissioners a similar list of all land owned by the county and subject to any such assessments, together with the amounts of any installment of assessments falling due against any of such lands in the ensuing year and an estimate of any maintenance or other assessments to be made against same to fall due in the ensuing year; also an estimate of the amount of assessments to fall due in the ensuing year against lands that will be acquired by the county in such year. [1963 c 4 § 36.33.160. Prior: 1929 c 193 § 5; RRS § 4027-5.]

36.33.170 County lands assessment fund created—
Rentals may be applied against assessments. Moneys received as rentals of irrigated lands may be applied to the payment of current irrigation charges or assessments against the land. [1963 c 4 § 36.33.170. Prior: 1929 c 193 § 6; RRS § 4027-6.]

36.33.180 County lands assessment fund created—
Investment of surplus funds in United States bonds. The county treasurer of every county shall call the attention of the county finance committee to any inactive fund or funds in excess of the current needs of the county. The committee may by order authorize him to invest such inactive or excess funds in bonds of the United States government, if prior to making the order, they have applied for and received from the state finance committee, its approval of such investment. [1963 c 4 § 36.33.180. Prior: 1951 c 161 § 1; 1937 c 209 § 1; RRS § 5646-11.]

36.33.190 County lands assessment fund created—
Disposal of bonds. The county treasurer shall cash any United States bonds owned by the county as they mature or, with the approval of the state finance committee and of the county finance committee, he may at any time sell them. In either event he must return the proceeds into the treasury. [1963 c 4 § 36.33.190. Prior: 1937 c 209 § 2; RRS § 5646-12.]

36.33.200 Election reserve fund. The board of county commissioners may establish an election reserve fund for the payment of expenses of conducting regular and special state and county elections and compensation of election and registration officers and annually budget

and levy a tax therefor. It may also make transfers into the election reserve fund from the current expense fund and receive funds for such purposes from cities, school districts and other subdivisions. [1963 c 4 § 36.33.200. Prior: 1955 c 48 § 1.]

36.33.210 Election reserve fund—
Accumulation of fund—
Transfers. The limits placed upon the amount to be accumulated in the current expense fund shall not affect the election reserve fund nor shall the existence of the election reserve fund affect the amount which may be accumulated in the current expense fund, nor shall any unexpended balance in the election reserve fund at the end of any budget year revert to the current expense fund but shall be carried forward in the election reserve fund to be used for the purposes for which the fund was created: *Provided*, That at a regular session, the county commissioners may transfer any surplus in said fund to the current expense fund, if they deem it expedient to do so. [1963 c 4 § 36.33.210. Prior: 1955 c 48 § 2.]

36.33.220 County road millage funds, expenditure for services authorized. The legislative authority of any county may budget, in accordance with the provisions of chapter 36.40 RCW, and expend any portion of the county road property tax revenues for any service to be provided in the unincorporated area of the county notwithstanding any other provision of law, including chapter 36.82 RCW and RCW 84.52.050 and RCW 84.52.043. [1973 1st ex.s. c 195 § 32; 1973 1st ex.s. c 195 § 142; 1971 ex.s. c 25 § 1.]

Severability—
Effective dates and termination dates—
Construction—
1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Severability—
1971 ex.s. c 25: "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 25 § 4.] This applies to RCW 36.33.220 and 36.82.040.

Chapter 36.34 COUNTY PROPERTY

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Television reception improvement district dissolution, disposition of property: RCW 36.95.200.

Township property as upon disorganization: RCW 45.80.080.

Underground storage of natural gas, lease of county lands for: RCW 80.40.070.

36.34.005 Establishment of comprehensive procedures for management of county property authorized—Exemption from chapter. Pursuant to public notice and hearing, any county may establish comprehensive procedures for the management of county property consistent with the public interest and counties establishing such procedures shall be exempt from the provisions of chapter 36.34 RCW: *Provided*, That all counties shall retain all powers now or hereafter granted by chapter 36.34 RCW. [1973 1st ex.s. c 196 § 1.]

36.34.010 Authority to sell—May sell timber, minerals separately—Mineral reservation. Whenever it appears to the board of county commissioners that it is

for the best interests of the county and the taxing districts and the people thereof that any part or parcel, or portion of such part or parcel, of property, whether real, personal, or mixed, belonging to the county, including tax title land, should be sold, the board shall sell and convey such property, under the limitations and restrictions and in the manner hereinafter provided.

In making such sales the board of county commissioners may sell any timber, mineral, or other resources on any land owned by the county separate and apart from the land in the same manner and upon the same terms and conditions as provided in this chapter for the sale of real property.

The board of county commissioners may reserve mineral rights in such land and, if such reservation is made, any conveyance of the land shall contain the following reservation:

"The party of the first part hereby expressly saves, excepts, and reserves out of the grant hereby made, unto itself, its successors, and assigns, forever, all oils, gases, coals, ores, minerals, gravel, timber, and fossils of every name, kind, or description, and which may be in or upon said lands above described; or any part thereof, and the right to explore the same for such oils, gases, coals, ores, minerals, gravel, timber and fossils; and it also hereby expressly saves and reserves out of the grant hereby made, unto itself, its successors, and assigns, forever, the right to enter by itself, its agents, attorneys, and servants upon said lands, or any part or parts thereof, at any and all times, for the purpose of opening, developing, and working mines thereon, and taking out and removing therefrom all such oils, gases, coal, ores, minerals, gravel, timber, and fossils, and to that end it further expressly reserves out of the grant hereby made, unto itself, its successors, and assigns, forever, the right by it or its agents, servants, and attorneys at any and all times to erect, construct, maintain, and use all such buildings, machinery, roads and railroads, sink such shafts, remove such oil, and to remain on said lands or any part thereof, for the business of mining and to occupy as much of said lands as may be necessary or convenient for the successful prosecution of such mining business, hereby expressly reserving to itself, its successors, and assigns, as aforesaid, generally, all rights and powers in, to, and over said land, whether herein expressed or not, reasonably necessary or convenient to render beneficial and efficient the complete enjoyment of the property and the rights hereby expressly reserved."

No rights shall be exercised under the foregoing reservation until provision has been made to pay to the owner of the land upon which the rights reserved are sought to be exercised, full payment for all damages sustained by reason of entering upon the land: *Provided*, That if the owner for any cause refuses or neglects to settle the damages, the county, its successors, or assigns, or any applicant for a lease or contract from the county for the purpose of prospecting for or mining valuable minerals, or operation contract, or lease, for mining coal, or lease for extracting petroleum or natural gas, shall have the right to institute such legal proceedings in the superior court of the county wherein the land is situated, as may be necessary to determine the damages which

the owner of the land may suffer. Any of the reserved minerals or other resources not exceeding two hundred dollars in value may be sold, when the board deems it advisable, either with or without publication of notice of sale, and in such manner as the board may determine will be most beneficial to the county. [1963 c 4 § 36.34-.010. Prior: 1945 c 172 § 3; 1943 c 19 § 1; 1891 c 76 § 1; Rem. Supp. 1945 § 4007.]

36.34.020 Publication of notice of intention to sell. Whenever the board of county commissioners desires to dispose of any county property except:

- (1) When selling to a governmental agency;
- (2) When personal property to be disposed of is to be traded in upon the purchase of a like article;
- (3) When the value of the property to be sold is less than five hundred dollars;
- (4) When the board by a resolution setting forth the facts has declared an emergency to exist; it shall publish notice of its intention so to do once each week during two successive weeks in three different legal newspapers published in the county, or if there are less than three in as many legal newspapers as are published in the county. [1967 ex.s. c 144 § 1; 1963 c 4 § 36.34.020. Prior: 1945 c 254 § 1; Rem. Supp. 1945 § 4014-1; prior: 1891 c 76 § 2, part; RRS § 4008, part.]

36.34.030 Requirements of notice—Posting. The notice of hearing on the proposal to dispose of any county property must particularly describe the property or portion thereof proposed to be sold and designate the place where and the day and hour when a hearing will be held thereon and be posted in a conspicuous place in the courthouse. Both posting and the date of first publication must be at least ten days before the day set for the hearing. [1963 c 4 § 36.34.030. Prior: 1945 c 254 § 2; Rem. Supp. 1945 § 4014-2; prior: 1891 c 76 § 2, part; RRS § 4008, part.]

36.34.040 Public hearing. The board shall hold a public hearing upon a proposal to dispose of county property at the day and hour fixed in the notice at its usual place of business and admit evidence offered for and against the propriety and advisability of the proposed action. Any taxpayer in person or by counsel may submit evidence and submit an argument, but the board may limit the number to three on a side. [1963 c 4 § 36.34.040. Prior: 1945 c 254 § 3; Rem. Supp. 1945 § 4014-3; prior: 1891 c 76 § 2, part; RRS § 4008, part.]

36.34.050 Findings and determination. Within three days after the hearing upon a proposal to dispose of county property, the board of county commissioners shall make its findings and determination thereon and cause them to be spread upon its minutes and made a matter of record. [1963 c 4 § 36.34.050. Prior: 1945 c 254 § 4; Rem. Supp. 1945 § 4014-4; prior: 1891 c 76 § 3; RRS § 4009.]

36.34.060 Sales of personalty. Sales of personal property must be for cash except:

(1) When property is transferred to a governmental agency;

(2) When the county property is to be traded in on the purchase of a like article, in which case the proposed cash allowance for the trade-in must be part of the proposition to be submitted by the seller in the transaction. [1963 c 4 § 36.34.060. Prior: 1945 c 254 § 5; Rem. Supp. 1945 § 4014-5; prior: 1915 c 8 § 1, part; 1891 c 76 § 5, part; RRS § 4011, part.]

36.34.070 Sales and purchases of equipment—Trade-ins. The board may advertise and sell used highway or other equipment belonging to the county or to any taxing division thereof subject to its jurisdiction in the manner prescribed for the sale of county property, or it may trade it in on the purchase of new equipment. If the board elects to trade in the used equipment it shall include in its call for bids on the new equipment a notice that the county has for sale or trade-in used equipment of a specified type and description which will be sold or traded in on the same day and hour that the bids on the new equipment are opened. Any bidder on the new equipment may include in his offer to sell, an offer to accept the used equipment as a part payment of the new equipment purchase price, setting forth the amount of such allowance.

In determining the lowest and best bid on the new equipment the board shall consider the net cost to the county of such new equipment after trade-in allowances have been deducted. The board may accept the new equipment bid of any bidder without trading in the used equipment but may not require any such bidder to purchase the used equipment without awarding the bidder the new equipment contract. Nothing in this section shall bar anyone from making an offer for the purchase of the used equipment independent of a bid on the new equipment and the board shall consider such offers in relation to the trade-in allowances offered to determine the net best sale and purchase combination for the county. [1963 c 4 § 36.34.070. Prior: 1945 c 254 § 6; Rem. Supp. 1945 § 4014-6.]

36.34.080 Place of sales—Public auction. All sales of county property ordered after a public hearing upon the proposal to dispose thereof must be made by the county treasurer at such place on county property as the board of county commissioners may direct to the highest and best bidder at public auction. [1965 ex.s. c 23 § 1; 1963 c 4 § 36.34.080. Prior: 1945 c 254 § 7; Rem. Supp. 1945 § 4014-7; prior: 1891 c 76 § 4, part; RRS § 4010, part.]

Public auction sales, where held: RCW 36.16.140.

36.34.090 Notice of sale. Whenever county property is to be sold at public auction, the county auditor shall publish notice thereof once during each of two successive calendar weeks in three different newspapers published in the county or if there are less than three, in as many newspapers as are published in the county. Notice thereof must also be posted in a conspicuous place in the courthouse. The posting and date of first publication must be at least ten days before the day fixed for the

sale. [1963 c 4 § 36.34.090. Prior: 1945 c 254 § 8; Rem. Supp. 1945 § 4014-8; prior: 1891 c 76 § 4, part; RRS § 4010, part.]

36.34.100 Notice of sale—Requirements of. The notice of sale of county property must particularly describe the property to be sold and designate the day and hour and the place of sale. If real property is to be sold on terms, the terms must be stated in the notice. [1963 c 4 § 36.34.100. Prior: 1945 c 254 § 9; Rem. Supp. 1945 § 4014-9; prior: 1891 c 76 § 4, part; RRS § 4010, part.]

36.34.110 Disposition of proceeds. The proceeds of sales of county property except in cases of trade-in allowances upon purchases of like property must be paid to the county treasurer who must receipt therefor and execute the proper documents transferring title attested to by the county auditor. In no case shall the title be transferred until the purchase price has been fully paid. [1963 c 4 § 36.34.110. Prior: 1945 c 254 § 10; Rem. Supp. 1945 § 4014-10; prior: (i) 1915 c 8 § 1, part; 1891 c 76 § 5, part; RRS § 4011, part. (ii) 1891 c 76 § 6, part; RRS § 4013, part.]

36.34.120 Used equipment sales. Proceeds from the sale of used equipment must be credited to the fund from which the original purchase price was paid. [1963 c 4 § 36.34.120. Prior: 1945 c 254 § 11; Rem. Supp. 1945 § 4014-11.]

36.34.130 Intergovernmental sales. The board of county commissioners may dispose of county property to another governmental agency and may acquire property for the county from another governmental agency by means of private negotiation upon such terms as may be agreed upon and for such consideration as may be deemed by the board of county commissioners to be adequate. [1963 c 4 § 36.34.130. Prior: 1945 c 254 § 12; Rem. Supp. 1945 § 4014-12.]

36.34.140 Leases of county property—Airports. The board of county commissioners, if it appears that it is for the best interests of the county and the people thereof, that any county real property and its appurtenances should be leased for a year or a term of years, may lease such property under the limitations and restrictions and in the manner provided in this chapter, and, if it appears that it is for the best interests of the county and the people thereof, that any county real property and its appurtenances which is now being, or is to be devoted to airport or aeronautical purposes or purposes incidental thereto, should be leased for a year or a term of years, said board of county commissioners may lease such property under the limitations and restrictions and in the manner provided in this chapter, and said board of county commissioners shall have power to lease such county real property and its appurtenances whether such property was heretofore or hereafter acquired or whether heretofore or hereafter acquired by tax deed under tax foreclosure proceedings for nonpayment of taxes or whether held or acquired in any other manner.

Any lease executed under the authority of the provisions hereof creates a vested interest and a contract binding upon the county and the lessee. [1963 c 4 § 36.34.140. Prior: 1951 2nd ex.s. c 14 § 1; prior: (i) 1901 c 87 § 1; RRS § 4019. (ii) 1901 c 87 § 6, part; RRS § 4024, part.]

36.34.145 Leases in class A counties to nonprofit corporations for agricultural fairs. The board of county commissioners of any class A county owning property in or outside the limits of any city or town, or anywhere within the county, which is suitable for agricultural fair purposes may by negotiation lease such property for such purposes for a term not to exceed seventy-five years to any nonprofit organization that has demonstrated its qualification to conduct agricultural fairs. Such agricultural fair leases shall not be subject to any requirement of periodic rental adjustments, as provided in RCW 36.34.180, but shall provide for such fixed annual rental as shall appear reasonable, considering the benefit to be derived by the county in the promotion of the fair and in the improvement of the property. The lessee may utilize or rent out such property at times other than during the fair season for nonfair purposes in order to obtain income for fair purposes, and during the fair season may sublease portions of the property for purposes and activities associated with such fair. No sublease shall be valid unless the same shall be approved in writing by the board of county commissioners: *Provided*, That failure of such lessee, except by act of God, war or other emergency beyond its control, to conduct an annual agricultural fair or exhibition, shall cause said lease to be subject to cancellation by the board of county commissioners. [1963 c 4 § 36.34.145. Prior: 1957 c 134 § 1.]

36.34.150 Application to lease—Deposit. Any person desiring to lease county lands shall make application in writing to the board of county commissioners. Each application shall be accompanied by a deposit of not less than ten dollars or such other sum as the county commissioners may require, not to exceed twenty-five dollars. The deposit shall be in the form of a certified check or certificate of deposit on some bank in the county, or may be paid in cash. In case the lands applied for are leased at the time they are offered, the deposit shall be returned to the applicant, but if the party making application fails or refuses to comply with the terms of his application and to execute the lease, the deposit shall be forfeited to the county, and the board of county commissioners shall pay the deposit over to the county treasurer, who shall place it to the credit of the current expense fund. [1963 c 4 § 36.34.150. Prior: 1901 c 87 § 2; RRS § 4020.]

36.34.160 Notice of intention to lease. When, in the judgment of the board of county commissioners, it is found desirable to lease the land applied for, it shall first give notice of its intention to make such lease by publishing a notice in a legal newspaper at least once a week for the term of three weeks, and shall also post a notice

of such intention in a conspicuous place in the courthouse for the same length of time. The notice so published and posted shall designate and describe the property which is proposed to be leased, together with the improvements thereon and appurtenances thereto, and shall contain a notice that the board of county commissioners will meet at the county courthouse on a day and at an hour designated in the notice, for the purpose of leasing the property which day and hour shall be at a time not more than a week after the expiration of the time required for the publication of the notice. [1963 c 4 § 36.34.160. Prior: 1901 c 87 § 3; RRS § 4021.]

36.34.170 Objections to leasing. Any person may appear at the meeting of the county commissioners or any adjourned meeting thereof, and make objection to the leasing of the property, which objection shall be stated in writing. In passing upon objections the board of county commissioners shall, in writing, briefly give its reasons for accepting or rejecting the same, and such objections, and the reasons for accepting or refusing the application, shall be published by the board in the next subsequent weekly issue of the newspaper in which the notice of hearing was published. [1963 c 4 § 36.34.170. Prior: 1901 c 87 § 5; RRS § 4023.]

36.34.180 Lease terms. At the day and hour designated in the notice or at any subsequent time to which the meeting may be adjourned by the board of county commissioners, but not more than thirty days after the day and hour designated for the meeting in the published notice, the board may lease the property in such notice described for a term of years and upon such terms and conditions as to the board may seem just and right in the premises. No lease shall be for a longer term in any one instance than ten years, and no renewal of a lease once executed and delivered shall be had, except by a re-leasing and re-letting of the property according to the terms and conditions of this chapter: *Provided*, That if a county owns property within or outside the corporate limits of any city or town or anywhere in the county suitable for municipal purposes, or for commercial buildings, or owns property suitable for manufacturing or industrial purposes or sites, or for military purposes, or for temporary or emergency housing, or for any requirement incidental to manufacturing, commercial, agricultural, housing, military, or governmental purposes, the board of county commissioners may lease it for such purposes for any period not to exceed thirty-five years: *Provided further*, Where the property involved is or is to be devoted to airport purposes and construction work or the installation of new facilities is contemplated, the board may lease said property for such period as may equal the estimated useful life of such work or facilities but not to exceed seventy-five years.

If property is leased for municipal purposes or for commercial buildings or manufacturing or industrial purposes the lessee shall prior to the execution of the lease file with the board of county commissioners general plans and specifications of the building or buildings to be erected thereon for such purposes. All leases when executed shall provide that they shall be canceled by failure

of the lessee to construct such building or buildings or other improvements for such purposes within three years from date of the lease, and in case of failure so to do the lease and all improvements thereon including the rentals paid, shall thereby be forfeited to the county unless otherwise stipulated. No change or modification of the plans shall be made unless first approved by the board of county commissioners. If at any time during the life of the lease the lessee fails to use the property for the purposes leased, without first obtaining permission in writing from the board of county commissioners so to do, the lease shall be forfeited.

Any lease made for a longer period than ten years shall contain provisions requiring the lessee to permit the rentals for every five year period thereafter, or part thereof, at the commencement of such period, to be readjusted and fixed by the board of county commissioners. In the event that the lessee and the board cannot agree upon the rentals for said five year period, the lessee shall submit to have the disputed rentals for the subsequent period adjusted by arbitration. The lessee shall pick one arbitrator and the board one, and the two so chosen shall select a third. No board of arbitrators shall reduce the rentals below the sum fixed or agreed upon for the last preceding period. All buildings, factories, or other improvements made upon property leased shall belong to and become property of such county, unless otherwise stipulated, at the expiration of the lease.

No lease shall be assigned without the assignment being first authorized by resolution of the board of county commissioners and the consent in writing of at least two members of the board endorsed on the lease. All leases when drawn shall contain this provision.

This section shall not be construed to limit the power of the board of county commissioners to sell, lease, or by gift convey any property of the county to the United States or any of its governmental agencies to be used for federal government purposes. [1963 c 4 § 36.34.180. Prior: 1951 c 41 § 1; 1941 c 110 § 2; 1913 c 162 § 1; 1903 c 57 § 1; 1901 c 87 § 4; RRS § 4022.]

36.34.190 Lease to highest responsible bidder. No lease shall be made by the county except to the highest responsible bidder at the time of the hearing set forth in the notice of intention to lease. [1963 c 4 § 36.34.190. Prior: 1901 c 87 § 6, part; RRS § 4024, part.]

36.34.200 Execution of lease agreement. Upon the decision of the board of county commissioners to lease the lands applied for, a lease shall be executed in duplicate to the lessee by the chairman of the board and the county auditor, attested by his seal of office, which lease shall also be signed by the lessee. The lease shall refer to the order of the board directing the lease, with a description of the lands conveyed, the periods of payment, and the amounts to be paid for each period. [1963 c 4 § 36.34.200. Prior: 1901 c 87 § 7; RRS § 4025.]

36.34.210 Forest lands may be conveyed to United States. The board of county commissioners of any county which acquires any lands through foreclosure of

tax liens or otherwise, which by reason of their location, topography, or geological formation are chiefly valuable for the purpose of developing and growing timber, and which are situated within the boundaries of any national forest, may, upon application by the proper forest service official of the United States government, convey such lands to the United States government for national forest purposes under the national forest land exchange regulations, for such compensation as may be deemed equitable. [1963 c 4 § 36.34.210. Prior: 1931 c 69 § 1; RRS § 4015-1.]

36.34.220 Lease or conveyance to United States for flood control, navigation, and allied purposes. If the board of county commissioners of any county adjudges that it is desirable and for the general welfare and benefit of the people of the county and for the interest of the county to lease or convey property, real or personal, belonging to the county, however acquired, whether by tax foreclosure or in any other manner, to the United States for the purpose of flood control, navigation, power development, or for use in connection with federal projects within the scope of the federal reclamation act of June 17, 1902, and the act of congress of August 30, 1935, entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes," and federal acts amendatory thereof and supplemental thereto, for the reclamation and irrigation of arid lands, the board, by majority vote, may lease or convey such property to the United States for flood control, navigation, and power development purposes, or for use in connection with federal projects for the reclamation and irrigation of arid lands. This property may be conveyed or leased by deed or other instrument of conveyance or lease without notice and upon such consideration, if any, as shall be determined by the board and the deed or lease may be signed by the county treasurer when authorized to do so by resolution of the board. Any deed issued heretofore by any county to the United States under authority of section 1, chapter 46, Laws of 1937 and the amendments thereto, is ratified and approved and declared to be valid. [1963 c 4 § 36.34.220. Prior: 1945 c 94 § 1; 1941 c 142 § 1; 1937 c 46 § 1; Rem. Supp. 1945 § 4015-6.]

36.34.230 Lease or conveyance to United States for flood control, navigation and allied purposes—State consents to conveyance. Pursuant to the Constitution and laws of the United States and the Constitution of this state, consent of the legislature is given to such conveyance by a county to the United States for such purposes. [1963 c 4 § 36.34.230. Prior: 1937 c 46 § 2; RRS § 4015-7.]

36.34.240 Lease or conveyance to United States for flood control, navigation, and allied purposes—Cession of jurisdiction. Pursuant to the Constitution and laws of the United States and the Constitution of this state, consent of the legislature is given to the exercise by the congress of the United States of exclusive legislation in all cases whatsoever on such tract or parcels of land so conveyed to it: *Provided*, That all civil process issued

from the courts of the state and such criminal process as may issue under the authority of the state against any person charged with crime in cases arising outside of said tract may be served and executed thereon in the same manner as if such property were retained by the county. [1963 c 4 § 36.34.240. Prior: 1937 c 46 § 3; RRS § 4015-8.]

36.34.250 Lease or conveyance to the state or to United States for military, housing, and other purposes. The board of county commissioners of any county by a majority vote are hereby authorized to directly lease, sell, or convey by gift, all or any portion of real estate, or any interest therein owned by the county, however acquired, by tax foreclosure or in any other manner, to the United States for the use and benefit of any branch of the army, navy, marine corps or air forces of the United States, or for enlarging or improving any military base thereof, or for any governmental housing project, or for the purpose of constructing and operating any federal power project, or to the state of Washington, without requiring competitive bids or notice to the public and at such price and terms as the board may deem for the best interests of the county. The property may be conveyed to the United States or to the state of Washington by deed or other instrument of conveyance and shall not require any consideration, if donated, other than the benefit which may be derived by the county on account of the use thereof and development of such property by the United States government or the state. [1963 c 4 § 36.34.250. Prior: 1941 c 227 § 1; Rem. Supp. 1941 § 4026-1a.]

36.34.260 Lease or conveyance to the state or to United States for military, housing, and other purposes—Procedure. In any county where the federal government owns and maintains property under the jurisdiction of the navy department or war department, or any other federal department, the board of county commissioners by majority vote may sell, lease or transfer to the United States government any real or personal property owned by said county, however acquired, for the use and benefit of any branch of the army, navy, marine corps or air forces thereof or for enlarging or improving any military base thereof, or for any other governmental housing project, or to the state of Washington, without requiring competitive bids or notice to the public and at such price and terms as the board may deem for the best interests of the county. This property may be conveyed to the government of the United States by bill of sale or other instrument of conveyance and need not require consideration other than the benefit which may be derived by the county on account of the use thereof and development of such property by the United States government. The state of Washington may buy and/or sell such property, or the state of Washington may buy and/or sell such property for the purposes herein stated; or mutually interchange or trade such property or purchase one from the other. [1963 c 4 § 36.34.260. Prior: 1941 c 227 § 2; Rem. Supp. 1941 § 4026-1b.]

36.34.270 Lease or conveyance to the state or to United States for military, housing, and other purposes—Execution of instrument of transfer. The resolution of the board of county commissioners to grant an option to purchase, contract to sell, lease, sell and convey, or donate, as provided, shall be entered by said board upon its journal, and any option to purchase, contract to sell, lease, sale and conveyance, or donation executed pursuant thereto, shall be signed on behalf of the county by the board of county commissioners, or a majority thereof, and shall be acknowledged in the manner prescribed by law. [1963 c 4 § 36.34.270. Prior: 1941 c 227 § 3; Rem. Supp. 1941 § 4026-1c.]

36.34.280 Conveyance to municipality. Whenever any county holds title to lands, for county purposes, acquired by grant, patent, or other conveyance from the United States executed under and pursuant to an act of congress, and the board of county commissioners of such county by resolution finds and determines that any portion thereof is not required for county purposes and that it would be for the best interest of the county to have such portion of the lands devoted to use by a municipality lying within the county, the board of county commissioners may, with the consent of the congress of the United States, by a proper instrument of conveyance executed by the board on behalf of the county, convey such lands to the municipality for municipal purposes, either with or without consideration, and shall not be required to advertise or offer such lands for sale or lease in the manner provided by law for the sale or lease of county property. [1963 c 4 § 36.34.280. Prior: 1917 c 69 § 1; RRS § 4015.]

36.34.290 Dedication of county land for streets and alleys. The boards of county commissioners of the several counties may dedicate any county land to public use for public streets and alleys in any city or town. [1963 c 4 § 36.34.290. Prior: 1903 c 89 § 1; RRS § 4026.]

36.34.300 Dedication of county land for streets and alleys—Execution of dedication—Effective date. Whenever the board of county commissioners of any county deems it for the best interests of the public that any county land lying in any city or town should be dedicated to the public use for streets or alleys, it shall make and enter an order upon its records, designating the land so dedicated, and shall cause a certified copy of the order to be recorded in the auditor's office of the county in which the land is situated, and from and after entry of such order of dedication and the recording thereof as herein provided, such lands shall be thereby dedicated to the public use. [1963 c 4 § 36.34.300. Prior: 1903 c 89 § 2; RRS § 4027.]

36.34.310 Long term leases to United States. Any county in the state may lease any property owned by it to the United States of America or to any agency thereof for a term not exceeding ninety-nine years upon such conditions as may be contained in a written agreement therefor executed on behalf of the county by its board of county commissioners, and by any person on

behalf of the United States of America or any agency thereof who has been thereunto authorized: *Provided*, That any lease made for a longer period than ten years hereunder shall contain provisions requiring the lessee to permit the rentals for every five-year period thereafter, or part thereof, at the commencement of such period, to be readjusted upward and fixed by the board of county commissioners. In the event that the lessee and the board of county commissioners cannot agree upon the rentals for the five-year period, the lessee shall submit to have the disputed rentals for such subsequent period adjusted by arbitration. The lessee shall pick one arbitrator and the board of county commissioners one, and the two so chosen shall select a third. No board of arbitrators shall reduce the rentals below the sum fixed or agreed upon for the last preceding period. All buildings, factories or other improvements made upon property leased under this proviso shall belong to and become property of the county, unless otherwise stipulated, at the expiration of the lease. [1963 c 4 § 36.34.310. Prior: 1949 c 85 § 1; Rem. Supp. 1949 § 4019-1.]

36.34.320 Executory conditional sales contracts for purchase of property—Limit on indebtedness—Election, when. See RCW 39.30.010.

36.34.330 Exchange for privately owned real property of equal value. The board of county commissioners of any county shall have authority to exchange county real property for privately owned real property of equal value whenever it is determined by a decree of the superior court in the county in which the real property is located, after publication of notice of hearing is given as fixed and directed by such court, that:

(1) The county real property proposed to be exchanged is not necessary to the future foreseeable needs of such county; and

(2) The real property to be acquired by such exchange is necessary for the future foreseeable needs of such county; and

(3) The value of the county real property to be exchanged is not more than the value of the real property to be acquired by such exchange. [1965 ex.s. c 21 § 1.]

36.34.340 May acquire property for park, recreational, viewpoint, greenbelt, conservation, historic, scenic, or view purposes. Any county or city may acquire by purchase, gift, devise, bequest, grant or exchange, title to or any interests or rights in real property to be provided or preserved for (a) park or recreational purposes, viewpoint or greenbelt purposes, (b) the conservation of land or other natural resources, or (c) historic, scenic, or view purposes. [1965 ex.s. c 76 § 4.]

Parks, county commissioners may designate name of: RCW 36.32.430.

Chapter 36.35 TAX TITLE LANDS

Sections

36.35.010 Purpose—Powers of county legislative authority as to tax title lands.

- 36.35.020 "Tax title lands" defined.
 36.35.030 Conveyance—Use of proceeds.
 36.35.040 Authority to manage, improve lands—Use of proceeds from rental.
 36.35.050 Exchange of tax title lands with other entities—Appraisal.
 36.35.060 Lease—Approval of terms by school directors.
 36.35.070 Chapter as alternative.
 36.35.080 Forest board lands not affected.
 36.35.090 Chapter not affected by other acts.

36.35.010 Purpose—Powers of county legislative authority as to tax title lands. The purpose of this chapter is to increase the power of county legislative authorities over tax title lands. The legislative authority of each county shall have the power to devote tax title lands to public use under its own control or the control of other governmental or quasi-governmental agencies, to exchange such lands for lands worth at least ninety percent of the value of the land exchanged, and to manage such lands to produce maximum revenue therefrom in the manner which derives the most income from such lands. The further purpose of this chapter is to relieve the courts of the obligation of supervising the county legislative authorities in the management and disposition of tax title lands. [1972 ex.s. c 150 § 1.]

36.35.020 "Tax title lands" defined. The term "tax title lands" as used in this chapter shall mean any tract of land acquired by the county for lack of other bidders at a tax foreclosure sale. [1972 ex.s. c 150 § 2.]

36.35.030 Conveyance—Use of proceeds. Whenever the legislative authority of any county deems tax title lands valuable for public use it shall have authority to convey such lands to the county in its proprietary capacity, free from any trust, upon payment by the county of the amount of delinquent taxes, and interest thereon, owing on the land at the time the county acquired same at tax foreclosure sale: *Provided*, That in the event such lands shall be subsequently sold or leased, or income derived therefrom, the proceeds shall first go to reimburse the county for the cost of such sale or lease, for the cost of any improvements placed thereon at county expense, and the costs of managing such lands, with the balance of such proceeds to be distributed in the same manner as general taxes collected in the year in which such moneys are received by the county. [1972 ex.s. c 150 § 4.]

36.35.040 Authority to manage, improve lands—Use of proceeds from rental. The legislative authority of a county shall have authority to manage tax title lands acquired by it and to make improvements thereon which the legislative authority deems will enhance the value of such lands, or enhance the amount of income to be derived therefrom. Any proceeds received from the rental of such lands by the legislative authority shall first be used to reimburse the legislative authority for costs of management and costs of rental, and costs of any improvements to such lands paid for by the county and after such reimbursements have been made the balance shall be distributed in the same manner as general taxes

collected in the year in which such proceeds are received by the county. [1972 ex.s. c 150 § 5.]

36.35.050 Exchange of tax title lands with other entities—Appraisal. The legislative authority of a county shall have authority to exchange parcels of tax title lands for lands of substantially the same market value with other governmental or municipal agencies or private parties or corporations by private negotiation and such lands received by the county in exchange may be held and managed in the same manner as the lands conveyed in exchange by the county, and the proceeds from any subsequent sales or rentals of such land by the county shall be applied and distributed in the same manner as would have been done had such proceeds and income been received by the county for the lands conveyed in exchange by the county: *Provided*, That before any such exchange is made the lands to be exchanged by the county and the lands to be received by the county shall be appraised by two appraisers appointed by the court for such purpose: *Provided further*, That both appraisers agree that the land to be received by the county in such exchange is worth at least ninety percent of the value of the land to be given by the county in such exchange. [1972 ex.s. c 150 § 6.]

36.35.060 Lease—Approval of terms by school directors. The legislative authority of a county shall have authority to lease tax title lands to public or private agencies or persons. The procedures and regulations of RCW 36.34.150 through 36.34.200 shall be followed: *Provided*, That before any such lease agreement is executed the terms of the lease are approved by resolution of the board of directors of the school district which would be entitled to share in the proceeds of the income received therefrom at the time the lease is executed. [1972 ex.s. c 150 § 7.]

36.35.070 Chapter as alternative. The provisions of this chapter shall be deemed as alternatives to, and not be limited by, the provisions of RCW 39.33.010, 36.34.130, and 84.64.310, nor shall the authority granted in this chapter be held to be subjected to or qualified by the terms of such statutory provisions. [1972 ex.s. c 150 § 8.]

36.35.080 Forest board lands not affected. Nothing in this chapter shall affect any land deeded in trust to the state forest board or its successors pursuant to the provisions of Title 76 RCW. [1972 ex.s. c 150 § 9.]

36.35.090 Chapter not affected by other acts. Notwithstanding any provision of law to the contrary, or provisions of law limiting the authority granted in this chapter, the legislative authority of any county shall have the authority to manage and exchange tax title lands heretofore or hereafter acquired in the manner and on the terms and conditions set forth in this chapter. [1972 ex.s. c 150 § 3.]

Chapter 36.37

AGRICULTURAL FAIRS AND POULTRY SHOWS

Sections

- 36.37.010 Fairs authorized—Declared county purpose.
 36.37.020 Property may be acquired for fairs.
 36.37.040 Expenditure of funds—Revolving fund—Management of fairs.
 36.37.050 District or multiple county fairs authorized.
 36.37.090 Poultry shows—Petition—Appropriation.
 36.37.100 Poultry shows—Open to public—Admission charge.
 36.37.110 Poultry shows—Conduct of shows.

36.37.010 Fairs authorized—Declared county purpose. The holding of county fairs and agricultural exhibitions of stock, cereals, and agricultural produce of all kinds, including dairy produce, as well as arts and manufactures, by any county in the state, and the participation by any county in a district fair or agricultural exhibition, is declared to be in the interest of public good and a strictly county purpose. [1963 c 4 § 36.37.010. Prior: 1947 c 184 § 1; 1917 c 32 § 1; Rem. Supp. 1947 § 2750.]

36.37.020 Property may be acquired for fairs. The board of county commissioners of any county in the state may acquire by gift, devise, purchase, condemnation and purchase, or otherwise, lands, property rights, leases, easements, and all kinds of personal property and own and hold the same and construct and maintain temporary or permanent improvements suitable and necessary for the purpose of holding and maintaining county or district fairs for the exhibition of county or district resources and products. [1963 c 4 § 36.37.020. Prior: 1947 c 184 § 2; 1917 c 32 § 2; Rem. Supp. 1947 § 2751.]

36.37.040 Expenditure of funds—Revolving fund—Management of fairs. The board of county commissioners of any county may appropriate and expend each year such sums of money as they deem advisable and necessary for (1) acquisition of necessary grounds for fairs and world fairs, (2) construction, improvement and maintenance of buildings thereon, (3) payment of fair premiums, and (4) the general maintenance of such fair. The board of county commissioners of any county may also authorize the county auditor to provide a revolving fund to be used by the fair officials for the conduct of the fair. The board of county commissioners may employ persons to assist in the management of fairs or by resolution designate a nonprofit corporation as the exclusive agency to operate and manage such fairs. [1963 c 4 § 36.37.040. Prior: 1957 c 124 § 1; 1955 c 297 § 1; prior: (i) 1947 c 184 § 3; 1943 c 101 § 1; 1923 c 83 § 2; Rem. Supp. 1947 § 2753 1/2. (ii) 1923 c 83 § 1; 1917 c 32 § 4; RRS § 2753.]

36.37.050 District or multiple county fairs authorized. Each county is authorized to hold one county fair in each year, or, as an alternative, to participate with any other county or counties in the holding of a district fair. Where counties participate in the holding of a district fair, the boards of county commissioners of each of participating counties may enter into mutual agreements setting forth the manner and extent of the participation

by each county in the management and support of the district fair, subject to the limitations imposed on each respective county by the provisions of this chapter. [1963 c 4 § 36.37.050. Prior: 1947 c 184 § 4; Rem. Supp. 1947 § 2753a.]

36.37.090 Poultry shows—Petition—Appropriation. Upon petition of twenty-five resident taxpayers of any county who are interested in the poultry industry, the board of county commissioners may set aside and include in its annual budget a sum equivalent to five percent of the assessed valuation of poultry in the county each year for the purpose of holding winter poultry shows, the said sum not to exceed five hundred dollars in any one year. [1963 c 4 § 36.37.090. Prior: 1929 c 109 § 1; RRS § 2755-1.]

36.37.100 Poultry shows—Open to public—Admission charge. All poultry shows shall be open to the public. Such admission charge may be made as is authorized by the board of county commissioners. [1963 c 4 § 36.37.100. Prior: 1929 c 109 § 2; RRS § 2755-2.]

36.37.110 Poultry shows—Conduct of shows. All such poultry shows shall be held under the rules of the American Poultry Association and only licensed poultry judges shall be employed thereat. [1963 c 4 § 36.37.110. Prior: 1929 c 109 § 3; RRS § 2755-3.]

Chapter 36.38
ADMISSIONS TAX

Sections

- 36.38.010 Tax authorized—Exception as to schools.
 36.38.020 Optional provisions in ordinance.
 36.38.030 Form of ordinance.

Taxes for city and town purposes: State Constitution Art. 11 § 12.

36.38.010 Tax authorized—Exception as to schools. Any county may by ordinance enacted by its board of county commissioners, levy and fix a tax of not more than one cent on twenty cents or fraction thereof to be paid for county purposes by persons who pay an admission charge to any place, including a tax on persons who are admitted free of charge or at reduced rates to any place for which other persons pay a charge or a regular higher charge for the same or similar privileges or accommodations; and require that one who receives any admission charge to any place shall collect and remit the tax to the county treasurer of the county: *Provided*, no county shall impose such tax on persons paying an admission to any activity of any elementary or secondary school.

As used in this chapter, the term "admission charge" includes a charge made for season tickets or subscriptions, a cover charge, or a charge made for use of seats and tables, reserved or otherwise, and other similar accommodations; a charge made for food and refreshments in any place where any free entertainment, recreation, or amusement is provided; a charge made for rental or use of equipment or facilities for purpose of recreation or amusement, and where the rental of the equipment or facilities is necessary to the enjoyment of a

privilege for which a general admission is charged, the combined charges shall be considered as the admission charge. It shall also include any automobile parking charge where the amount of such charge is determined according to the number of passengers in any automobile.

The tax herein authorized shall not be exclusive and shall not prevent any city or town within the taxing county, when authorized by law, from imposing within its corporate limits a tax of the same or similar kind: *Provided*, That whenever the same or similar kind of tax is imposed by any such city or town, no such tax shall be levied within the corporate limits of such city or town by the board of county commissioners. [1963 c 4 § 36.38-.010. Prior: 1957 c 126 § 2; 1951 c 34 § 1; 1943 c 269 § 1; Rem. Supp. 1943 § 11241-10.]

36.38.020 Optional provisions in ordinance. In addition to the provisions levying and fixing the amount of tax, the ordinance may contain any or all of the following provisions:

(1) A provision defining the words and terms used therein;

(2) A provision requiring the price (exclusive of the tax to be paid by the person paying for admission) at which every admission ticket or card is sold to be conspicuously and indelibly printed or written on the face or back of that part of the ticket which is to be taken up by the management of the place for which an admission charge is exacted, and making the violation of such provision a misdemeanor punishable by fine of not exceeding one hundred dollars;

(3) Provisions fixing reasonable exemptions from such tax;

(4) Provisions allowing as an offset against the tax, the amount of like taxes levied, fixed, and collected within their jurisdiction by incorporated cities and towns in the county;

(5) A provision requiring persons receiving payments for admissions taxed under said ordinance to collect the amount of the tax from the persons making such payments;

(6) A provision to the effect that the tax imposed by said ordinance shall be deemed to be held in trust by the person required to collect the same until paid to the county treasurer, and making it a misdemeanor for any person receiving payment of the tax and appropriating or converting the same to his own use or to any use other than the payment of the tax as provided in said ordinance to the extent that the amount of such tax is not available for payment on the due date for filing returns as provided in said ordinance;

(7) A provision that in case any person required by the ordinance to collect the tax imposed thereby fails to collect the same, or having collected the tax fails to pay the same to the county treasurer in the manner prescribed by the ordinance, whether such failure is the result of such person's own acts or the result of acts or conditions beyond such person's control, such person shall nevertheless be personally liable to the county for the amount of the tax;

(8) Provisions fixing the time when the taxes imposed by the ordinance shall be due and payable to the county treasurer; requiring persons receiving payments for admissions to make periodic returns to the county treasurer on such forms and setting forth such information as the county treasurer may specify; requiring such return to show the amount of tax upon admissions for which such person is liable for specified preceding periods, and requiring such person to sign and transmit the same to the county treasurer together with a remittance for the amount;

(9) A provision requiring taxpayers to file with the county treasurer verified annual returns setting forth such additional information as he may deem necessary to determine tax liability correctly;

(10) A provision to the effect that whenever a certificate of registration, if required by the ordinance, is obtained for operating or conducting temporary places of amusement by persons who are not the owners, lessees, or custodians of the building, lot or place where the amusement is to be conducted, or whenever the business is permitted to be conducted without the procurement of a certificate, the tax imposed shall be returned and paid as provided in the ordinance by such owner, lessee, or custodian, unless paid by the person conducting the place of amusement;

(11) A provision requiring the applicant for a temporary certificate of registration, if required by the ordinance, to furnish with the application therefor, the name and address of the owner, lessee, or custodian of the premises upon which the amusement is to be conducted, and requiring the county treasurer to notify such owner, lessee, or custodian of the issuance of any such temporary certificate, and of the joint liability for such tax;

(12) A provision empowering the county treasurer to declare the tax upon temporary or itinerant places of amusement to be immediately due and payable and to collect the same, when he believes there is a possibility that the tax imposed under the ordinance will not be otherwise paid;

(13) Any or all of the applicable general administrative provisions contained in RCW 82.32.010 through 82.32.340 and 82.32.380, and the amendments thereto, except that unless otherwise indicated by the context of said sections, in all provisions so incorporated in such ordinance (a) the term "county treasurer" (of the county enacting said ordinance) shall be substituted for each reference made in said sections to the "department," the "department of revenue," "any employee of the department," or "director of the department of revenue"; (b) the name of the county enacting such ordinance shall be substituted for each reference made in said sections to the "state" or to the "state of Washington"; (c) the term "this ordinance" shall be substituted for each reference made in said sections to "this chapter"; (d) the name of the county enacting said ordinance shall be substituted for each reference made in said sections to "Thurston county"; and (e) the term "board of county commissioners" shall be substituted for each reference made in said sections to the "director of program planning and fiscal management." [1975 1st ex.s. c 278 § 21; 1963 c 4 §

36.38.020. Prior: 1943 c 269 § 3; Rem. Supp. 1943 § 11241-12.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

36.38.030 Form of ordinance. The ordinance levying and fixing the tax shall be headed by a title expressing the subject thereof, and the style of the ordinance shall be: "Be it ordained by the Board of County Commissioners of _____ County, State of Washington." The ordinance shall be enacted by a majority vote of the board at a regular meeting thereof, and only after the form of such ordinance as ultimately enacted has been on file with the clerk of the board and open to public inspection for not less than ten days. The ordinance shall not become effective until thirty days following its enactment, and within five days following its enactment it shall be printed and published in a newspaper of general circulation in the county. The ordinance shall be signed by a majority of the board, attested by the clerk of the board, and shall be duly entered and recorded in the book wherein orders of the board are entered and recorded. The ordinance may be at any time amended or repealed by an ordinance enacted, published, and recorded in the same manner. [1963 c 4 § 36.38.030. Prior: 1943 c 269 § 2; Rem. Supp. 1943 § 11241-11.]

Chapter 36.39 ASSISTANCE AND RELIEF

Sections

- 36.39.010 Public assistance.
36.39.030 Disposal of remains of indigent persons.
36.39.040 Federal surplus commodities—County expenses—
Handling commodities for certified persons—County
program, cooperative program.
36.39.050 Federal surplus commodities—Certification of persons
by department of public assistance.

Burial of indigent war veterans: Chapter 73.24 RCW.

Housing authorities law: Chapter 35.82 RCW.

Veterans' relief: Chapter 73.08 RCW.

Welfare and relief: Title 74 RCW.

36.39.010 Public assistance. Public assistance generally, see provisions of Title 74 RCW.

36.39.030 Disposal of remains of indigent persons. The board of county commissioners of any county shall provide for the disposition of the remains of any indigent person including a recipient of public assistance who dies within the county and whose body is unclaimed by relatives or church organization. [1963 c 4 § 36.39.030. Prior: 1953 c 224 § 1; 1951 c 258 § 1.]

36.39.040 Federal surplus commodities—County expenses—Handling commodities for certified persons—County program, cooperative program. The county commissioners of any county may expend from the county general fund for the purpose of receiving, warehousing and distributing federal surplus commodities for the use of or assistance to recipients of public assistance or other needy families and individuals when such recipients, families or individuals are certified as

eligible to obtain such commodities by the state department of public assistance. The county commissioners may expend county general fund moneys to carry out any such program as a sole county operation or in conjunction or cooperation with any similar program of distribution by private individuals or organizations, any department of the state, or any political subdivision of the state. [1963 c 4 § 36.39.040. Prior: 1957 c 187 § 5.]

36.39.050 Federal surplus commodities—Certification of persons by department of public assistance. See RCW 74.04.340 through 74.04.360.

Chapter 36.40 BUDGET

Sections

- 36.40.010 Estimates to be filed by county officials.
36.40.020 Commissioners to file road and bridge estimate and estimate of future bond expenditures.
36.40.030 Forms of estimates—Penalty for delay.
36.40.040 Preliminary budget prepared by auditor.
36.40.050 Revision by county commissioners.
36.40.060 Notice of hearing on budget.
36.40.070 Budget hearing.
36.40.071 Budget hearing—Alternate date for budget hearing.
36.40.080 Final budget to be fixed.
36.40.090 Taxes to be levied.
36.40.100 Budget constitutes appropriations—Transfers—
Supplemental appropriations.
36.40.110 Additional limitation on road fund expenditures.
36.40.120 Limitation on use of borrowed money.
36.40.130 County not liable on overexpenditure—Penalty against
officials.
36.40.140 Emergencies subject to hearing.
36.40.150 Emergencies subject to hearing—Right of taxpayer to
review order.
36.40.160 Emergencies subject to hearing—Petition for review
suspends order.
36.40.170 Emergencies subject to hearing—Court's power on
review.
36.40.180 Emergencies subject to hearing—Nondebatable
emergencies.
36.40.190 Payment of emergency warrants.
36.40.200 Lapse of budget appropriations.
36.40.205 Salary adjustment for county legislative authority
office—Ratification and validation of proelection
action.
36.40.210 Monthly report by auditor.
36.40.220 Rules, classifications, and forms.
36.40.230 No new funds created.
36.40.240 Penalty.

Alternate date for budget hearing: RCW 36.40.071.

County road millage funds, budgeting of for services: RCW 36.33.220.

Flood control zone district budget as affecting: RCW 86.15.140.

Juvenile detention facilities, budget allocation may be used for: RCW 13.16.080.

Metropolitan municipal corporation costs in: RCW 35.58.420.

Tuberculosis hospitalization budget: Chapter 70.32 RCW.

36.40.010 Estimates to be filed by county officials. On or before the second Monday in July of each year the county auditor shall notify in writing each county official, elective or appointive, in charge of an office, department, service, or institution of the county, to file with him on or before the second Monday in August thereafter detailed and itemized estimates, both of the probable revenues from sources other than taxation, and of all expenditures required by such office, department,

service, or institution for the ensuing fiscal year. [1963 c 4 § 36.40.010. Prior: 1923 c 164 § 1, part; RRS § 3997-1, part.]

36.40.020 Commissioners to file road and bridge estimate and estimate of future bond expenditures. The county commissioners shall submit to the auditor a detailed statement showing all new road and bridge construction to be financed from the county road fund, and from bond issues theretofore issued, if any, for the ensuing fiscal year, together with the cost thereof as computed by the county road engineer or for constructions in charge of a special engineer, then by such engineer, and such engineer shall prepare such estimates of cost for the county commissioners. They shall also submit a similar statement showing the road and bridge maintenance program, as near as can be estimated.

The county commissioners shall also submit to the auditor detailed estimates of all expenditures for construction or improvement purposes proposed to be made from the proceeds of bonds or warrants not yet authorized. [1963 c 4 § 36.40.020. Prior: 1923 c 164 § 1, part; RRS § 3997-1, part.]

36.40.030 Forms of estimates—Penalty for delay. The estimates required in RCW 36.40.010 and 36.40.020 shall be submitted on forms provided by the auditor and classified according to the classification established by the division of municipal corporations. The auditor shall provide such forms. He shall also prepare the estimates for interest and debt redemption requirements and any other estimates the preparation of which properly falls within the duties of his office.

Each such official shall file his estimates within the time and in the manner provided in the notice and form and the auditor shall deduct and withhold as a penalty from the salary of each official failing or refusing to file such estimates as herein provided, the sum of ten dollars for each day of delay: *Provided*, That the total penalty against any one official shall not exceed fifty dollars in any one year.

In the absence or disability of any official the duties required herein shall devolve upon the official or employee in charge of the office, department, service, or institution for the time being. The notice shall contain a copy of this penalty clause. [1963 c 4 § 36.40.030. Prior: 1923 c 164 § 1, part; RRS § 3997-1, part.]

36.40.040 Preliminary budget prepared by auditor. Upon receipt of the estimates the auditor shall prepare the county budget which shall set forth the complete financial program of the county for the ensuing fiscal year, showing the expenditure program and the sources of revenue by which it is to be financed.

The revenue section shall set forth the estimated receipts from sources other than taxation for each office, department, service, or institution for the ensuing fiscal year, the actual receipts for the first six months of the current fiscal year and the actual receipts for the last completed fiscal year, the estimated surplus at the close of the current fiscal year and the amount proposed to be raised by taxation.

The expenditure section shall set forth in comparative and tabular form by offices, departments, services, and institutions the estimated expenditures for the ensuing fiscal year, the appropriations for the current fiscal year, the actual expenditures for the first six months of the current fiscal year including all contracts or other obligations against current appropriations, and the actual expenditures for the last completed fiscal year.

All estimates of receipts and expenditures for the ensuing year shall be fully detailed in the annual budget and shall be classified and segregated according to a standard classification of accounts to be adopted and prescribed by the state auditor through the division of municipal corporations after consultation with the Washington state association of counties and the Washington state association of elected county officials.

The county auditor shall set forth separately in the annual budget to be submitted to the board of county commissioners the total amount of emergency warrants issued during the preceding fiscal year, together with a statement showing the amount issued for each emergency, and the board shall include in the annual tax levy, a levy sufficient to raise an amount equal to the total of such warrants: *Provided*, That the board may fund the warrants or any part thereof into bonds instead of including them in the budget levy. [1973 c 39 § 1. Prior: 1971 ex.s. c 85 § 4; 1969 ex.s. c 252 § 1; 1963 c 4 § 36.40.040; prior: (i) 1923 c 164 § 2; RRS § 3997-2. (ii) 1925 ex.s. c 143 § 2, part; 1923 c 164 § 6, part; RRS § 3997-6, part.]

36.40.050 Revision by county commissioners. The budget shall be submitted by the auditor to the board of county commissioners on or before the first Tuesday in September of each year. The board shall thereupon consider the same in detail, making any revisions or additions it deems advisable. [1963 c 4 § 36.40.050. Prior: 1923 c 164 § 3, part; RRS § 3997-3, part.]

36.40.060 Notice of hearing on budget. The board shall then publish a notice stating that it has completed and placed on file its preliminary budget for the county for the ensuing fiscal year, a copy of which will be furnished any citizen who will call at its office for it, and that it will meet on the first Monday in October thereafter for the purpose of fixing the final budget and making tax levies, designating the time and place of such meeting, and that any taxpayer may appear thereat and be heard for or against any part of the budget. The notice shall be published once each week for two consecutive weeks immediately following adoption of the preliminary budget in the official newspaper of the county, or if there is none, in a legal newspaper in the county. The board shall provide a sufficient number of copies of the detailed and comparative preliminary budget to meet the reasonable demands of taxpayers therefor and the same shall be available for distribution not later than two weeks immediately preceding the first Monday in October. [1963 c 4 § 36.40.060. Prior: 1923 c 164 § 3, part; RRS § 3997-3, part.]

36.40.070 Budget hearing. On the first Monday in October in each year the board of county commissioners shall meet at the time and place designated in the notice, whereat any taxpayer may appear and be heard for or against any part of the budget. The hearing may be continued from day to day until concluded but not to exceed a total of five days. The officials in charge of the several offices, departments, services, and institutions shall, at the time the estimates for their respective offices, departments, services or institutions are under consideration be called in and appear before such hearing by the board at the request of any taxpayer and may be questioned concerning such estimates by the commissioners or any taxpayer present. [1963 c 4 § 36.40.070. Prior: 1943 c 145 § 1, part; 1941 c 99 § 1, part; 1923 c 164 § 4, part; Rem. Supp. 1943 § 3997-4, part.]

36.40.071 Budget hearing—Alternate date for budget hearing. Notwithstanding any provision of law to the contrary, the board of county commissioners may meet for the purpose of holding a budget hearing, provided for in RCW 36.40.070, on the first Monday in December. The board of county commissioners may also set other dates relating to the budget process, including but not limited to the dates set in RCW 36.40.010, 36.40.050, and 36.81.130 to conform to the alternate date for the budget hearing. [1971 ex.s. c 136 § 1.]

36.40.080 Final budget to be fixed. Upon the conclusion of the budget hearing the board of county commissioners shall fix and determine each item of the budget separately and shall by resolution adopt the budget as so finally determined and enter the same in detail in the official minutes of the board, a copy of which budget shall be forwarded to the division of municipal corporations. [1963 c 4 § 36.40.080. Prior: 1943 c 145 § 1, part; 1941 c 99 § 1, part; 1923 c 164 § 4, part; Rem. Supp. 1943 § 3997-4, part.]

36.40.090 Taxes to be levied. The board of county commissioners shall then fix the amount of the levies necessary to raise the amount of the estimated expenditures as finally determined, less the total of the estimated revenues from sources other than taxation, including such portion of any available surplus as in the discretion of the board it shall be advisable to so use, and such expenditures as are to be met from bond or warrant issues: *Provided*, That no county shall retain an unbudgeted cash balance in the current expense fund in excess of a sum equal to the proceeds of a one dollar and twenty-five cents per thousand dollars of assessed value levy against the assessed valuation of the county. All taxes shall be levied in specific sums and shall not exceed the amount specified in the preliminary budget. [1973 1st ex.s. c 195 § 33; 1963 c 4 § 36.40.090. Prior: 1943 c 145 § 1, part; 1941 c 99 § 1, part; 1923 c 164 § 4, part; Rem. Supp. 1943 § 3997-4, part.]

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

36.40.100 Budget constitutes appropriations—Transfers—Supplemental appropriations. The estimates of expenditures itemized and classified as required in RCW 36.40.040 and as finally fixed and adopted in detail by the board of county commissioners shall constitute the appropriations for the county for the ensuing fiscal year; and every county official shall be limited in the making of expenditures or the incurring of liabilities to the amount of such detailed appropriation items or classes respectively: *Provided*, That upon a resolution formally adopted by the board at a regular or special meeting and entered upon the minutes, transfers or revisions within departments, or supplemental appropriations to the budget from unanticipated federal or state funds may be made: *Provided further*, That the board shall publish notice of the time and date of the meeting at which the supplemental appropriations resolution will be adopted, and the amount of the appropriation, once each week, for two consecutive weeks prior to such meeting in the official newspaper of the county or if there is none, in a legal newspaper in the county. [1973 c 97 § 1; 1969 ex.s. c 252 § 2; 1965 ex.s. c 19 § 1; 1963 c 4 § 36.40.100. Prior: 1945 c 201 § 1, part; 1943 c 66 § 1, part; 1927 c 301 § 1, part; 1923 c 164 § 5, part; Rem. Supp. 1945 § 3997-5, part.]

County road fund, equipment rental and revolving fund—Payroll warrants—Transfers: RCW 36.82.230.

36.40.110 Additional limitation on road fund expenditures. In addition to the limitations set forth in RCW 36.40.100, neither the county commissioners nor any other county official shall make any expenditure or incur any liability, except for emergencies of the kind specified in RCW 36.40.180, for any purpose for which the county road fund may be properly expended in any amount in excess of eighty percent of the amount of the taxes levied for collection during the current fiscal year for such fund until the cash receipts from taxation or otherwise during the current fiscal year paid into the fund shall exceed such eighty percent of the tax levy by an amount not less than the amount of expenditure or liability in excess of such eighty percent of the tax levy sought to be made or incurred. [1963 c 4 § 36.40.110. Prior: 1945 c 201 § 1, part; 1943 c 66 § 1, part; 1927 c 301 § 1, part; 1923 c 164 § 5, part; Rem. Supp. 1945 § 3997-5, part.]

36.40.120 Limitation on use of borrowed money. Moneys received from borrowing shall be used for no other purpose than that for which borrowed except that if any surplus shall remain after the accomplishment of the purpose for which borrowed, it shall be used to redeem the county debt. Where the budget contains an expenditure program to be financed from a bond issue to be authorized thereafter no such expenditure shall be made or incurred until such bonds have been duly authorized. [1963 c 4 § 36.40.120. Prior: 1945 c 201 § 1, part; 1943 c 66 § 1, part; 1927 c 301 § 1, part; 1923 c 164 § 5, part; Rem. Supp. 1945 § 3997-5, part.]

36.40.130 County not liable on overexpenditure—Penalty against officials. Expenditures made, liabilities

incurred, or warrants issued in excess of any of the detailed budget appropriations or as revised by transfer as in RCW 36.40.100, 36.40.110 or 36.40.120 provided shall not be a liability of the county, but the official making or incurring such expenditure or issuing such warrant shall be liable therefor personally and upon his official bond. The county auditor shall issue no warrant and the county commissioners shall approve no claim for any expenditure in excess of the detailed budget appropriations or as revised under the provisions of RCW 36.40.100 through 36.40.130, except upon an order of a court of competent jurisdiction, or for emergencies as hereinafter provided. Any county commissioner, or county auditor, approving any claim or issuing any warrant in excess of any such budget appropriation except as herein provided shall forfeit to the county fourfold the amount of such claim or warrant which shall be recovered by action against such county commissioner or auditor, or all of them, and the several sureties on their official bonds. [1963 c 4 § 36.40.130. Prior: 1945 c 201 § 1, part; 1943 c 66 § 1, part; 1927 c 301 § 1, part; 1923 c 164 § 5, part; Rem. Supp. 1945 § 3997-5, part.]

36.40.140 Emergencies subject to hearing. When a public emergency, other than such as are specifically described in RCW 36.40.180, and which could not reasonably have been foreseen at the time of making the budget, requires the expenditure of money not provided for in the budget, the board of county commissioners by majority vote of the commissioners at any meeting the time and place of which all the commissioners have had reasonable notice, shall adopt and enter upon its minutes a resolution stating the facts constituting the emergency and the estimated amount of money required to meet it, and shall publish the same, together with a notice that a public hearing thereon will be held at the time and place designated therein, which shall not be less than one week after the date of publication, at which any taxpayer may appear and be heard for or against the expenditure of money for the alleged emergency. The resolution and notice shall be published once in the official county newspaper, or if there is none, in a legal newspaper in the county. Upon the conclusion of the hearing, if the board of county commissioners approves it, an order shall be made and entered upon its official minutes by a majority vote of all the members of the board setting forth the facts constituting the emergency, together with the amount of expenditure authorized, which order, so entered, shall be lawful authorization to expend said amount for such purpose unless a review is applied for within five days thereafter. [1969 ex.s. c 185 § 3; 1963 c 4 § 36.40.140. Prior: 1925 ex.s. c 143 § 2, part; 1923 c 164 § 6, part; RRS § 3997-6, part.]

Severability—1969 ex.s. c 185: RCW 36.87.900.

36.40.150 Emergencies subject to hearing—Right of taxpayer to review order. No expenditure shall be made or liability incurred pursuant to the order until a period of five days, exclusive of the day of entry of the order, have elapsed, during which time any taxpayer or taxpayers of the county feeling aggrieved by the order may have the superior court of the county review it by

filing with the clerk of such court a verified petition, a copy of which has been served upon the county auditor. The petition shall set forth in detail the objections of the petitioners to the order and the reasons why the alleged emergency does not exist. [1963 c 4 § 36.40.150. Prior: 1925 ex.s. c 143 § 2, part; 1923 c 164 § 6, part; RRS § 3997-6, part.]

36.40.160 Emergencies subject to hearing—Petition for review suspends order. The service and filing of the petition shall operate to suspend the emergency order and the authority to make any expenditure or incur any liability thereunder until final determination of the matter by the court. [1963 c 4 § 36.40.160. Prior: 1925 ex.s. c 143 § 2, part; 1923 c 164 § 6, part; RRS § 3997-6, part.]

36.40.170 Emergencies subject to hearing—Court's power on review. Upon the filing of a petition the court shall immediately fix a time for hearing it which shall be at the earliest convenient date. At such hearing the court shall hear the matter de novo and may take such testimony as it deems necessary. Its proceedings shall be summary and informal and its determination as to whether an emergency such as is contemplated within the meaning and purpose of this chapter exists or not and whether the expenditure authorized by said order is excessive or not shall be final. [1963 c 4 § 36.40.170. Prior: 1925 ex.s. c 143 § 2, part; 1923 c 164 § 6, part; RRS § 3997-6, part.]

36.40.180 Emergencies subject to hearing—Non-debatable emergencies. Upon the happening of any emergency caused by fire, flood, explosion, storm, earthquake, epidemic, riot, or insurrection, or for the immediate preservation of order or of public health or for the restoration to a condition of usefulness of any public property the usefulness of which has been destroyed by accident, or for the relief of a stricken community overtaken by a calamity, or in settlement of approved claims for personal injuries or property damages, exclusive of claims arising from the operation of any public utility owned by the county, or to meet mandatory expenditures required by any law, the board of county commissioners may, upon the adoption by the unanimous vote of the commissioners present at any meeting the time and place of which all of such commissioners have had reasonable notice, of a resolution stating the facts constituting the emergency and entering the same upon their minutes, make the expenditures necessary to meet such emergency without further notice or hearing. [1963 c 4 § 36.40.180. Prior: 1925 ex.s. c 143 § 2, part; 1923 c 164 § 6, part; RRS § 3997-6, part.]

36.40.190 Payment of emergency warrants. All emergency expenditures shall be paid for by the issuance of emergency warrants which shall be paid from any moneys on hand in the county treasury in the fund properly chargeable therewith and the county treasurer shall pay such warrants out of any moneys in the treasury in such fund. If at any time there are insufficient

moneys on hand in the treasury to pay any of such warrants, they shall be registered, bear interest and be called in the manner provided by law for other county warrants. [1963 c 4 § 36.40.190. Prior: 1925 ex.s. c 143 § 2, part; 1923 c 164 § 6, part; RRS § 3997-6, part.]

36.40.200 Lapse of budget appropriations. All appropriations shall lapse at the end of the fiscal year: *Provided*, That the appropriation accounts shall remain open for a period of thirty days thereafter for the payment of claims incurred against such appropriations prior to the close of the fiscal year.

After such period has expired all appropriations shall become null and void and any claim presented thereafter against any such appropriation shall be provided for in the next ensuing budget: *Provided*, That this shall not prevent payments upon uncompleted improvements in progress at the close of the fiscal year. [1963 c 4 § 36.40.200. Prior: 1925 ex.s. c 143 § 2, part; 1923 c 164 § 6, part; RRS § 3997-6, part.]

36.40.205 Salary adjustment for county legislative authority office—Ratification and validation of preelection action. If prior to the election for any county legislative authority office, a salary adjustment for such position to become effective upon the commencement of the term next following such election is adopted by ordinance or resolution of the legislative authority of such county, and a salary adjustment coinciding with such preceding ordinance or resolution thereof is properly adopted as part of the county budget for the years following such election, such action shall be deemed a continuing part of and shall ratify and validate the preelection action as to such salary adjustment. [1975 1st ex.s. c 32 § 1.]

36.40.210 Monthly report by auditor. On or before the twenty-fifth day of each month the auditor shall submit to the board of county commissioners a report showing the expenditures and liabilities against each separate budget appropriation incurred during the preceding calendar month and like information for the whole of the current fiscal year to the first day of said month, together with the unexpended and unencumbered balance of each appropriation. He shall also set forth the receipts from taxes and from sources other than taxation for the same periods. [1963 c 4 § 36.40.210. Prior: 1923 c 164 § 7; RRS § 3997-7.]

36.40.220 Rules, classifications, and forms. The division of municipal corporations may make such rules, classifications, and forms as may be necessary to carry out the provisions in respect to county budgets, define what expenditures shall be chargeable to each budget account, and establish such accounting and cost systems as may be necessary to provide accurate budget information. [1963 c 4 § 36.40.220. Prior: 1923 c 164 § 8; RRS § 3997-8.]

36.40.230 No new funds created. This chapter shall not be construed to create any new fund. [1963 c 4 § 36.40.230. Prior: 1923 c 164 § 9; RRS § 3997-9.]

36.40.240 Penalty. Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than twenty-five dollars nor more than five hundred dollars. [1963 c 4 § 36.40.240. Prior: 1923 c 164 § 10; RRS § 3997-10.]

Chapter 36.42 RETAIL SALES AND USE TAXES

County and city sales and use taxes: Chapter 82.14 RCW.

Chapter 36.43 BUILDING CODES AND FIRE REGULATIONS

Sections

- 36.43.010 Authority to adopt.
- 36.43.020 Area to which applicable.
- 36.43.030 Enforcement—Inspectors.
- 36.43.040 Penalty for violation of code or regulation.

Electrical construction regulations applicable to counties: RCW 19.29.010.

State building code: Chapter 19.27 RCW.

36.43.010 Authority to adopt. The boards of county commissioners may adopt standard building codes and standard fire regulations to be applied within their respective jurisdictions. [1963 c 4 § 36.43.010. Prior: 1943 c 204 § 1; Rem. Supp. 1943 § 4077-10.]

36.43.020 Area to which applicable. The building codes or fire regulations when adopted by the board of county commissioners shall be applicable to all the area of the county situated outside the corporate limits of any city or town, or to such portion thereof as may be prescribed in such building code or fire regulation. [1963 c 4 § 36.43.020. Prior: 1943 c 204 § 2; Rem. Supp. 1943 § 4077-11.]

36.43.030 Enforcement—Inspectors. The boards of county commissioners may appoint fire inspectors or other inspectors to enforce any building code or fire regulation adopted by them. The boards must enforce any building code or fire regulation adopted by them. [1963 c 4 § 36.43.030. Prior: 1943 c 204 § 3; Rem. Supp. 1943 § 4077-12.]

36.43.040 Penalty for violation of code or regulation. Any person violating the provisions of any building code or any fire regulation lawfully adopted by any board of county commissioners shall be guilty of a misdemeanor. [1963 c 4 § 36.43.040. Prior: 1943 c 204 § 4; Rem. Supp. 1943 § 4077-13.]

Chapter 36.45 CLAIMS AGAINST COUNTIES

Sections

- 36.45.010 Time for filing.
- 36.45.020 Requisites of claim.
- 36.45.030 Time for commencement of action.
- 36.45.040 Labor and material claims.

Assessors expense when meeting with department of revenue as: RCW 84.08.190.

Autopsy costs as: RCW 68.08.104, 68.08.106.
 Claims, reports, etc., filing: RCW 1.12.070.
 Compromise of unlawful, when: RCW 43.09.260.
 Costs against county, civil actions: RCW 4.84.170.
 Courtrooms, expense of sheriff in providing as county charge: RCW 2.28.140.
 Deaf, mute, or blind youth, transportation to school of as county expense: Chapter 72.40 RCW.
 Diking, drainage, or sewerage improvement assessments as: RCW 85.08.500, 85.08.530.
 Elections
 ballots for as county expense: RCW 29.30.130.
 expense of registration of voters as: RCW 29.07.030.
 to incorporate intercounty area into city or town, costs as: RCW 35.04.080.
 Expense of keeping jury as: RCW 4.44.310.
 Flood control by counties jointly, county liability: RCW 86.13.080.
 Flood control districts (1937 act) assessments as: RCW 86.09.526, 86.09.529.
 Health officers' convention expense as: RCW 43.20.060.
 Incorporation into city or town of intercounty areas as: RCW 35.04.160.
 Liability of county on failure to require contractors bond: RCW 39.08.015.
 Lien for labor, material, taxes on public works: Chapter 60.28 RCW.
 Metropolitan municipal corporation costs as: Chapter 35.58 RCW.
 Municipal court expenses as: RCW 35.20.120.
 Orphans, homeless or neglected children, protection of: RCW 26.37.080.
 Port district election costs as: RCW 53.04.070.
 Public utility district election costs as: RCW 54.12.010.
 Railroad grade crossing costs as: Chapter 81.53 RCW.
 Reclamation district commission expenses as: RCW 89.30.070.
 Regional jail camps, cost of committing county prisoners to as: RCW 72.64.110.
 Superior court, expenses of visiting judge as: RCW 2.08.170.
 Tortious conduct of political subdivisions, municipal corporations and quasi municipal corporations, liability for damages: Chapter 4.96 RCW.
 Veterans' meeting place rental as: RCW 73.04.080.
 Vital statistics registrars fees as charge against: RCW 70.58.040.

36.45.010 Time for filing. All claims for damages against any county must be presented before the board of county commissioners and filed with the clerk thereof within one hundred and twenty days from the date that the damage occurred or the injury was sustained. [1967 c 164 § 14; 1963 c 4 § 36.45.010. Prior: 1957 c 224 § 7; prior: 1919 c 149 § 1, part; RRS § 4077, part.]

Severability—Purpose—1967 c 164: See notes following RCW 4.96.010.

Tortious conduct of political subdivisions and municipal corporations, liability for damages: Chapter 4.96 RCW.

36.45.020 Requisites of claim. All such claims for damages must locate and describe the defect which caused the injury, describe the injury, and contain the amount of damages claimed, together with a statement of the actual residence of the claimant at the time of presenting and filing the claim and for a period of six months immediately prior to the time the claim accrued and be sworn to by the claimant: *Provided*, That if the claimant is incapacitated from verifying and filing his claim for damages within the time prescribed, or if the claimant is a minor, or in case the claim is for damages to real or personal property, and the owner of the property is a nonresident of the county or is absent therefrom

during the time within which a claim for damages is required to be filed, the claim may be verified and presented on behalf of the claimant by any relative or attorney or agent representing the injured person or, in case of damages to property, representing the owner thereof. [1963 c 4 § 36.45.020. Prior: 1957 c 224 § 8; prior: 1919 c 149 § 1, part; RRS § 4077, part.]

36.45.030 Time for commencement of action. No action shall be maintained on any claim for damages until it has been presented to the board of county commissioners and sixty days have elapsed after such presentation, but such action must be commenced within three months after the sixty days have elapsed or within three months after the board has given the claimant notice by registered mail of disallowance in whole or in part of the claim for damages, whichever is longer. [1973 c 36 § 1; 1963 c 4 § 36.45.030. Prior: 1957 c 224 § 9; prior: 1919 c 149 § 1, part; RRS § 4077, part.]

36.45.040 Labor and material claims. Whenever any county, by its board of county commissioners, has entered into a contract for the construction of any public improvement for the benefit of the county, whereby the contractor agreed to furnish all labor, material, and supplies necessary for the improvement, and the contractor has proceeded with such improvement and procured from other persons labor, material, or supplies and used the same in the construction of the improvement, but has failed to pay such persons therefor, and such persons have filed claims therefor against the county, and the claims have been audited in the manner provided by law and found to be just claims against the county, and valid obligations of the county except for the fact that they were not filed within the time provided by law; the board of county commissioners may provide funds sufficient therefor, and cause the payment, of such claims in the manner provided by law for the payment of valid claims against the county. [1963 c 4 § 36.45.040. Prior: 1927 c 220 § 1; RRS § 4077-1.]

**Chapter 36.47
 COORDINATION OF ADMINISTRATIVE
 PROGRAMS**

Sections	
36.47.010	Declaration of necessity.
36.47.020	Joint action by officers of each county—Joint reports to governor and legislature.
36.47.030	State association of county officials may be coordinating agency.
36.47.040	State association of county officials may be coordinating agency—Reimbursement for costs and expenses.
36.47.050	County officials—Further action authorized—Meetings.
36.47.060	Association financial records subject to audit by division of municipal corporations.

36.47.010 Declaration of necessity. The necessity and the desirability of coordinating the administrative programs of all of the counties in this state is recognized by this chapter. [1963 c 4 § 36.47.010. Prior: 1959 c 130 § 1.]

36.47.020 Joint action by officers of each county—
Joint reports to governor and legislature. It shall be the duty of the assessor, auditor, clerk, coroner, sheriff, superintendent of schools, treasurer, and prosecuting attorney of each county in the state, including appointive officials in charter counties heading like departments, to take such action as they jointly deem necessary to effect the coordination of the administrative programs of each county and to submit to the governor and the legislature biennially a joint report or joint reports containing recommendations for procedural changes which would increase the efficiency of the respective departments headed by such county officials. [1969 ex.s. c 5 § 1; 1963 c 4 § 36.47.020. Prior: 1959 c 130 § 2.]

36.47.030 State association of county officials may be coordinating agency. The county officials enumerated in RCW 36.47.020 are empowered to designate the Washington state association of county officials as a coordinating agency through which the duties imposed by RCW 36.47.020 may be performed, harmonized, or correlated. [1969 ex.s. c 5 § 2; 1963 c 4 § 36.47.030. Prior: 1959 c 130 § 3.]

36.47.040 State association of county officials may be coordinating agency—Reimbursement for costs and expenses. Each county which designates the Washington state association of county officials as the agency through which the duties imposed by RCW 36.47.020 may be executed is authorized to reimburse the association from the county current expense fund for the cost of any such services rendered: *Provided*, That no reimbursement shall be made to the association for any expenses incurred under RCW 36.47.050 for travel, meals, or lodging of such county officials, or their representatives at such meetings, but such expenses may be paid by such official's respective county as other expenses are paid for county business. Such reimbursement shall be paid only on vouchers submitted to the county auditor and approved by the board of county commissioners of each county in the manner provided for the disbursement of other current expense funds. Each such voucher shall set forth the nature of the services rendered by the association, supported by affidavit that the services were actually performed. The total of such reimbursements for any county in any calendar year shall not exceed a sum equal to the amount which would be raised by a levy of one-quarter of a cent per thousand dollars of assessed value against the taxable property in such county. [1973 1st ex.s. c 195 § 35; 1970 ex.s. c 47 § 2; 1969 ex.s. c 5 § 3; 1963 c 4 § 36.47.040. Prior: 1959 c 130 § 4.]

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

36.47.050 County officials—Further action authorized—Meetings. The county officials enumerated in RCW 36.47.020 are authorized to take such further action as they deem necessary to comply with the intent of this chapter, including attendance at state and district meetings which may be required to formulate the

reports provided for in RCW 36.47.020. [1969 ex.s. c 5 § 4; 1963 c 4 § 36.47.050. Prior: 1959 c 130 § 5.]

36.47.060 Association financial records subject to audit by division of municipal corporations. The financial records of the Washington state association of county officials shall be subject to audit by the Washington state division of municipal corporations. [1969 ex.s. c 5 § 5; 1963 c 4 § 36.47.060. Prior: 1959 c 130 § 6.]

Chapter 36.48 DEPOSITARIES

Sections

- 36.48.010 Depositories to be designated by treasurer.
- 36.48.020 Segregation of eligible securities.
- 36.48.040 Depositories to be designated by treasurer—Deposited funds deemed in county treasury.
- 36.48.050 Depositories to be designated by treasurer—Treasurer's liability and bond additional.
- 36.48.060 Depositories to be designated by treasurer—Bank defined.
- 36.48.070 County finance committee created—Records, rules and regulations.
- 36.48.080 County clerk's funds may be deposited.
- 36.48.090 County clerk's funds may be deposited—Clerk's trust fund created.
- 36.48.160 Banks claiming exemption from sales, use, or ad valorem taxes—Designation as depository prohibited.
- 36.48.170 Banks claiming exemption from sales, use, or ad valorem taxes—Deposit of public moneys in prohibited.
- 36.48.180 Banks claiming exemption from sales, use, or ad valorem taxes—Notification of county treasurer.

36.48.010 Depositories to be designated by treasurer. Each county treasurer shall annually on the second Monday in January, and at such other times as he deems necessary, designate one or more banks in the state which are qualified public depositories as set forth by the public deposit protection commission as depository or depositories for all public funds held and required to be kept by him as such treasurer, and such designation or designations shall be in writing, and shall be filed with the board of county commissioners of his county, and no county treasurer shall deposit any public money in banks, except as herein provided. [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.

36.48.020 Segregation of eligible securities. Before any such treasurer shall make any deposit in such bank, the bank designated shall, within ten days after the designation has been filed, segregate securities eligible as collateral in accordance with RCW 39.58.050 as now or hereafter amended.

In counties where the combined banking capital and surplus of all of the banks in the county is insufficient to carry the county funds the provision of this section with reference to the limit of the amount to be deposited in any one depository may be waived by the county finance committee. [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.]

Construction—Severability—1969 ex.s. c 193: See notes following RCW 39.58.010.

36.48.040 Depositories to be designated by treasurer—Deposited funds deemed in county treasury. The county treasurer shall deposit with any depository, which has fully complied with all requirements of RCW 36.48.010 through 36.48.060, any county money in his hands or under his official control, and for the purpose of making the quarterly settlement and counting funds in the hands of the treasurer any sums so on deposit shall be deemed to be in the county treasury. [1963 c 4 § 36.48.040. Prior: 1907 c 51 § 4; RRS § 5565.]

36.48.050 Depositories to be designated by treasurer—Treasurer's liability and bond additional. The provisions of RCW 36.48.010 through 36.48.060 shall in no way relieve or release the county treasurer from any liability upon his official bond as such treasurer, or any surety upon such bond, and shall in no way affect the duty of the several county treasurers to give bond as required by law. [1963 c 4 § 36.48.050. Prior: 1907 c 51 § 5; RRS § 5566.]

36.48.060 Depositories to be designated by treasurer—Bank defined. The word "bank" whenever it occurs in RCW 36.48.010 through 36.48.050 includes all national, foreign, state, and private banks and trust companies doing business in the state. [1963 c 4 § 36.48.060. Prior: 1907 c 51 § 6; RRS § 5567.]

36.48.070 County finance committee created—Records, rules and regulations. The county treasurer, the county auditor, and the chairman of the board of county commissioners, ex officio, shall constitute the county finance committee. The county treasurer shall act as chairman of the committee and the county auditor as secretary thereof, and the office of the committee shall be in the office of the county auditor. The committee shall keep a full and complete record of all its proceedings in appropriate books of record and all such records and all correspondence relating to the committee shall be kept in the office of the county auditor and shall be open to public inspection. The committee shall make appropriate rules and regulations for the carrying out of the provisions of RCW 36.48.010 through 36.48.060, not inconsistent with law. [1963 c 4 § 36.48.070. Prior: 1933 ex.s. c 45 § 2; RRS § 5567-1.]

36.48.080 County clerk's funds may be deposited. The county clerks of all the counties of the state shall deposit all funds in their custody, as clerk of the superior court of their respective counties, in one or more qualified depositories, as provided in chapter 39.58 RCW, as now or hereafter amended. [1973 c 126 § 7; 1963 c 4 § 36.48.080. Prior: 1933 ex.s. c 40 § 1; RRS § 5561-1.]

36.48.090 County clerk's funds may be deposited—Clerk's trust fund created. Whenever any person has in his custody as clerk of the superior court any funds held in trust for any litigant or for any purpose, they shall be deposited in a separate fund designated

"clerk's trust fund," and shall not be commingled with any public funds, and in case any interest is paid upon any such "clerk's trust fund" so deposited, it shall be paid to the beneficiary of such trust upon the termination thereof. [1973 c 126 § 8; 1963 c 4 § 36.48.090. Prior: 1933 ex.s. c 40 § 2; RRS § 5561-2.]

36.48.160 Banks claiming exemption from sales, use, or ad valorem taxes—Designation as depository prohibited. A county treasurer shall not approve, designate or select as a depository for any public funds any bank which claims exemption from the payment of any sales or compensating use or ad valorem taxes under the laws of this state. [1969 ex.s. c 230 § 3.]

Construction as to existing contracts: RCW 43.85.270.

36.48.170 Banks claiming exemption from sales, use, or ad valorem taxes—Deposit of public moneys in prohibited. A county treasurer shall not deposit public moneys in any bank which claims exemption from the payment of any sales or compensating use or ad valorem taxes under the laws of this state. [1969 ex.s. c 230 § 4.]

Construction as to existing contracts: RCW 43.85.270.

36.48.180 Banks claiming exemption from sales, use, or ad valorem taxes—Notification of county treasurer. The director of revenue shall notify each county treasurer on or before July 1, 1969, and quarterly on the first day of October, January, April and July thereafter of the names and addresses of any banks which have claimed exemption from the payment of any sales or compensating use or ad valorem taxes under the laws of this state. [1969 ex.s. c 230 § 5.]

Construction as to existing contracts: RCW 43.85.270.

Chapter 36.49 DOG LICENSE TAX

Sections

36.49.010	Tax imposed—Rate—Tax optional with county.
36.49.020	Treasurer to collect—Tags.
36.49.030	Application for license after assessor's list returned.
36.49.040	Delinquent tax, how collected.
36.49.050	"County dog license tax fund" created.
36.49.060	"County dog license tax fund" created—Transfer of excess funds in.
36.49.070	Penalty.
36.49.080	Fees payable out of county dog license tax fund.

Indemnity for dogs doing damage, etc.: RCW 16.08.010-16.08.030.

Taxes for city and town purposes: State Constitution Art. 11 § 12.

36.49.010 Tax imposed—Rate—Tax optional with county. In each county which elects to proceed under the provisions of this chapter, which election shall be by the vote of its board of county commissioners, the county assessor annually, at the time of assessing personal property, shall make a list of all persons who own or keep a dog or dogs outside the corporate limits of any city and set opposite the name of each owner or keeper the number of dogs owned or kept, stating whether male, sterilized female, or unsterilized female, and assess

against every such owner or keeper a license tax as follows:

- For each male dog one dollar
- For each sterilized female dog one dollar
- For each unsterilized female dog two and one-half dollars

For dogs kept in kennels for breeding, sale, or sporting purposes an individual license tax shall not be assessed, but the owner or keeper of such kennel shall be assessed a kennel license as follows:

- For twenty dogs, or less ten dollars
- For each additional twenty dogs, or fraction thereof five dollars

[1963 c 4 § 36.49.010. Prior: 1935 c 95 § 1; 1929 c 198 § 1; RRS § 8304-1; prior: 1919 c 6 § 1.]

36.49.020 Treasurer to collect—Tags. The county assessor shall turn over the list of dog owners to the county treasurer for collection of the taxes. Upon the payment of the license tax upon any dog or kennel the county treasurer shall deliver to the owner or keeper of such dog or kennel a license, and a metallic tag for each dog taxed and licensed or kept in such kennel. The license shall be dated and numbered and shall bear the name of the county issuing it, the name and address of the owner of the dog or kennel licensed; and if a dog license, a description of the dog including its breed, age, color, and markings; and if a kennel license, a description of the breed, number, and ages of the dogs kept in such kennel. The metallic tag shall bear the name of the county issuing it, a serial number corresponding with the number on the license, and the calendar year in which it is issued. Every owner or keeper of a dog shall keep a substantial collar on the dog and attached firmly thereto the license tag for the current year. [1963 c 4 § 36.49.020. Prior: 1929 c 198 § 2; RRS § 8304-2; prior: 1919 c 6 § 2, part.]

36.49.030 Application for license after assessor's list returned. Any person becoming the owner of a dog or kennel after the assessment has been returned by the assessor and any owner of a dog or kennel which for any reason the assessor has failed to assess, may at any time apply to the county treasurer, and upon the payment of the required fee procure a license and a metallic tag or tags. [1963 c 4 § 36.49.030. Prior: 1929 c 198 § 3, part; RRS § 8304-3, part.]

36.49.040 Delinquent tax, how collected. If any person whose name appears upon the list prepared by the county assessor fails to pay the license tax to the county treasurer on or before the first day of August of the year in which the list is made, the county treasurer shall proceed to collect the delinquent license taxes in the manner provided by law for collection of delinquent personal property taxes. [1963 c 4 § 36.49.040. Prior: 1929 c 198 § 3, part; RRS § 8304-3, part.]

36.49.050 "County dog license tax fund" created. All license taxes collected in accordance with the provisions

of this chapter shall be placed in a separate fund in the office of the county treasurer to be known as the "county dog license tax fund." [1963 c 4 § 36.49.050. Prior: 1929 c 198 § 4; RRS § 8304-4; prior: 1919 c 6 § 2, part.]

36.49.060 "County dog license tax fund" created—Transfer of excess funds in. On the first day of March of each year all moneys in the county dog license tax fund in excess of five hundred dollars shall be transferred and credited by the county treasurer to the current expense fund of the county. [1963 c 4 § 36.49.060. Prior: 1929 c 198 § 8; RRS § 8304-5.]

36.49.070 Penalty. Any person or officer who refuses to comply with or enforce any of the provisions of this chapter shall be guilty of a misdemeanor. [1963 c 4 § 36.49.070. Prior: 1929 c 198 § 9; RRS § 8304-6.]

36.49.080 Fees payable out of county dog license tax fund. The county treasurer shall allow two dollars for each witness and two dollars to a justice of the peace for each certificate of damage by a vicious dog as provided by RCW 16.08.010 filed by a justice of the peace with the county treasurer to be paid out of the county dog license tax fund. [1963 c 4 § 36.49.080. Prior: 1929 c 198 § 10; RRS § 8304-7.]

**Chapter 36.50
FARM AND HOME EXTENSION WORK**

- Sections
- 36.50.010 Cooperative extension work in agriculture and home economics authorized.
- Housing authority act: Chapter 35.82 RCW.*
Rural housing projects: RCW 35.82.240.

36.50.010 Cooperative extension work in agriculture and home economics authorized. The board of county commissioners of any county and the governing body of any municipality are authorized to establish and conduct extension work in agriculture and home economics in cooperation with Washington State University, upon such terms and conditions as may be agreed upon by any such board or governing body and the director of the extension service of Washington State University; and may employ such means and appropriate and expend such sums of money as may be necessary to effectively establish and carry on such work in agriculture and home economics in their respective counties and municipalities. [1963 c 4 § 36.50.010. Prior: 1949 c 181 § 1; Rem. Supp. 1949 § 4589-1.]

**Chapter 36.53
FERRIES—PRIVATELY OWNED**

- Sections
- 36.53.010 Grant of license—Term.
 - 36.53.020 Licensing tax.
 - 36.53.030 To whom license granted—Notice of intention if nonowner.
 - 36.53.040 Notice of application to be posted.
 - 36.53.050 Bond of licensee.
 - 36.53.060 Duties of licensee.

- 36.53.070 Duties of licensee—Duties as to ferriage—Liability for nonperformance.
- 36.53.080 Rates of ferriage.
- 36.53.090 Commissioners may fix and alter rates.
- 36.53.100 Rates to be posted.
- 36.53.110 Order of ferriage—Liability for nonperformance.
- 36.53.120 Grant exclusive.
- 36.53.130 Revocation of license.
- 36.53.140 Penalty for maintaining unlicensed ferry.
- 36.53.150 Interstate ferry—County may contribute to—Grant of permit to operator.

36.53.010 Grant of license—Term. The board of county commissioners may grant a license to keep a ferry across any lake or stream within its county, upon being satisfied that a ferry is necessary at the point applied for, which license shall continue in force for a term to be fixed by the commissioners not exceeding five years. [1963 c 4 § 36.53.010. Prior: Code 1881 § 3002; 1879 p 61 § 38; 1869 p 280 § 40; 1863 p 521 § 1; 1854 p 354 § 1; RRS § 5462.]

36.53.020 Licensing tax. The board of county commissioners shall charge such sum as appears reasonable—not less than one dollar nor more than one hundred dollars per year—for such license, and the person to whom the license is granted shall pay to the county treasurer the tax for one year in advance, taking his receipt therefor; and upon the production of such receipt the county auditor shall issue the license under the seal of his office. [1963 c 4 § 36.53.020. Prior: Code 1881 § 3003; 1879 p 61 § 39; 1869 p 280 § 41; 1863 p 522 § 2; 1854 p 354 § 2; RRS § 5463.]

36.53.030 To whom license granted—Notice of intention if nonowner. No license shall be granted to any person other than the owner of the land embracing or adjoining the lake or stream where the ferry is proposed to be kept, unless the owner neglects to apply therefor. Whenever application for a license is made by any person other than the owner, the board of county commissioners shall not grant it, unless proof is made that the applicant caused notice, in writing, of his intention to make such application to be given to such owner, if residing in the county, at least ten days before the session of the board of county commissioners at which application is made. [1963 c 4 § 36.53.030. Prior: Code 1881 § 3004; 1879 p 61 § 40; 1869 p 280 § 42; 1863 p 522 § 3; 1854 p 354 § 3; RRS § 5464.]

36.53.040 Notice of application to be posted. Every person intending to apply for a license to keep a ferry at any place shall give notice of his intention by posting up at least three notices in public places in the neighborhood where the ferry is proposed to be kept, twenty days prior to any regular session of the board of county commissioners at which the application is to be made. [1963 c 4 § 36.53.040. Prior: Code 1881 § 3005; 1879 p 61 § 41; 1869 p 281 § 43; 1863 p 522 § 4; 1854 p 354 § 4; RRS § 5465.]

36.53.050 Bond of licensee. Every person applying for a license to keep a ferry shall, before the same is issued, enter into a bond with one or more sureties, to be approved by the county auditor, in a sum not less than

one hundred nor more than five hundred dollars, conditioned that such person will keep the ferry according to law and that if default at any time is made in the condition of the bond, damages, not exceeding the penalty, may be recovered by any person aggrieved, before any court having jurisdiction. [1963 c 4 § 36.53.050. Prior: Code 1881 § 3006; 1879 p 62 § 42; 1869 p 281 § 44; 1863 p 522 § 5; 1854 p 354 § 5; RRS § 5466.]

36.53.060 Duties of licensee. Every person obtaining a license to keep a ferry shall provide and keep in good and complete repair the necessary boat or boats for the safe conveyance of all persons and property, and furnish such boats at all times with suitable oars, setting poles, and other implements necessary for the service thereof, and shall keep a sufficient number of discreet and skillful men to attend and manage the same; and he shall also at all times keep the place of embarking and landing in good order and repair, by cutting away the bank of the stream so that persons and property may be embarked and landed without danger or unnecessary delay. [1963 c 4 § 36.53.060. Prior: Code 1881 § 3007; 1879 p 62 § 43; 1869 p 281 § 45; 1863 p 522 § 6; 1854 p 354 § 6; RRS § 5467.]

36.53.070 Duties of licensee—Duties as to ferriage—Liability for nonperformance. Every person obtaining a ferry license shall give constant and diligent attention to such ferry from daylight in the morning until dark in the evening of each day, and shall, moreover, at any hour in the night, if required, except in cases of imminent danger, give passage to all persons requiring the same on the payment of double rate of ferriage allowed to be taken in the daytime.

If he at any time neglects or refuses to give passage to any person or his property, he shall forfeit and pay to the party aggrieved for every such offense the sum of five dollars, to be recovered before any justice of the peace having jurisdiction; he shall, moreover, be liable in an action at law for any special damage which such person may have sustained in consequence of such neglect or refusal.

No forfeiture or damages shall be recovered for a failure or refusal to convey any person or property across the stream when it is manifestly hazardous to do so, by reason of any storm, flood, or ice; nor shall any keeper of a ferry be compelled to give passage to any person or property until the fare or toll chargeable by law has been fully paid or tendered. [1963 c 4 § 36.53.070. Prior: Code 1881 § 3008; 1879 p 62 § 44; 1869 p 281 § 46; 1863 p 523 § 7; 1854 p 355 § 7; RRS § 5468.]

36.53.080 Rates of ferriage. Whenever the board of county commissioners grants a license to keep a ferry across any lake or stream, it shall establish the rates of ferriage which may be lawfully demanded for the transportation of persons and property across the same, having due regard for the breadth and situation of the stream, and the dangers and difficulties incident thereto, and the publicity of the place at which the same is established, and every keeper of a ferry who at any time

demands and receives more than the amount so designated for ferrying shall forfeit and pay to the party aggrieved, for every such offense, the sum of five dollars, over and above the amount which has been illegally received, to be recovered before any justice of the peace having jurisdiction. [1963 c 4 § 36.53.080. Prior: Code 1881 § 3009; 1879 p 63 § 45; 1869 p 282 § 47; 1863 p 523 § 8; 1854 p 355 § 8; RRS § 5469.]

36.53.090 Commissioners may fix and alter rates. The boards of county commissioners may fix, alter, and establish from time to time, the rates of ferriage to be levied and collected at all ferries established by law, within or bordering upon the county lines of any of the counties in this state. [1963 c 4 § 36.53.090. Prior: Code 1881 § 3010; 1879 p 63 § 46; 1869 p 282 § 48; RRS § 5470.]

36.53.100 Rates to be posted. Every person licensed to keep a ferry shall post up, in some conspicuous place near his ferry landing a list of the rates of ferriage which are chargeable by law at such ferry, which list of rates shall at all times be plain and legible and posted up so near the place where persons pass across the ferry that it may be easily read. If the keeper neglects or refuses to post and keep up such list, it shall not be lawful to charge or take any ferriage or compensation at the ferry, during the time of such delinquency. [1963 c 4 § 36.53.100. Prior: Code 1881 § 3011; 1879 p 63 § 47; 1869 p 283 § 49; 1863 p 523 § 9; 1854 p 355 § 9; RRS § 5471.]

36.53.110 Order of ferriage—Liability for nonperformance. All persons shall be received into the ferry boats and conveyed across the stream over which a ferry is established according to their arrival thereat, and if the keeper of a ferry acts contrary to this regulation, he shall forfeit and pay to the party aggrieved the sum of ten dollars for every such offense, to be recovered before any justice of the peace having jurisdiction: *Provided*, That public officers on urgent business, post riders, couriers, physicians, surgeons, and midwives shall in all cases be first carried over, when all cannot go at the same time. [1963 c 4 § 36.53.110. Prior: Code 1881 § 3012; 1879 p 63 § 48; 1869 p 283 § 50; 1863 p 524 § 10; 1854 p 356 § 10; RRS § 5472.]

36.53.120 Grant exclusive. Every person licensed to keep a ferry under the provisions of RCW 36.53.010 through 36.53.140 shall have the exclusive privilege of transporting all persons and property over and across the stream where the ferry is established, and shall be entitled to all the fare arising by law therefrom: *Provided*, That any person may cross such stream at the ferry location in his own boat, or take in and carry over his neighbor, when done without fee or charge, and not with intent to injure the person licensed to keep a ferry. [1963 c 4 § 36.53.120. Prior: Code 1881 § 3013; 1879 p 63 § 49; 1869 p 283 § 51; 1863 p 524 § 11; 1854 p 356 § 11; RRS § 5473.]

36.53.130 Revocation of license. If any person licensed to keep a ferry fails to pay the taxes assessed

thereon when due, or to provide and keep in good and complete repair the necessary boat or boats, with the oars, setting poles, and other necessary implements for the service thereof, or to employ a sufficient number of skilled and discreet ferrymen within three months from the time license is granted, or if the ferry is not at any time kept in good condition and repair, or if it is abandoned, disused, or unfrequented for the space of six months at any one time, the board of county commissioners, on complaint being made in writing, may summon the person licensed to keep such ferry, to show cause why his license should not be revoked. The board may revoke or not according to the testimony adduced and the laws of this state, the decision subject to review by the superior court: *Provided*, That if disuse resulted because the stream is fordable at certain seasons of the year, or because travel by that route is subject to periodical fluctuations, it shall not work a forfeiture within the meaning of this section. [1963 c 4 § 36.53.130. Prior: Code 1881 § 3014; 1879 p 64 § 50; 1869 p 283 § 52; 1863 p 524 § 12; 1854 p 356 § 12; RRS § 5474.]

36.53.140 Penalty for maintaining unlicensed ferry. Any person who maintains any ferry and receives ferriage without first obtaining a license therefor shall pay a fine of ten dollars for each offense, to be collected for the use of the county, by suit before any justice of the peace having jurisdiction, and any person may bring such suit: *Provided*, That it shall not be unlawful for any person to transport any other person or his property over any stream for hire, when there is no ferry, or the ferry established at such place was not in actual operation at the time, or in sufficient repair to have afforded to such person or his property a safe and speedy passage. [1963 c 4 § 36.53.140. Prior: Code 1881 § 3015; 1879 p 64 § 51; 1869 p 284 § 53; 1863 p 525 § 13; 1854 p 356 § 13; RRS § 5475.]

36.53.150 Interstate ferry—County may contribute to—Grant of permit to operator. Whenever the board of county commissioners of any county determines that the construction or maintenance of a ferry in a state adjoining such county or connecting such county with the adjoining state is of necessity or convenience to the citizens of the county, the board may enter into a contract for the construction or maintenance of such ferry, or make such contribution as may be deemed advisable toward the construction or maintenance thereof, and may lease, or grant exclusive permits to use, any wharf or landing owned or leased by the board to any person, firm or corporation furnishing, or agreeing to furnish, ferry service between such county and the adjoining state. [1963 c 4 § 36.53.150. Prior: 1921 c 165 § 1; 1915 c 26 § 1; RRS § 5478.]

Chapter 36.54
FERRIES—COUNTY OWNED—FERRY
DISTRICTS

Sections

36.54.010 County may acquire, construct, maintain, and operate ferry.

- 36.54.015 Ferries—Fourteen year long range improvement plan—Contents.
- 36.54.020 Joint ferries—Generally.
- 36.54.030 Joint ferries over water boundary between two counties.
- 36.54.040 Joint ferries over water boundary between two counties—Joint board of commissioners to administer—Records kept.
- 36.54.050 Joint ferries over water boundary between two counties—Commission authority—Expenses shared.
- 36.54.060 Joint ferries over water boundary between two counties—Audit and allowance of claims.
- 36.54.070 Joint ferries over water boundary between two counties—County commissioner duties enumerated—Omission as ground for impeachment.
- 36.54.080 Ferry districts authorized—Procedure—Powers.
- 36.54.090 Ferry districts authorized—Ferry district officers—Election, terms, vacancies, oath.
- 36.54.100 Ferry districts authorized—Construction of RCW 36.54.080 through 36.54.100—Landing facilities.

36.54.010 County may acquire, construct, maintain, and operate ferry. Any county may construct, condemn, or purchase, operate and maintain ferries or wharves at any unfordable stream, lake, estuary or bay within or bordering on said county, or between portions of the county, or between such county and other counties, together with all the necessary boats, grounds, roads, approaches, and landings appertaining thereto under the direction and control of the board of county commissioners free or for toll and as the board shall by resolution determine. [1963 c 4 § 36.54.010. Prior: 1919 c 115 § 1; 1899 c 29 § 1; 1895 c 130 § 2; RRS § 5477.]

36.54.015 Ferries—Fourteen year long range improvement plan—Contents. The legislative authority of every county operating ferries shall prepare, with the advice and assistance of the county engineer, a fourteen year long range capital improvement plan embracing all major elements of the ferry system. Such plan shall include a listing of each major element of the system showing its estimated current value, its estimated replacement cost, and its amortization period. [1975 1st ex.s. c 21 § 2.]

36.54.020 Joint ferries—Generally. The board of county commissioners of any county may, severally or jointly with any other county, city or town, or the state of Washington, or any other state or any county, city or town of any other state, construct or acquire by purchase, gift, or condemnation, and operate any ferry necessary for continuation or connection of any county road across any navigable water. The procedure with respect to the exercise of the power herein granted shall be the same as provided for the joint erection or acquisition of bridges, trestles, or other structures. Any such ferries may be operated as free ferries or as toll ferries under the provisions of law of this state relating thereto. [1963 c 4 § 36.54.020. Prior: 1937 c 187 § 31; RRS § 6450-31.]

36.54.030 Joint ferries over water boundary between two counties. Whenever a river, lake, or other body of water is on the boundary line between two counties, the boards of county commissioners of the counties adjoining such stream or body of water may construct, purchase, equip, maintain, and operate a ferry across such river,

lake, or other body of water, when such ferry connects the county roads or other public highways of their respective counties. All costs and expenses of constructing, purchasing, maintaining, and operating such ferry shall be paid by the two counties, each paying such proportion thereof as shall be agreed upon by the boards of county commissioners. [1963 c 4 § 36.54.030. Prior: 1917 c 158 § 1; RRS § 5479.]

36.54.040 Joint ferries over water boundary between two counties—Joint board of commissioners to administer—Records kept. The boards of county commissioners of the two counties, participating in a joint ferry, shall meet in joint session at the county seat of one of the counties interested, and shall elect one of their members as chairman of the joint board of commissioners, who shall act as such chairman during the remainder of his term of office, and, at the expiration of his term of office, the two boards of county commissioners shall meet and elect a new chairman, who shall act as such chairman during his term of office as county commissioner, and they shall continue to elect a chairman in like manner thereafter. The county auditors of the counties shall be clerks of such joint commission, and the county auditor of the county where each meeting is held shall act as clerk of the commission at all meetings held in his county. Each county auditor, as soon as the joint commission is organized, shall procure a record book and enter therein a complete record of the proceedings of the commission, and immediately after each adjournment the county auditor of the county in which the meeting is held shall forward a complete copy of the minutes of the proceedings of the commission to the auditor of the other county to be entered by him in his record. Each county shall keep a complete record of the proceedings of the commission. [1963 c 4 § 36.54.040. Prior: 1917 c 158 § 2; RRS § 5480.]

36.54.050 Joint ferries over water boundary between two counties—Commission authority—Expenses shared. The joint commission is authorized to transact all business necessary in carrying out the purposes of RCW 36.54.030 through 36.54.070 and its acts shall be binding upon the two counties, and one-half of all bills and obligations created by the commission shall be binding and a legal charge against the road fund of each county and the claims therefor shall be allowed and paid out of the county road fund the same as other claims against said fund are allowed and paid. [1963 c 4 § 36.54.050. Prior: 1917 c 158 § 3; RRS § 5481.]

36.54.060 Joint ferries over water boundary between two counties—Audit and allowance of claims. All claims and accounts for the construction, operation and maintenance of a joint county ferry shall be presented to and audited by the joint commission: *Provided*, That items of expense connected with the operation of such ferry which do not exceed the sum of thirty dollars may be presented to the chairman of the joint commission and allowed by him and when allowed shall be a joint charge against the road fund of each of the counties

operating such ferry. [1963 c 4 § 36.54.060. Prior: 1917 c 158 § 4; RRS § 5482.]

36.54.070 Joint ferries over water boundary between two counties—County commissioner duties enumerated—Omission as ground for impeachment. The members of the board of county commissioners of each county shall be members of the joint commission and their refusal to act shall be ground for impeachment. They shall provide for the maintenance and operation of the ferry until it is discontinued by a majority vote of the joint commission. [1963 c 4 § 36.54.070. Prior: 1917 c 158 § 5; RRS § 5483.]

36.54.080 Ferry districts authorized—Procedure—Powers. The establishment of a ferry district is hereby authorized. Written application for the formation of such a district signed by at least twenty-five percent of the registered voters, who reside and own real estate in the proposed district, shall be filed with the board of county commissioners. The board shall immediately transmit the application to the proper registrar of voters for the proposed district who shall check the names, residence, and registration of the signers with the records of his office and shall, as soon as possible, certify to said board the number of qualified signers. If the requisite number of signers is so certified, the board shall thereupon place the proposition, "Shall a ferry district be established in the following area to operate ferries between the following termini: (describing the proposed district and ferry routes)?" upon the ballot for vote of the people of the proposed district at the next election, general or special. If sixty percent of the voters on such proposition vote in favor of the proposition, the board shall, by resolution, declare the district established. If the requisite number of qualified persons have not signed the application, further signatures may be added and certified until the requisite number have signed and the above procedure shall be thereafter followed.

The area of such district shall be the area within any island or group of islands outside incorporated cities and towns, or such portion or portions thereof as specifically defined in the application.

When established, a ferry district shall be a municipality as defined by the statutes of the state and entitled to all the powers conferred by law and exercised by municipal corporations in this state. A ferry district is hereby empowered to levy not more than one dollar and twenty-five cents per thousand dollars of assessed value against the assessed valuation of the property lying within the district.

A ferry district shall have the right of eminent domain according to the laws of the state.

A ferry district is exempt and excepted from the provisions of the public service laws and is not subject to the control, rules and regulations of the Washington utilities and transportation commission; and it shall not be necessary for a ferry district to apply for or obtain a certificate of public convenience and necessity.

A ferry district may operate any vessel over its authorized routes upon any of the waters of the state that touch any of the area of the district. [1973 1st ex.s.

c 195 § 36; 1963 c 4 § 36.54.080. Prior: 1947 c 272 § 1; Rem. Supp. 1947 § 5477-1.]

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

36.54.090 Ferry districts authorized—Ferry district officers—Election, terms, vacancies, oath. The governing body of a ferry district shall be a board of ferry commissioners consisting of three members. The first three commissioners shall be elected at the same election at which the proposition is submitted to the voters as to whether the ferry district shall be formed, and shall be elected to hold office respectively for the terms of one, two, and three years and until their respective successors are elected, the terms for each nominee for ferry commissioner to be expressed on the ballot. Thereafter there shall be held each year an election for a ferry commissioner to hold office for three years and until his successor is elected and qualified. No person shall be eligible to hold office as ferry commissioner unless he is a qualified voter and landowner in said ferry district. After the first election the time of the election shall be fixed by the ferry commissioners. Vacancies occurring may be filled by the remaining commissioners for the remainder of the unexpired term. Each commissioner shall take and file his oath in writing that he will honestly and to the best of his ability carry on the affairs of the ferry district. [1963 c 4 § 36.54.090. Prior: 1947 c 272 § 2; Rem. Supp. 1947 § 5477-2.]

36.54.100 Ferry districts authorized—Construction of RCW 36.54.080 through 36.54.100—Landing facilities. This section, RCW 36.54.080 and 36.54.090 shall be construed liberally, so far as may be necessary for the purpose of carrying out its general intent, which is, the creation of a ferry district for the purpose of owning and operating vessels for the public benefit and convenience of the district.

Nothing contained in this section, RCW 36.54.080 and 36.54.090 shall abridge or deny the right of a ferry district to acquire and maintain suitable landing facilities on the mainland. [1963 c 4 § 36.54.100. Prior: (i) 1947 c 272 § 3; Rem. Supp. 1947 § 5477-3. (ii) 1947 c 272 § 5; Rem. Supp. 1947 § 5477-4.]

Chapter 36.55

FRANCHISES ON ROADS AND BRIDGES

Sections

36.55.010	Pipe line and wire line franchises on county roads.
36.55.020	Cattleguards, tramroad, and railway rights.
36.55.030	Franchises on county bridges.
36.55.040	Application—Notice of hearing.
36.55.050	Hearing—Order.
36.55.060	Limitations upon grants.
36.55.070	Existing franchises validated.
36.55.080	Record of franchises.

Diking and drainage: Title 85 RCW.

Sewer districts: Title 56 RCW.

Water districts: Title 57 RCW.

36.55.010 Pipe line and wire line franchises on county roads. Any board of county commissioners may

grant franchises to persons or private or municipal corporations to use the right of way of county roads in their respective counties for the construction and maintenance of waterworks, gas pipes, telephone, telegraph, and electric light lines, sewers and any other such facilities. [1963 c 4 § 36.55.010. Prior: 1961 c 55 § 2; prior: 1937 c 187 § 38, part; RRS § 6450–38, part.]

36.55.020 Cattleguards, tramroad, and railway rights. Any board of county commissioners may grant to any person the right to build and maintain tramroads and railway roads upon county roads under such regulations and conditions as the board may prescribe, and may grant to any person the right to build and maintain cattleguards across the entire right of way on any county road, under such regulations and conditions as the board may prescribe: *Provided*, That such tramroad or railway road shall not occupy more than eight feet of the county road upon which the same is built and shall not be built upon the roadway of such county road nor in such a way as to interfere with the public travel thereon. [1963 c 4 § 36.55.020. Prior: 1941 c 138 § 1; 1937 c 187 § 39; Rem. Supp. 1941 § 6450–39.]

36.55.030 Franchises on county bridges. Any board of county commissioners may grant franchises upon bridges, trestles, or other structures constructed and maintained by it, severally or jointly with any other county or city or town of this state, or jointly with any other state or any county, city or town of any other state, in the same manner and under the same provisions as govern the granting of franchises on county roads. [1963 c 4 § 36.55.030. Prior: 1937 c 187 § 40; RRS § 6450–40.]

36.55.040 Application—Notice of hearing. On application being made to the board of county commissioners for franchise, the board shall fix a time and place for hearing the same, and shall cause the county auditor to give public notice thereof at the expense of the applicant, by posting notices in three public places in the county seat of the county at least fifteen days before the day fixed for the hearing. The board shall also publish a like notice two times in some daily newspaper published in the county, or if no daily newspaper is published in the county, then the newspaper doing the county printing, the last publication to be not less than five days before the day fixed for the hearing. The notice shall state the name or names of the applicant or applicants, a description of the county roads by reference to section, township and range in which the county roads or portions thereof are physically located, to be included in the franchise for which the application is made, and the time and place fixed for the hearing. [1963 c 4 § 36.55.040. Prior: 1961 c 55 § 3; prior: 1937 c 187 § 38, part; RRS § 6450–38, part.]

36.55.050 Hearing—Order. The hearing may be adjourned from time to time by the order of the board of county commissioners. If, after the hearing, the board

deems it to be for the public interest to grant the franchise in whole or in part, it may make and enter a resolution to that effect and may require the applicant to place his utility and its appurtenances in such location on or along the county road as the board finds will cause the least interference with other uses of the road. [1963 c 4 § 36.55.050. Prior: 1961 c 55 § 4; prior: 1937 c 187 § 38, part; RRS § 6450–38, part.]

36.55.060 Limitations upon grants. (1) Any person constructing or operating any utility on or along a county road shall be liable to the county for all necessary expense incurred in restoring the county road to a suitable condition for travel.

(2) No franchise shall be granted for a period of longer than fifty years.

(3) No exclusive franchise or privilege shall be granted.

(4) The facilities of the holder of any such franchise shall be removed at the expense of the holder thereof, to some other location on such county road in the event it is to be constructed, altered, or improved or becomes a primary state highway and such removal is reasonably necessary for the construction, alteration, or improvement thereof. [1963 c 4 § 36.55.060. Prior: 1961 c 55 § 5; prior: 1937 c 187 § 38, part; RRS § 6450–38, part.]

36.55.070 Existing franchises validated. All rights, privileges, or franchises granted or attempted to be granted by the board of county commissioners of any county prior to April 1, 1937, when such board of county commissioners was in regular or special session and when the action of such board is shown by its records, to any person to erect, construct, maintain, or operate any railway or poles, pole lines, wires, or any other thing for the furnishing, transmission, delivery, enjoyment, or use of electric energy, electric power, electric light, and telephone connection therewith, or any other matter relating thereto; or to lay or maintain pipes for the distribution of water, or gas, or to or for any other such facilities in, upon, along, through or over any county roads, are confirmed and declared to be valid to the extent that such rights, privileges, or franchises specifically refer or apply to any county road or county roads, or to the extent that any such county road has prior to April 1, 1937, been actually occupied by the bona fide construction and operation of such utility, and such rights, privileges, and franchises hereby confirmed shall have the same force and effect as if the board of county commissioners prior to the time of granting said rights, privileges, and franchises, had been specifically authorized to grant them. [1963 c 4 § 36.55.070. Prior: 1937 c 187 § 41; RRS § 6450–41.]

36.55.080 Record of franchises. The board of county commissioners shall cause to be recorded with the county auditor a complete record of all existing franchises upon the county roads of its county and the auditor shall keep and maintain a currently correct record of all franchises existing or granted with the information describing the holder of the franchise, the purpose thereof, the portion of county road over or along which

granted, the date of granting, term for which granted, and date of expiration, and any other information with reference to any special provisions of such franchises. [1963 c 4 § 36.55.080. Prior: 1937 c 187 § 42; RRS § 6450-42.]

Chapter 36.57
COUNTY PUBLIC TRANSPORTATION
AUTHORITY

Sections

36.57.010	Definitions.
36.57.020	Public transportation authority authorized.
36.57.030	Membership—Compensation.
36.57.040	Powers and duties.
36.57.050	Chairman—General manager.
36.57.060	Transportation fund—Contributions.
36.57.070	Public transportation plan.
36.57.080	Transfer of transportation powers and rights to authority—Funds—Contract indebtedness.
36.57.090	Acquisition of existing transportation system—Assumption of labor contracts—Transfer of employees—Preservation of benefits—Collective bargaining.
36.57.100	Counties authorized to perform public transportation function in unincorporated areas—Exceptions.
36.57.110	Boundaries of unincorporated transportation benefit areas.

Municipality defined: RCW 35.58.272.

Sales and use taxes for county public transportation: RCW 82.14.047.

36.57.010 Definitions. For the purposes of this chapter and RCW 82.14.047 the following definitions shall apply:

(1) "Authority" means the county transportation authority created pursuant to this chapter and RCW 82.14.047.

(2) "Population" means the number of residents as shown by the figures released for the most recent official state, federal, or county census, or population determination made by the office of program planning and fiscal management.

(3) "Public transportation function" means the transportation of passengers and their incidental baggage by means other than by chartered bus, sightseeing bus, together with the necessary passenger terminals and parking facilities or other properties necessary for passenger and vehicular access to and from such people-moving systems: *Provided*, That nothing shall prohibit an authority from leasing its buses to private certified carriers or prohibit the county from providing school bus service. [1974 ex.s. c 167 § 1.]

36.57.020 Public transportation authority authorized. Every county, except a county in which a metropolitan municipal corporation is performing the function of public transportation on May 5, 1974, is authorized to create a county transportation authority which shall perform the function of public transportation. Such authority shall embrace all the territory within a single county and all cities and towns therein. [1974 ex.s. c 167 § 2.]

36.57.030 Membership—Compensation. Every county which undertakes the transportation function

pursuant to RCW 36.57.020 shall create by resolution of the county legislative body a county transportation authority which shall be composed as follows:

(1) The elected officials of the county legislative body, not to exceed three such elected officials;

(2) The mayor of the most populous city within the county;

(3) The mayor of a city with a population less than five thousand, to be selected by the mayors of all such cities within the county;

(4) The mayor of a city with a population greater than five thousand, excluding the most populous city, to be selected by the mayors of all such cities within the county: *Provided, however*, That if there is no city with a population greater than five thousand, excluding the most populous city, then the sixth member who shall be an elected official, shall be selected by the other two mayors selected pursuant to subsections (2) and (3) of this section.

The members of the authority shall be selected within sixty days after the date of the resolution creating such authority.

Any member of the authority who is a mayor or an elected official selected pursuant to subsection (4) above and whose office is not a full time position shall receive one hundred dollars for each day attending official meetings of the authority. [1974 ex.s. c 167 § 3.]

36.57.040 Powers and duties. Every county transportation authority created to perform the function of public transportation pursuant to RCW 36.57.020 shall have the following powers:

(1) To prepare, adopt, carry out, and amend a general comprehensive plan for public transportation service.

(2) To acquire by purchase, condemnation, gift or grant and to lease, construct, add to, improve, replace, repair, maintain, operate and regulate the use of any transportation facilities and properties, including terminal and parking facilities, together with all lands, rights of way, property, equipment and accessories necessary for such systems and facilities.

(3) To fix rates, tolls, fares and charges for the use of such facilities and to establish various routes and classes of service.

(4) In the event a county transit authority shall extend its transportation function to any area in which service is already offered by any company holding a certificate of public convenience and necessity from the Washington utilities and transportation commission under RCW 81.68.040, it may acquire by purchase or condemnation at the fair market value, from the person holding the existing certificate for providing the services, that portion of the operating authority and equipment representing the services within the area of public operation, or it may contract with such person or corporation to continue to operate such service or any part thereof for time and upon such terms and conditions as provided by contract.

(5) (a) To contract with the United States or any agency thereof, any state or agency thereof, any metropolitan municipal corporation, any other county, city, special district, or governmental agency and any private

person, firm or corporation for the purpose of receiving gifts or grants or securing loans or advances for preliminary planning and feasibility studies, or for the design, construction, operation, or maintenance of transportation facilities; and

(b) To contract with any governmental agency or with any private person, firm or corporation for the use by either contracting party of all or any part of the facilities, structures, lands, interests in lands, air rights over lands and rights of way of all kinds which are owned, leased or held by the other party and for the purpose of planning, constructing or operating any facility or performing any service related to transportation which the county is authorized to operate or perform, on such terms as may be agreed upon by the contracting parties: *Provided*, That before any contract for the lease or operation of any transportation facilities shall be let to any private person, firm or corporation, competitive bids shall first be called for and contracts awarded in accord with the procedures established in accord with RCW 36.32.240, 36.32.250, and 36.32.270.

(6) In addition to all other powers and duties, an authority shall have the power to own, construct, purchase, lease, add to, and maintain any real and personal property or property rights necessary for the conduct of the affairs of the authority. An authority may sell, lease, convey or otherwise dispose of any authority real or personal property no longer necessary for the conduct of the affairs of the authority. An authority may enter into contracts to carry out the provisions of this section. [1974 ex.s. c 167 § 4.]

36.57.050 Chairman—General manager. The authority shall elect a chairman, and appoint a general manager who shall be experienced in administration, and who shall act as executive secretary to, and administrative officer for the authority. He shall also be empowered to employ such technical and other personnel as approved by the authority. The general manager shall be paid such salary and allowed such expenses as shall be determined by the authority. The general manager shall hold office at the pleasure of the authority, and shall not be removed until after notice is given him, and an opportunity for a hearing before the authority as to the reason for his removal. [1974 ex.s. c 167 § 5.]

36.57.060 Transportation fund—Contributions. Each authority shall establish a fund to be designated as the "transportation fund", in which shall be placed all sums received by the authority from any source, and out of which shall be expended all sums disbursed by the authority. The county treasurer shall be the custodian of the fund, and the county auditor shall keep the record of the receipts and disbursements, and shall draw and the county treasurer shall honor and pay all warrants, which shall be approved before issuance and payment as directed by the authority.

The county and each city or town which is included in the authority shall contribute such sums towards the expense for maintaining and operating the authority as shall be agreed upon between them. [1974 ex.s. c 167 § 6.]

36.57.070 Public transportation plan. The authority shall adopt a public transportation plan. Such plan shall be a general comprehensive plan designed to best serve the residents of the entire county. Prior to adoption of the plan, the authority shall provide a minimum of sixty days during which sufficient hearings shall be held to provide interested persons an opportunity to participate in development of the plan. [1974 ex.s. c 167 § 7.]

36.57.080 Transfer of transportation powers and rights to authority—Funds—Contract indebtedness. On the effective date of the proposition approved by the voters in accord with RCW 35.95.040 or 82.14.045, as now or hereafter amended, the authority shall have and exercise all rights with respect to the construction, acquisition, maintenance, operation, extension, alteration, repair, control and management of passenger transportation which the county or any city located within such county shall have been previously empowered to exercise and such powers shall not thereafter be exercised by the county or such cities without the consent of the authority. The county and all cities within such county upon demand of the authority shall transfer to the authority all unexpended funds earmarked or budgeted from any source for public transportation, including funds receivable. The county in which an authority is located shall have the power to contract indebtedness and issue bonds pursuant to chapter 36.67 RCW to enable the authority to carry out the purposes of this chapter and RCW 35.95.040 or 82.14.045, as now or hereafter amended, and the purposes of this chapter and RCW 35.95.040 or 82.14.045, as now or hereafter amended, shall constitute a "county purpose" as that term is used in chapter 36.67 RCW. [1975 1st ex.s. c 270 § 5; 1974 ex.s. c 167 § 8.]

Severability—Effective date—1975 1st ex.s. c 270: See notes following RCW 35.58.272.

36.57.090 Acquisition of existing transportation system—Assumption of labor contracts—Transfer of employees—Preservation of benefits—Collective bargaining. A county transportation authority may acquire any existing transportation system by conveyance, sale, or lease. In any purchase from a county or city, the authority shall receive credit from the county or city for any federal assistance and state matching assistance used by the county or city in acquiring any portion of such system. The authority shall assume and observe all existing labor contracts relating to such system and, to the extent necessary for operation of facilities, all of the employees of such acquired transportation system whose duties are necessary to operate efficiently the facilities acquired shall be appointed to comparable positions to those which they held at the time of such transfer, and no employee or retired or pensioned employee of such systems shall be placed in any worse position with respect to pension seniority, wages, sick leave, vacation or other benefits that he enjoyed as an employee of such system prior to such acquisition. The authority shall engage in collective bargaining with the duly appointed representatives of any employee labor organization having existing contracts with the acquired

transportation system and may enter into labor contracts with such employee labor organization. [1974 ex.s. c 167 § 9.]

36.57.100 Counties authorized to perform public transportation function in unincorporated areas—
Exceptions. Every county, except a county in which a metropolitan municipal corporation is performing the public transportation function as of July 1, 1975, is authorized to perform such function in such portions of the unincorporated areas of the county, except within the boundaries of a public transportation benefit area established pursuant to chapter 36.57A RCW, as the county legislative body shall determine and the county shall have those powers as are specified in RCW 36.57-.040 with respect to the provision of public transportation as is authorized pursuant to RCW 36.57.040. [1975 1st ex.s. c 270 § 9.]

Severability—Effective date—1975 1st ex.s. c 270: See notes following RCW 35.58.272.

36.57.110 Boundaries of unincorporated transportation benefit areas. The legislative body of any county is hereby authorized to create and define the boundaries of unincorporated transportation benefit areas within the unincorporated areas of the county, following school district or election precinct lines, as far as practicable. Such areas shall include only those portions of the unincorporated area of the county which could reasonably assume to benefit from the provision of public transportation services. [1975 1st ex.s. c 270 § 10.]

Severability—Effective date—1975 1st ex.s. c 270: See notes following RCW 35.58.272.

Chapter 36.57A

PUBLIC TRANSPORTATION BENEFIT AREAS

Sections

- 36.57A.010 Definitions.
- 36.57A.011 Municipality defined.
- 36.57A.020 Public transportation improvement conference—Convening—Purpose—Multi-county conferences.
- 36.57A.030 Establishment or change in boundaries of public transportation benefit area—Hearing—Notice—Procedure—Authority of county to terminate public transportation benefit area.
- 36.57A.040 Cities to be wholly included or excluded—Boundaries—Only benefited areas to be included—One area per county.
- 36.57A.050 Governing body—Selection, qualification, number and compensation of members.
- 36.57A.060 Comprehensive plan—Development—Elements.
- 36.57A.070 Comprehensive plan—Review—Approval or disapproval—Resubmission.
- 36.57A.080 General powers.
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- 36.57A.100 Agreements with operators of local public transportation services—Operation without agreement prohibited—Purchase or condemnation of assets.
- 36.57A.110 Powers of component city concerning passenger transportation transferred to benefit area—Operation of system by city until acquired by benefit area—Consent.
- 36.57A.120 Acquisition of existing system—Labor contracts, employee rights preserved—Collective bargaining.
- 36.57A.130 Transportation fund—Establishment—Use—Custodian—Contribution of sums for expenses.
- 36.57A.140 Annexation of additional area.
- 36.57A.150 Advanced financial support payments.

36.57A.160 Dissolution and liquidation.

36.57A.010 Definitions. For the purposes of this chapter the following definitions shall apply:

(1) "Public transportation benefit area" means a municipal corporation of the state of Washington created pursuant to this chapter.

(2) "Public transportation benefit area authority" or "authority" means the legislative body of a public transportation benefit area.

(3) "City" means an incorporated city or town.

(4) "Component city" means an incorporated city or town within a public transportation benefit area.

(5) "City council" means the legislative body of any city or town.

(6) "County legislative body" means the board of county commissioners or the county council.

(7) "Population" means the number of residents as shown by the figures released for the most recent official state, federal, or county census, or population determination made by the office of program planning and fiscal management.

(8) "Public transportation service" means the transportation of packages, passengers and their incidental baggage by means other than by chartered bus, sight-seeing bus, together with the necessary passenger terminals and parking facilities or other properties necessary for passenger and vehicular access to and from such people moving systems: *Provided*, That nothing shall prohibit an authority from leasing its buses to private certified carriers or prohibit the authority from providing school bus service.

(9) "Public transportation improvement conference" or "conference" shall mean the body established pursuant to RCW 36.57A.020 which shall be authorized to establish, subject to the provisions of RCW 36.57A.030, a public transportation benefit area pursuant to the provisions of this chapter. [1975 1st ex.s. c 270 § 11.]

Severability—Effective date—1975 1st ex.s. c 270: See notes following RCW 35.58.272.

36.57A.011 Municipality defined. See RCW 35.58.272.

36.57A.020 Public transportation improvement conference—Convening—Purpose—Multi-county conferences. The county legislative authority of every class A, class 1, class 2, or class 3 county shall, and the legislative authority of every other county may, within ninety days of July 1, 1975, and as often thereafter as it deems necessary, and upon thirty days prior written notice addressed to the legislative body of each city within the county and with thirty days public notice, convene a public transportation improvement conference to be attended by an elected representative selected by the legislative body of each city, within such county, and by the county commissioners. Such conference shall be for the purpose of evaluating the need for and the desirability of the creation of a public transportation benefit area within certain incorporated and unincorporated portions of the county to provide public transportation services within such area. In those counties where county

officials believe the need for public transportation service extends across county boundaries so as to provide public transportation service in a metropolitan area, the county legislative bodies of two or more neighboring counties may elect to convene a multi-county conference. In addition, county-wide conferences may be convened by resolution of the legislative bodies of two or more cities within the county, not to exceed one in any twelve month period, or a petition signed by at least ten percent of the registered voters in the last general election of the city, county or city/county areas of a proposed benefit area. The chairman of the conference shall be elected from the members at large. [1975 1st ex.s. c 270 § 12.]

Severability—Effective date—1975 1st ex.s. c 270: See notes following RCW 35.58.272.

36.57A.030 Establishment or change in boundaries of public transportation benefit area—Hearing—Notice—Procedure—Authority of county to terminate public transportation benefit area. Any conference which finds it desirable to establish a public transportation benefit area or change the boundaries of any existing public transportation benefit area shall fix a date for a public hearing thereon, or the legislative bodies of any two or more component cities or the county legislative body by resolution may require the public transportation improvement conference to fix a date for a public hearing thereon. Prior to the convening of the public hearing, the county governing body shall delineate the area of the county proposed to be included within the transportation benefit area, and shall furnish a copy of such delineation to each incorporated city within such area. Each city shall advise the county governing body, on a preliminary basis, of its desire to be included or excluded from the transportation benefit area. The county governing body shall cause the delineations to be revised to reflect the wishes of such incorporated cities. This delineation shall be considered by the conference at the public hearing for inclusion in the public transportation benefit area.

Notice of such hearing shall be published once a week for at least four consecutive weeks in one or more newspapers of general circulation within the area. The notice shall contain a description and map of the boundaries of the proposed public transportation benefit area and shall state the time and place of the hearing and the fact that any changes in the boundaries of the public transportation benefit area will be considered at such time and place. At such hearing or any continuation thereof, any interested person may appear and be heard on all matters relating to the effect of the formation of the proposed public transportation benefit area.

The conference may make such changes in the boundaries of the public transportation benefit area as they shall deem reasonable and proper, but may not delete any portion of the proposed area which will create an island of included or excluded lands, and may not delete a portion of any city. If the conference shall determine that any additional territory should be included in the public transportation benefit area, a second hearing shall be held and notice given in the same manner as for the

original hearing. The conference may adjourn the hearing on the formation of a public transportation benefit area from time to time not exceeding thirty days in all.

At the next regular meeting following the conclusion of such hearing the conference shall adopt a resolution fixing the boundaries of the proposed public transportation benefit area, declaring that the formation of the proposed public transportation benefit area will be conducive to the welfare and benefit of the persons and property therein.

Within thirty days of the adoption of such conference resolution, the county legislative authority of each county wherein a conference has established proposed boundaries of a public transportation benefit area, may by resolution, upon making a legislative finding that the proposed benefit area includes portions of the county which could not be reasonably expected to benefit from such benefit area or excludes portions of the county which could be reasonably expected to benefit from its creation, disapprove and terminate the establishment of such public transportation benefit area within such county. [1975 1st ex.s. c 270 § 13.]

Severability—Effective date—1975 1st ex.s. c 270: See notes following RCW 35.58.272.

36.57A.040 Cities to be wholly included or excluded—Boundaries—Only benefited areas to be included—One area per county. At the time of its formation no public transportation benefit area shall include only a part of any city, and every city shall be either wholly included or wholly excluded from the boundaries of such area. If subsequent to the formation of a public transportation benefit area a part only of any city shall be included within the boundaries of a public transportation benefit area such part shall be deemed to be "unincorporated" for the purpose of selecting a member of the governing authority pursuant to RCW 36.57A.060.

The boundaries of any public transportation benefit area shall follow school district lines or election precinct lines, as far as practicable. Only such areas shall be included which the conference determines could reasonably benefit from the provision of public transportation services. Only one public transportation benefit area may be created in any county. [1975 1st ex.s. c 270 § 14.]

Severability—Effective date—1975 1st ex.s. c 270: See notes following RCW 35.58.272.

36.57A.050 Governing body—Selection, qualification, number and compensation of members. Within sixty days of the establishment of the boundaries of the public transportation benefit area the county commissioners and elected representatives of cities within the area shall provide for the selection of the governing body of such area, the public transportation benefit area authority, which shall consist of elected officials selected by and serving at the pleasure of the governing bodies of component cities within the area and the county commissioners of each county within the area.

Within such sixty day period, the legislative body of any city may by resolution of its legislative body withdraw from participation in the public transportation

benefit area. The county legislative authority and each city remaining in the public transportation benefit area may disapprove and prevent the establishment of any governing body of a public transportation benefit area if the composition thereof does not meet its approval.

In no case shall the governing body of a single county public transportation benefit area be greater than nine members and in the case of a multicounty area, fifteen members. Those cities within the transportation benefit area and excluded from direct membership on the authority are hereby authorized to designate a member of the authority who shall be entitled to represent the interests of such city which is excluded from direct membership on the authority. The legislative body of such city shall notify the authority as to the determination of its authorized representative on the authority.

Any member of the authority who is an elected official and whose office is not a full time position shall receive forty dollars for each day attending official meetings of the authority. [1975 1st ex.s. c 270 § 15.]

Severability—Effective date—1975 1st ex.s. c 270: See notes following RCW 35.58.272.

36.57A.060 Comprehensive plan—Development—Elements. The public transportation benefit area authority authorized pursuant to RCW 36.57A.050 shall develop a comprehensive transit plan for the area. Such plan shall include, but not be limited to the following elements:

(1) The levels of transit service that can be reasonably provided for various portions of the benefit area.

(2) The funding requirements, including local tax sources, state and federal funds, necessary to provide various levels of service within the area.

(3) The impact of such a transportation program on other transit systems operating within that county or adjacent counties.

(4) The future enlargement of the benefit area or the consolidation of such benefit area with other transit systems. [1975 1st ex.s. c 270 § 16.]

Severability—Effective date—1975 1st ex.s. c 270: See notes following RCW 35.58.272.

36.57A.070 Comprehensive plan—Review—Approval or disapproval—Resubmission. The comprehensive transit plan adopted by the authority shall be reviewed by the state transportation commission, and if such commission does not exist, by the planning and community affairs agency or its successor to determine:

(1) The completeness of service to be offered and the economic viability of the transit system proposed in such comprehensive transit plan;

(2) Whether such plan integrates the proposed transportation system with existing transportation modes and systems that serve the benefit area;

(3) Whether such plan coordinates that area's system and service with nearby public transportation systems;

(4) Whether such plan is eligible for matching state or federal funds;

After reviewing the comprehensive transit plan, the state transportation commission, and if such does not exist, the planning and community affairs agency or its

successor shall have sixty days in which to approve such plan and to certify to the state treasurer that such public transportation benefit area shall be eligible to receive the motor vehicle excise tax proceeds authorized pursuant to RCW 35.58.273, as now or hereafter amended in the manner prescribed by chapter 82.44 RCW, as now or hereafter amended. To be approved a plan shall provide for coordinated transportation planning, the integration of such proposed transportation program with other transportation systems operating in areas adjacent to, or in the vicinity of the proposed public transportation benefit area, and be consistent with the public transportation coordination criteria adopted pursuant to the urban mass transportation act of 1964 as amended as of July 1, 1975. In the event such comprehensive plan is disapproved and ruled ineligible to receive motor vehicle tax proceeds, the state transportation commission, and if such does not exist, the planning and community affairs agency or its successor, shall provide written notice to the authority within thirty days as to the reasons for such plan's disapproval and such ineligibility. The authority may resubmit such plan upon reconsideration and correction of such deficiencies in the plan cited in such notice of disapproval. [1975 1st ex.s. c 270 § 17.]

Severability—Effective date—1975 1st ex.s. c 270: See notes following RCW 35.58.272.

36.57A.080 General powers. In addition to the powers specifically granted by this chapter a public transportation benefit area shall have all powers which are necessary to carry out the purposes of the public transportation benefit area. A public transportation benefit area may contract with the United States or any agency thereof, any state or agency thereof, any other public transportation benefit area, any county, city, metropolitan municipal corporation, special district, or governmental agency, within or without the state, and any private person, firm or corporation for the purpose of receiving gifts or grants or securing loans or advances for preliminary planning and feasibility studies, or for the design, construction or operation of transportation facilities. In addition a public transportation benefit area may contract with any governmental agency or with any private person, firm or corporation for the use by either contracting party of all or any part of the facilities, structures, lands, interests in lands, air rights over lands and rights of way of all kinds which are owned, leased or held by the other party and for the purpose of planning, constructing or operating any facility or performing any service which the public transportation benefit area may be authorized to operate or perform, on such terms as may be agreed upon by the contracting parties. Before any contract for the lease or operation of any public transportation benefit area facilities shall be let to any private person, firm or corporation, a general schedule of rental rates for bus equipment with or without drivers shall be publicly posted applicable to all private certificated carriers, and for other facilities competitive bids shall first be called upon such notice, bidder qualifications and bid conditions as the public transportation benefit area authority shall determine.

A public transportation benefit area may sue and be sued in its corporate capacity in all courts and in all proceedings. [1975 1st ex.s. c 270 § 18.]

Severability—Effective date—1975 1st ex.s. c 270: See notes following RCW 35.58.272.

36.57A.090 Additional powers. A public transportation benefit area authority shall have the following powers in addition to the general powers granted by this chapter:

(1) To prepare, adopt and carry out a general comprehensive plan for public transportation service which will best serve the residents of the public transportation benefit area and to amend said plan from time to time to meet changed conditions and requirements.

(2) To acquire by purchase, condemnation, gift or grant and to lease, construct, add to, improve, replace, repair, maintain, operate and regulate the use of transportation facilities and properties within or without the public transportation benefit area or the state, including systems of surface, underground or overhead railways, tramways, buses, or any other means of local transportation except taxis, and including escalators, moving sidewalks or other people-moving systems, passenger terminal and parking facilities and properties and such other facilities and properties as may be necessary for passenger and vehicular access to and from such people-moving systems, terminal and parking facilities and properties, together with all lands, rights of way, property, equipment and accessories necessary for such systems and facilities. Public transportation facilities and properties which are owned by any city may be acquired or used by the public transportation benefit area authority only with the consent of the city council of the city owning such facilities. Cities are hereby authorized to convey or lease such facilities to a public transportation benefit area authority or to contract for their joint use on such terms as may be fixed by agreement between the city council of such city and the public transportation benefit area authority, without submitting the matter to the voters of such city.

The facilities and properties of a public transportation benefit area system whose vehicles will operate primarily within the rights of way of public streets, roads or highways, may be acquired, developed and operated without the corridor and design hearings which are required by RCW 35.58.273, as now or hereafter amended, for mass transit facilities operating on a separate right of way.

(3) To fix rates, tolls, fares and charges for the use of such facilities and to establish various routes and classes of service.

In the event any public transportation benefit area shall extend its public transportation services to any area of service already offered by any company holding a certificate of public convenience and necessity from the Washington utilities and transportation commission, under RCW 81.68.040 it shall by purchase or condemnation acquire at the fair market value, from the person holding the existing certificate for providing the services, that portion of the operating authority and equipment representing the services within the area of public operation. [1975 1st ex.s. c 270 § 19.]

Severability—Effective date—1975 1st ex.s. c 270: See notes following RCW 35.58.272.

36.57A.100 Agreements with operators of local public transportation services—Operation without agreement prohibited—Purchase or condemnation of assets. Except in accordance with an agreement made as provided in this section, upon the effective date on which the public transportation benefit area commences to perform the public transportation service, no person or private corporation shall operate a local public passenger transportation service within the public transportation benefit area with the exception of taxis, buses owned or operated by a school district or private school, and buses owned or operated by any corporation or organization solely for the purposes of the corporation or organization and for the use of which no fee or fare is charged.

An agreement may be entered into between the public transportation benefit area authority and any person or corporation legally operating a local public passenger transportation service wholly within or partly within and partly without the public transportation benefit area and on said effective date under which such person or corporation may continue to operate such service or any part thereof for such time and upon such terms and conditions as provided in such agreement. Where any such local public passenger transportation service will be required to cease to operate within the public transportation benefit area, the public transportation benefit area authority may agree with the owner of such service to purchase the assets used in providing such service, or if no agreement can be reached, the public transportation benefit area authority shall condemn such assets in the manner and by the same procedure as is or may be provided by law for the condemnation of other properties for cities of the first class, except insofar as such laws may be inconsistent with the provisions of this chapter.

Wherever a privately owned public carrier operates wholly or partly within a public transportation benefit area, the Washington utilities and transportation commission shall continue to exercise jurisdiction over such operation as provided by law. [1975 1st ex.s. c 270 § 20.]

Severability—Effective date—1975 1st ex.s. c 270: See notes following RCW 35.58.272.

36.57A.110 Powers of component city concerning passenger transportation transferred to benefit area—Operation of system by city until acquired by benefit area—Consent. The public transportation benefit area shall have and exercise all rights with respect to the construction, acquisition, maintenance, operation, extension, alteration, repair, control and management of passenger transportation which any component city shall have been previously empowered to exercise and such powers shall not thereafter be exercised by such component cities without the consent of the public transportation benefit area: *Provided*, That any city owning and operating a public transportation system on July 1, 1975 may continue to operate such system within such city until such system shall have been acquired by the public

transportation benefit area and a public transportation benefit area may not acquire such system without the consent of the city council of such city. [1975 1st ex.s. c 270 § 21.]

Severability—Effective date—1975 1st ex.s. c 270: See notes following RCW 35.58.272.

36.57A.120 Acquisition of existing system—Labor contracts, employee rights preserved—Collective bargaining. If a public transportation benefit area shall acquire any existing transportation system, it shall assume and observe all existing labor contracts relating to such system and, to the extent necessary for operation of facilities, all of the employees of such acquired transportation system whose duties are necessary to operate efficiently the facilities acquired shall be appointed to comparable positions to those which they held at the time of such transfer, and no employee or retired or pensioned employee of such systems shall be placed in any worse position with respect to pension seniority, wages, sick leave, vacation or other benefits that he enjoyed as an employee of such system prior to such acquisition. The public transportation benefit area authority shall engage in collective bargaining with the duly appointed representatives of any employee labor organization having existing contracts with the acquired transportation system and may enter into labor contracts with such employee labor organization. [1975 1st ex.s. c 270 § 22.]

Severability—Effective date—1975 1st ex.s. c 270: See notes following RCW 35.58.272.

36.57A.130 Transportation fund—Establishment—Use—Custodian—Contribution of sums for expenses. Each public transportation benefit area authority shall establish a fund to be designated as the "transportation fund", in which shall be placed all sums received by the authority from any source except the proceeds of bonds issued by the authority, and out of which shall be expended all sums disbursed by the authority unless otherwise provided in bond covenants. The county treasurer, or in the case of a multi-county public transportation benefit area, the county treasurer of the largest component county, shall be the custodian of the fund. The county auditor of such county shall keep the record of the receipts and disbursements, and shall draw and such county treasurer shall honor and pay all warrants, which shall be approved before issuance and payment as directed by the authority.

The county or counties and each city or town which is included in the authority shall contribute such sums towards the expense for maintaining and operating the public transportation system as shall be agreed upon between them. [1975 1st ex.s. c 270 § 23.]

Severability—Effective date—1975 1st ex.s. c 270: See notes following RCW 35.58.272.

36.57A.140 Annexation of additional area. (1) An election to authorize the annexation of territory contiguous to a public transportation benefit area may be called within the area to be annexed pursuant to resolution or petition in the following manner:

(a) By resolution of a public transportation benefit area authority when it shall determine that the best interests and general welfare of such public transportation benefit area would be served. Such authority shall consider the question of areas to be annexed to the public transportation benefit area at least once every two years.

(b) By petition calling for such an election signed by at least four percent of the qualified voters residing within the area to be annexed and filed with the auditor of the county wherein the largest portion of the public transportation benefit area is located, and notice thereof shall be given to such authority. Upon receipt of such a petition, the auditor shall examine the same and certify to the sufficiency of the signatures thereon.

(c) By resolution of a public transportation benefit area authority upon request of any city for annexation thereto.

(2) The resolution or petition shall describe the boundaries of the area to be annexed. It shall require that there also be submitted to the electorate of the territory sought to be annexed a proposition authorizing the inclusion of such area within the public transportation benefit area and authorizing the imposition of such taxes authorized by law to be collected by the authority.

(3) Upon the annexation of additional area to a public transportation benefit area, the authority of the public transportation benefit area shall be reconstituted within sixty days in accordance with the provisions of RCW 36.57A.050. [1975 1st ex.s. c 270 § 24.]

Severability—Effective date—1975 1st ex.s. c 270: See notes following RCW 35.58.272.

36.57A.150 Advanced financial support payments. Counties that have established a county transportation authority pursuant to chapter 36.57 RCW and public transportation benefit areas that have been established pursuant to this chapter are eligible to receive a one-time advanced financial support payment from the state to assist in the development of the initial comprehensive transit plan required by RCW 36.57.070 and 36.57A-.060. The amount of this support payment is established at one dollar per person residing within each county or public transportation benefit area, as determined by the office of program planning and fiscal management, but no single payment shall exceed fifty thousand dollars. Repayment of an advanced financial support payment shall be made to the public transportation account in the general fund or, if such account does not exist, to the general fund by each agency within two years of the date such advanced payment was received. Such repayment shall be waived within two years of the date such advanced payment was received if the voters in the appropriate counties or public transportation benefit areas do not elect to levy and collect taxes enabled under authority of *this 1975 amendatory act. The state department of transportation or, if such department does not exist, the planning and community affairs agency shall provide technical assistance in the preparation of local transit plans, and administer the advanced financial support payments authorized by this section. [1975 1st ex.s. c 270 § 25.]

***Reviser's note:** "this 1975 amendatory act" [1975 1st ex.s. c 270] consists of RCW 35.58.2721, 35.58.2794, 36.57.100, 36.57.110, chapter 36.57A RCW, amendments to RCW 35.58.272, 35.58.278, 35.95-.020, 35.95.040, 36.57.080, 82.14.045, and to the repeal of RCW 35.58.2731, 82.14.047, 1973 1st ex.s. c 136 §§ 1-9, and 1974 ex.s. c 54 § 6.

Severability—Effective date—1975 1st ex.s. c 270: See notes following RCW 35.58.272.

36.57A.160 Dissolution and liquidation. A public transportation benefit area established pursuant to this chapter may be dissolved and its affairs liquidated when so directed by a majority of persons in the benefit area voting on such question. An election placing such question before the voters may be called in the following manner:

(1) By resolution of the public transportation benefit area authority;

(2) By resolution of the county legislative body or bodies with the concurrence therein by resolution of the city council of a component city; or

(3) By petition calling for such election signed by at least ten percent of the qualified voters residing within the area filed with [the] auditor of the county wherein the largest portion of the public transportation benefit area is located. The auditor shall examine the same and certify to the sufficiency of the signatures thereon: *Provided*, That to be validated, signatures must have been collected within a ninety day period as designated by the petition sponsors.

With dissolution of the benefit area, any outstanding obligations and bonded indebtedness of the public transportation benefit area shall be satisfied or allocated by mutual agreement to the county or counties and component cities of the public transportation benefit area. [1975 1st ex.s. c 270 § 26.]

Severability—Effective date—1975 1st ex.s. c 270: See notes following RCW 35.58.272.

Chapter 36.58 GARBAGE DISPOSAL

Sections

- 36.58.010 Acquisition of sites authorized.
- 36.58.020 Rules and regulations as to use—Penalty.
- 36.58.030 Solid waste disposal—"Transfer station" defined.
- 36.58.040 Solid waste disposal—Establishment of systems authorized—Disposal sites—Processing and conversion of solid wastes—Sale of products.
- 36.58.050 Solid waste disposal—Transfer stations.
- 36.58.060 Solid waste disposal—Ownership of solid wastes—Responsibility for handling.

Garbage and refuse collection companies: Chapter 81.77 RCW.

36.58.010 Acquisition of sites authorized. Any board of county commissioners may acquire by purchase or by gift, dedication, or donation, garbage sites for the use of the public in disposing of garbage and refuse. [1963 c 4 § 36.58.010. Prior: 1943 c 87 § 1; Rem. Supp. 1943 § 6294-150.]

36.58.020 Rules and regulations as to use—Penalty. Any board of county commissioners may make such rules and regulations as may be deemed necessary

for the use and occupation of such sites, and may provide for the maintenance and care thereof. Any person violating any of the rules and regulations made by the board relating to the use or occupation of any site owned or occupied by the county for garbage disposal purposes shall be guilty of a misdemeanor. [1963 c 4 § 36.58.020. Prior: 1943 c 87 § 2; Rem. Supp. 1943 § 6294-151.]

36.58.030 Solid waste disposal—"Transfer station" defined. As used in RCW 36.58.030 through 36.58.060, the term "transfer station" means a staffed, fixed supplemental facility used by persons and route collection vehicles to deposit solid wastes into transfer trailers for transportation to a disposal site. This does not include detachable containers. [1975-'76 2nd ex.s. c 58 § 1.]

36.58.040 Solid waste disposal—Establishment of systems authorized—Disposal sites—Processing and conversion of solid wastes—Sale of products. The legislative authority of each county may by ordinance provide for the establishment of a system of solid waste disposal for all the unincorporated areas of the county or for portions thereof. Each county may designate disposal sites for all solid waste collected in the unincorporated areas pursuant to the provisions of a comprehensive solid waste plan adopted pursuant to chapter 70.95 RCW: *Provided*, That for any solid waste collected by a private hauler operating pursuant to a certificate granted by the Washington utilities and transportation commission under the provisions of chapter 81.77 RCW and which certificate is for collection in a geographic area lying in more than one county, such designation of disposal sites shall be pursuant to an interlocal agreement between the involved counties.

Such systems may also provide for the processing and conversion of solid wastes into other valuable or useful products with full jurisdiction and authority to manage, regulate, maintain, operate, and control such system and plants, and to enter into agreements providing for the maintenance and operation of systems and plants for the processing and conversion of solid wastes and for the sale of said products.

Nothing in this section shall be construed to authorize the operation of a solid waste collection system by counties. [1975-'76 2nd ex.s. c 58 § 2.]

36.58.050 Solid waste disposal—Transfer stations. When a comprehensive solid waste plan, as provided in RCW 70.95.080, incorporates the use of transfer stations, such stations shall be considered part of the disposal site and as such, along with the transportation of solid wastes between disposal sites, shall be exempt from regulation by the Washington utilities and transportation commission as provided in chapter 81.77 RCW.

Each county may enter into contracts for the hauling of trailers of solid wastes from these transfer stations to disposal sites and return either by (1) the normal bidding process, or (2) negotiation with the qualified collection company servicing the area under authority of chapter 81.77 RCW. [1975-'76 2nd ex.s. c 58 § 3.]

36.58.060 Solid waste disposal—Ownership of solid wastes—Responsibility for handling. Ownership of solid wastes shall be vested in the person or local jurisdiction managing disposal and/or resource recovery facilities upon the arrival of said solid wastes at said facility: *Provided*, That the original owner retains ownership of the solid wastes until they arrive at the disposal site or transfer station or detachable container, and the original owner has the right of recovery to any valuable items inadvertently discarded: *Provided further*, That the person or agency providing the collection service shall be responsible for the proper handling of the solid wastes from the point of collection to the disposal or recovery facility. [1975-'76 2nd ex.s. c 58 § 4.]

Chapter 36.58A

SOLID WASTE COLLECTION DISTRICTS

Sections

- 36.58A.010 Authorized—Conditions—Modification or dissolution of district.
 36.58A.020 Hearings upon establishing, modification or dissolution of district—Notice—Scope.
 36.58A.030 County legislative authority determination required to establish district—Commission findings as to present services.
 36.58A.040 County may collect fees of garbage and refuse collection company—Disposition of fees—Subrogation—Lien.

36.58A.010 Authorized—Conditions—Modification or dissolution of district. Any county legislative authority may establish solid waste collection districts within the county boundaries for the mandatory collection of solid waste: *Provided*, That no such district shall include any area within the corporate limits of any city or town without the consent of the legislative authority of the city or town. Such districts may be established only after approval of a coordinated, comprehensive solid waste management plan adopted pursuant to chapter 134, Laws of 1969 ex. sess. and chapter 70.95 RCW or pursuant to another solid waste management plan adopted prior to May 21, 1971 or within one year thereafter. The legislative authority of the county may modify or dissolve such district after a hearing as provided for in RCW 36.58A.020. [1971 ex.s. c 293 § 2.]

Certain provisions not to detract from commission powers, duties, and functions: RCW 80.01.300.

36.58A.020 Hearings upon establishing, modification or dissolution of district—Notice—Scope. The county legislative authority proposing to establish a solid waste collection district or to modify or dissolve an existing solid waste collection district shall conduct a hearing at the time and place specified in a notice published at least once not less than ten days prior to the hearing in a newspaper of general circulation within the county. Additional notice of such hearing may be given by mail, posting on the property, or in any manner local authorities deem necessary to notify adjacent landowners and the public. All hearings shall be public and the legislative authority shall hear objections from any person affected by the formation of the solid waste collection district and make such changes in the boundaries of the

district or any other modifications of plans that the legislative authority deems necessary. [1971 ex.s. c 293 § 3.]

Certain provisions not to detract from commission powers, duties, and functions: RCW 80.01.300.

36.58A.030 County legislative authority determination required to establish district—Commission findings as to present services. No solid waste collection district shall be established in an area within the county boundaries unless the county legislative authority, after the hearing regarding formation of such district, determines from that hearing that mandatory solid waste collection is in the public interest and necessary for the preservation of public health. Such determination by the county legislative authority shall require the utilities and transportation commission to investigate and make a finding as to the ability and willingness of the existing garbage and refuse collection companies servicing the area to provide the required service.

If the utilities and transportation commission finds that the existing garbage and refuse collection company or companies are unable or unwilling to provide the required service it shall proceed to issue a certificate of public need and necessity to any qualified person or corporation in accordance with the provisions of RCW 81.77.040.

The utilities and transportation commission shall notify the county legislative authority within sixty days of its findings and actions and if no qualified garbage and refuse collection company or companies are available in the proposed solid waste collection district, the county legislative authority may provide county garbage and refuse collection services in the area and charge and collect reasonable fees therefor. The county shall not provide service in any portion of the area found by the utilities and transportation commission to be receiving adequate service from an existing certificated carrier unless the county shall acquire the rights of such existing certificated carrier by purchase or condemnation. [1971 ex.s. c 293 § 4.]

Certain provisions not to detract from commission powers, duties, and functions: RCW 80.01.300.

36.58A.040 County may collect fees of garbage and refuse collection company—Disposition of fees—Subrogation—Lien. If any garbage and refuse collection company certified by the utilities and transportation commission which operates in any solid waste collection district fails to collect any fees due and payable to it for garbage and refuse collection services, such company may request the county to collect such fees. Upon the collection of such fees, the county shall pay one-half of the fees actually collected to the garbage and refuse collection company entitled to receive such and shall deposit the remaining one-half in the county general fund.

When the county undertakes to collect such fees as requested by the garbage and refuse collection companies, the county shall be subrogated to all of the rights of such companies. Any such fees which the county fails to collect shall become liens on the real or personal

property of the persons owing such fees and the county may take all appropriate legal action to enforce such liens. [1971 ex.s. c 293 § 6.]

Certain provisions not to detract from commission powers, duties, and functions: RCW 80.01.300.

Chapter 36.59 HOMESITE LANDS

Sections

36.59.300	Definitions.
36.59.310	Entry—Persons entitled.
36.59.320	Designation of homesite lands—Notice of opening for entry.
36.59.330	Application for entry—Affidavit—Filing fee.
36.59.340	Forms to be furnished—Oaths administered free.
36.59.350	Acreage of tracts.
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36.59.300 Definitions. The following words and phrases wherever used in this chapter shall have the meaning as in this section ascribed to them, unless where used the context thereof shall clearly indicate to the contrary:

(1) "County commissioner." The duly elected, qualified and acting board of county commissioners of their respective counties.

(2) "County engineer." The duly appointed county road engineer, or such other county official as may be appointed by the board to carry out the duties prescribed for the county engineer under the provisions of this chapter.

(3) "Homesite or homesite lands." Any tract of land listed by the county commissioners and contained in the list certified by the county engineer to the county auditor.

(4) "Entryman." Any qualified person making and filing the application and affidavit herein required with the county auditor.

(5) "Settler." Any qualified person making and filing the application and affidavit herein required with the county auditor and having in accordance therewith settled upon a homesite tract.

(6) "Tract." Any piece or parcel of land separately described and listed by the county commissioners and by the county engineer filed with the county auditor. [1963 c 4 § 36.59.300. Prior: 1939 c 201 § 1; RRS § 4026-11. Formerly RCW 36.59.010.]

36.59.310 Entry—Persons entitled. Every person who is the head of a family as defined by the laws of this state or who has arrived at the age of eighteen years, is a citizen of the United States or who has filed his declaration of intention to become such as required by the naturalization laws of the United States, shall be entitled to enter upon eighty acres or a less quantity of land

selected and designated by the county commissioners of any county in this state as county homesite lands. [1971 ex.s. c 292 § 39; 1963 c 4 § 36.59.310. Prior: 1939 c 201 § 2; RRS § 4026-12. Formerly RCW 36.59.050.]

Severability—1971 ex.s. c 292: See note following RCW 26.28.010.

36.59.320 Designation of homesite lands—Notice of opening for entry. The county commissioners may at any time designate and select the county owned lands as county homesite lands, subject to settlement and conveyance by the county as in this chapter provided. A list of county lands so selected shall be furnished to the county engineer whose duty it shall be to check the descriptions of such listed lands, to approve the same and to file such list with the county auditor. Upon receiving such list from the county engineer the county auditor shall publish a notice by posting the same in three public places in his county and by publication thereof in at least three issues of the official county paper, stating that descriptions of the land in said list are on file in his office, are open to inspection by the public and at any time after thirty days from the date of the first publication of such notice said lands shall be open for entry as in this chapter provided. [1963 c 4 § 36.59.320. Prior: 1939 c 201 § 3; RRS § 4026-13. Formerly RCW 36.59.020 and 36.59.040.]

36.59.330 Application for entry—Affidavit—Filing fee. Any person applying to enter land under the preceding sections shall first make and subscribe before a person authorized by the laws of the state of Washington to administer an oath and affidavit that he or she is the head of a family and that such application is honestly and in good faith made for the purpose of actual settlement and cultivation and not for the benefit of any person or corporation, and that he or she will faithfully and honestly endeavor to comply with all of the requirements of law as to settlement, residence and cultivation necessary to acquire title to the land applied for; that he or she is not acting as agent of any person, corporation or syndicate in making such entry nor in collusion with any person, corporation or syndicate to give them the benefit of the land entered or any part thereof or the timber thereon; that he or she does not apply to enter the same for the purpose of speculation but in good faith to obtain a home for himself or herself and that he or she has not directly or indirectly made and will not make any agreement or contract in any way or manner with any person or persons, corporation or syndicate, whatsoever, by which the title which he or she might acquire from the county should enure in whole or in part for the benefit of any person except himself or herself, and upon filing such affidavit with the county auditor, on payment of five dollars he or she will thereupon be permitted to enter the amount of land specified. [1963 c 4 § 36.59.330. Prior: 1939 c 201 § 4; RRS § 4026-14. Formerly RCW 36.59.060 and 36.59.100, part.]

36.59.340 Forms to be furnished—Oaths administered free. The county auditor shall furnish forms of

application and affidavit containing the statements herein required and shall administer the oath to any person making such application and affidavit, without any fee therefor. [1963 c 4 § 36.59.340. Prior: 1939 c 201 § 5; RRS § 4026-15. Formerly RCW 36.59.070.]

36.59.350 Acreage of tracts. The county commissioners in selecting and designating such homesite properties shall have the right to determine the amount of acreage in any tract, not however to exceed eighty acres, and on the list of homesite properties as furnished by the engineer, filed in the office of the auditor as in this chapter provided, the approximate acreage of each tract shall be stated. [1963 c 4 § 36.59.350. Prior: 1939 c 201 § 6; RRS § 4026-16. Formerly RCW 36.59.030.]

36.59.360 Record of entries. The county auditor shall note all applications under the provisions of this chapter on tract books and plats to be kept in his office and shall keep a ledger of all such entries and make return thereof to the board of county commissioners, together with the proof upon which they have been founded. [1963 c 4 § 36.59.360. Prior: 1939 c 201 § 7; RRS § 4026-17. Formerly RCW 36.59.080.]

36.59.370 Certificate of entry. Upon an applicant entering land as in this chapter provided there shall be issued to him by the county auditor a certificate of entry showing the day, date and time of such entry, and the description of the property entered as substantially the same appears upon the list certified to the auditor by the county engineer. [1963 c 4 § 36.59.370. Prior: 1939 c 201 § 8; RRS § 4026-18. Formerly RCW 36.59.100, part.]

36.59.380 Final proof—Permitted absences—Annual minimum requirements—Proof upon entryman's death. No conveyance of said property shall be given or issued therefor until the expiration of five years from the date of such entry, and if, at the expiration of such time or at any time within two years thereafter, the person making such entry, or if he be dead, his widow, or in the case of her death, his heirs and devisees, or in the case of a woman making such entry, her heirs, or devisees in case of her death, or if she be dead, her widower proves by himself and by two creditable witnesses that he, she or they, have a habitable house upon the land and have actually resided upon and have by the construction of such house and the clearing and/or cultivation of such land, improved the same to the extent of not less than five hundred dollars in value, and makes affidavit that no part of such land has been alienated, and that he, she or they, will bear true allegiance to the government of the United States, then, in that case, she, he or they, shall be entitled to a deed duly executed by the county commissioners as in other cases provided by law, conveying and transferring said lands to him, her or them: *Provided*, That upon filing in the office of the county auditor notice of the beginning of such absence the entryman shall be entitled to a continuous leave of absence from the land for a period not exceeding three months in each year after established residence and upon

the termination of such absence the entryman shall file a notice of such termination in the office of the auditor: *Provided further*, That the county commissioners may, if they find just cause therefor, extend such leave of absence period, not however exceeding six months in any one year: *Provided further*, That when the person making entry dies before the offer of final proof, those succeeding to the entry must show that the entryman had complied with the law in all respects to the date of his death and that they have since complied with the law in all respects as would have been required of the entryman had he lived: *Provided further*, That the entryman shall, in order to comply with the requirements of clearing and/or cultivation herein provided, cultivate not less than five percent of a homesite tract of forty or more acres, ten percent of a homesite tract containing twenty or more acres, and twenty percent of a homesite tract containing ten acres, more or less.

During the first year the entryman must either improve the property by constructing a habitable home thereon or do not less than ten percent of the clearing and/or cultivation required.

During the second year the entryman shall have constructed a habitable home upon the homesite tract and in addition thereto shall do not less than ten percent of the clearing and/or cultivation required. The entryman must during the remaining period do the balance of the clearing and/or cultivation required under this chapter but the county commissioners may, upon a satisfactory showing, reduce the required area to be cleared and/or cultivated. [1963 c 4 § 36.59.380. Prior: 1939 c 201 § 9; RRS § 4026-19. Formerly RCW 36.59.110, 36.59.120, 36.59.130, 36.59.150, 36.59.160 and 36.59.200.]

36.59.390 Conflicting entries. Where two or more persons claim to be the first entryman to file on a homesite tract, or where said persons claim to have filed simultaneously upon the same homesite tract, it shall be the duty of the board of county commissioners and they are empowered to determine to what person the certificate of entry shall be issued. Before a final determination is made by the board of county commissioners they shall give each claimant notice of an opportunity to be heard at a stated time and place not less than five days from the time of service of such notice, such notice to be served as provided by law for the service of a summons in a civil action. [1963 c 4 § 36.59.390. Prior: 1939 c 201 § 10; RRS § 4026-20. Formerly RCW 36.59.090.]

36.59.400 Marriage of entryman to entrywoman. The marriage of a homesite entryman to a homesite entrywoman, after each shall have fulfilled the requirements of this chapter for one year next preceding such marriage, shall not impair the right of either to a deed so long as they comply with the provisions of this chapter as to each homesite. [1963 c 4 § 36.59.400. Prior: 1939 c 201 § 11; RRS § 4026-21. Formerly RCW 36.59.170.]

36.59.410 Reversion for nonresidence or abandonment—Board's discretionary power—Succession to right upon marital separation. If at any time after the filing of the application and affidavit as required in

RCW 36.59.330, and before the expiration of the five years mentioned in RCW 36.59.380, it is proved, after due notice to the entryman to the satisfaction of the board of county commissioners that the person having filed such application and affidavit has failed to establish residence within six months after the date of entry or abandoned the land for more than six months at any time, then, and in that event, the land so entered shall revert to the county: *Provided*, That if, during the first year the entryman does the clearing and/or cultivation in this chapter required, it shall not be necessary for him to establish actual permanent residence upon the land during such year: *And provided further*, That where there may be climatic reasons, sickness, or other unavoidable cause, the board of county commissioners may, in their discretion, allow the settler reasonable additional time in which to commence his residence upon said land: *Providing*, Such entryman does the clearing and/or cultivation in this chapter required.

In any case of separation between husband and wife, after filing of a homesite entry, as in this chapter provided, either party may succeed to such right by agreement or by decree of a competent court and in such event, upon complying with the terms of this chapter, shall be entitled to the benefits thereof. [1963 c 4 § 36.59.410. Prior: 1939 c 201 § 12; RRS § 4026-22. Formerly RCW 36.59.140 and 36.59.180.]

36.59.420 Transfer of entry rights. Any bona fide entryman may, with the consent of the board of county commissioners, sell and transfer his right as such entryman, to any person qualified under the terms of this chapter to have himself made such entry. [1963 c 4 § 36.59.420. Prior: 1939 c 201 § 13; RRS § 4026-23. Formerly RCW 36.59.190.]

36.59.430 Reservation of mineral rights. The form of application which the county auditor is by this chapter required to furnish shall clearly state and each conveyance to land acquired under the terms of this chapter shall contain the following reservation which shall be effective from the time of entry:

"The party of the first part hereby expressly saves, excepts and reserves out of the grant hereby made, unto itself, its successors, and assigns, forever, all oils, gases, coals, ores, minerals and fossils of every name, kind or description, and which may be in or upon said lands above described; or any part thereof, and the right to explore the same for such oils, gases, coal, ores, minerals and fossils; and it also hereby expressly saves reserves out of the grant hereby made, unto itself, its successors and assigns, forever, the right to enter by itself, its agents, attorneys and servants upon said lands, or any part or parts thereof, at any and all times, for the purpose of opening, developing and working mines thereon, and taking out and removing therefrom all such oils, gases, coal, ores, minerals and fossils, and to that end it further expressly reserves out of the grant hereby made, unto itself, its successors and assigns, forever, the right by its or their agents, servants and attorneys at any and all times to erect, construct, maintain and use all such buildings, machinery, roads and railroads, sink such

shafts, remove such soil, and to remain on said lands or any part thereof, for the business of mining and to occupy as much of said lands as may be necessary or convenient for the successful prosecution of such mining business, hereby expressly reserving to itself, its successors and assigns, as aforesaid, generally, all rights and powers in, to and over, said land, whether herein expressed or not, reasonably necessary or convenient to render beneficial and efficient the complete enjoyment of the property and the rights hereby expressly reserved. No rights shall be exercised under the foregoing reservation, by the county, its successors or assigns, until provision has been made by the county, its successors or assigns, to pay to the owner of the land upon which the rights herein reserved to the county, its successors or assigns, are sought to be exercised, full payment for all damages sustained by said owner, by reason of entering upon said land: *Provided*, That if said owner from any cause whatever refuses or neglects to settle said damages, then the county, its successors or assigns, or any applicant for a lease or contract from the county for the purpose of prospecting for or mining valuable minerals, or operation contract, or lease, for mining coal, or lease for extracting petroleum or natural gas, shall have the right to institute such legal proceedings in the superior court of the county wherein the land is situated, as may be necessary to determine the damages which said owner of said land may suffer." [1963 c 4 § 36.59.430. Prior: 1939 c 201 § 14; RRS § 4026-24. Formerly RCW 36.59.210.]

Chapter 36.62 HOSPITALS

Sections

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Pesthouses: Chapter 70.20 RCW.

Public hospital districts, county participation: Chapter 70.44 RCW.

Utilization of, for state medical care: Chapter 74.09 RCW.

Venereal diseases, control and treatment of: Chapter 70.24 RCW.

36.62.010 Authority to establish. The board of county commissioners of any county may establish, provide, and maintain hospitals for the care and treatment of the indigent, sick, injured, and maternity cases, and for this purpose the board may:

(1) Purchase or lease real property therefor or use for this purpose lands already owned by the county providing such site is first approved by the state board of health;

(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;

(4) Appoint a board of trustees for said hospital;

(5) 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;

(6) Authorize said hospital to be a member of and maintain membership in any local, state, or national group or association organized and operated for the promotion of the public health and welfare or the advancement of the efficiency of hospital administration and in connection therewith to use tax funds for the payment of dues and fees.

For the purposes of this chapter the word "hospital" shall include almshouses. [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 Approval of board of health—Buildings separate from almshouses and infirmaries. Plans for buildings constructed or provided for county hospitals must be approved in advance by the state board of health and the buildings shall be separate and apart from those designated as almshouses and county 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.]

36.62.030 Hospital may be jointly owned and operated. Any number of counties or any county and any city in which the county seat of the county is situated may contract one with the other for the joint purchase, acquisition, ownership, control, and disposition of land and other property suitable as a site for a county hospital. [1963 c 4 § 36.62.030. Prior: 1947 c 228 § 1, part; 1925 ex.s. c 174 § 1, part; Rem. Supp. 1947 § 6090-1, part.]

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 of the board of county commissioners of the county 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 a proper resolution and ordinance. A site with or without buildings may be contributed in lieu of money at a valuation to be agreed upon. [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 board of county commissioners, signed by three hundred or more resident taxpayers of the county, requesting the board 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, which number shall not exceed one bed for each thousand population in counties of more than fifty thousand population. [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 board of county commissioners, by order unanimously adopted, 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. [1963 c 4 § 36.62.060. Prior: 1925 ex.s. c 174 § 4; RRS § 6090-4.]

36.62.070 Issuance of bonds—Terms. Should a majority of all the votes cast upon the proposition be in favor of establishing the hospital, the board of county commissioners shall proceed to issue bonds of the county not to exceed the amount specified in the proposition, in denominations of not less than one hundred dollars nor more than one thousand dollars, bearing interest at a rate or rates as authorized by the board of county commissioners, and payable annually or semiannually. The bonds shall be serial bonds finally maturing in twenty years from date of issuance. [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.]

Effective date—Purpose—1970 ex.s. c 56: See notes following RCW 39.44.030.

Validation—Saving—Severability—1969 ex.s. c 232: See notes following RCW 39.44.030.

36.62.080 Sale of bonds—Price. The county treasurer shall dispose of the bonds in the same manner as other county bonds, and they shall not be sold for less than par with accrued interest. [1963 c 4 § 36.62.080. Prior: 1925 ex.s. c 174 § 7; RRS § 6090-7.]

36.62.090 Tax levy for maintenance. If the hospital is established, the board of county commissioners, at the time of levying general taxes, shall levy a tax at the rate voted, not to exceed fifty cents per thousand dollars of assessed value in any one year, for the maintenance of the hospital. [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 and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

36.62.100 Admission of patients—Priority—Liability for support. Patients shall be admitted to such hospitals in accordance with rules to be established by the board of county commissioners, but such rules shall provide that preference in the admission of patients shall be given to those unable to pay for their care in private institutions. Whenever a patient has been admitted to the hospital from the county in which the hospital is situated, the superintendent shall cause inquiry to be made as to his circumstances, and of the relatives legally liable for his support. If he finds that the patient or the relatives legally liable for his support, are able to pay for his treatment in whole or in part, an order shall be made directing the patient, or his relatives, to pay to the county treasurer for his support, a specified sum per week, in proportion to their financial ability, but such sum shall not exceed that charged by private hospitals of similar size in the county for service of like character. The county commissioners may collect such sum from the patient or his estate, or from his relatives legally liable for his support. If the superintendent finds that the

patient, or his relatives, are not able to pay, either in whole or in part, for his care and treatment in such hospital, he shall be admitted free of charge. [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 for hospitals having two hundred or more beds. Whenever any county, or any county and city jointly, or two or more counties jointly, establish a hospital of two hundred or more beds, for the care of the sick, injured, or infirm, under the provisions of this chapter, and such hospital is completed and ready for operation, the board of county commissioners of the county in which the institution is located shall appoint as trustees for the institution six secular persons, two to be from each county commissioner district, nominated by the county commissioner elected from each such district. The six trustees, together with the additional trustees, if any, and the general superintendent, if any, shall constitute a board of trustees for such hospital. [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 for hospitals having two hundred or more beds—Initial appointment—Terms of office. The first members of the board of trustees of such institution shall be appointed by the board of county commissioners within thirty days after March 23, 1931 in any county having such a hospital or institution, and thereafter within thirty days after the institution has been completed and is ready for operation. The members of the board of trustees first appointed shall be appointed for the respective terms of one, two, three, four, five, and six years from and after the fifteenth day of January following their appointment, and until their successors are appointed and qualified; and thereafter their successors shall be appointed for terms of six years and until their successors are appointed and qualified. If the board of county commissioners is unable to determine by unanimous vote the terms of the first appointees, such terms shall be determined by lot. [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 for hospitals having two hundred or more beds—Additional trustees for joint hospital. In case two or more counties establish a hospital jointly, the six members of the board of trustees shall be chosen as provided from the county in which the institution is located and each board of county commissioners 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 six 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 board of county commissioners of the county in which said hospital or institution is located, but shall not be for more than six years. [1963 c 4 § 36.62.130. Prior: 1931 c 139 § 1, part; RRS § 6090-9, part.]

36.62.140 Board of trustees for hospitals having two hundred or more beds—Qualifications of trustees. No person shall be eligible for appointment as a trustee unless he is at least thirty-five years of age and has been a resident of the county commissioner district from which he is appointed, or in the case of additional trustees, of the county he represents, for a period of at least two years immediately prior to his appointment. No trustee shall be actively engaged in the healing or nursing arts; and no person, except an ex officio member, shall be eligible for appointment as a trustee who is a clergyman of any denomination or who holds or has held any office with pay during the period of two years immediately prior to his appointment in any office, department, or branch of the county, township, or city or town governments of the county from which the appointment is to be made. [1963 c 4 § 36.62.140. Prior: 1931 c 139 § 2; RRS § 6090-10.]

36.62.150 Board of trustees for hospitals having two hundred or more beds—Removal of trustee. The board of county commissioners which appointed a member of the board of trustees may by unanimous vote remove him for misconduct or neglect of duty, but no such removal shall be made unless the board serves written notice upon him, setting forth specifically the charges of misconduct or neglect of duty and fixing a time and place for hearing thereon at which the trustee charged shall be given full opportunity to be present, meet the charges and be heard in his own defense. Any trustee so removed may appeal from the order of removal to the superior court of the county of the removing board of county commissioners within the time and in the manner provided in RCW 36.32.330, and thereupon such board of county commissioners shall certify to the court the causes upon which the order of removal was based, together with all records and files in the office of the board pertaining to the matter of removal. The court shall hear the matter de novo and enter an order affirming, or setting aside, the order of removal. If the court sets aside the order of removal, it shall give appellant judgment against the county for his costs and disbursements, including a reasonable attorney's fee. [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 for hospitals having two hundred or more beds—Vacancies. Any vacancy in the board of trustees except that of an ex officio member shall be filled by appointment by the board making the original appointment, and such appointee shall hold office for the remainder of the term of the trustee in whose stead he is appointed. [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 for hospitals having two hundred or more beds—Organization of board—Meetings—Quorum. Within ten days after their appointment, the appointees shall qualify by taking the oath of office required of county officers and shall meet and organize. The board of trustees shall elect from among its members a president and vice president. The board of trustees shall meet upon the call of the president, or upon call signed by three members of the board and served upon all members. The call shall fix the time, place, and purpose of the meeting. Any meeting may be adjourned from time to time. A majority of the trustees shall constitute a quorum for the transaction of business. [1963 c 4 § 36.62.170. Prior: 1931 c 139 § 4, part; RRS § 6090-12, part.]

36.62.180 Board of trustees for hospitals having two hundred or more beds—Obligatory duties of board. 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 thereof within the limits of the appropriations authorized;

(2) Prepare, in accordance with the provisions of the county budget law, and file with the county auditor or if the hospital has been established by more than one county, with the county auditor 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, a detailed and itemized estimate, both of probable revenues from sources other than taxation and of all expenditures required from such county, counties, and city, as the case may be, by the hospital or institution for the ensuing fiscal year;

(3) File during the first week in January of each year with the board of county commissioners of each county and the city council or governing body of any city contributing to the establishment of such hospital, a report covering the proceedings of the board with reference to the hospital, and a statement of all receipts and expenditures during the preceding calendar year. [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 for hospitals having two hundred or more beds—Additional powers. The board of trustees may:

(1) Adopt bylaws and rules for its own guidance and for the government of the hospital or institution;

(2) Establish and maintain in connection with the hospital or institution a training school for nurses;

(3) Establish as a department in connection with the hospital or institution a suitable building for the isolation and detention of persons afflicted with contagious diseases subject to quarantine;

(4) Determine whether or not, and if so upon what terms, it will extend the privilege of the hospital or institution to nonresidents of the county or counties establishing the same;

(5) Operate the hospital or institution as a general hospital and provide as a department thereof suitable

accommodations and means for the care of persons afflicted with tuberculosis;

(6) Formulate rules and regulations for the government of tuberculosis patients and for the protection of other patients, nurses, and attendants from infection;

(7) Accept property by gift, devise, bequest, or otherwise for the use of such institution. [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 for hospitals having two hundred or more beds—Trustees not compensated—Contract interest barred. No trustee, except the ex officio member, 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. [1963 c 4 § 36.62.200. Prior: 1931 c 139 § 5; RRS § 6090-13.]

36.62.210 General superintendent for hospitals having two hundred or more beds. The board of trustees shall employ and fix the salary of a general superintendent, who shall furnish a bond in such amount as may be fixed by the board and which shall be subject to approval of the board. The general superintendent shall become an ex officio member and secretary of the board of trustees, and shall devote his entire time exclusively to the management of the hospital and institution and shall not engage in any other business or profession of any nature whatsoever. After January 1, 1947, the general superintendent shall not be qualified for appointment unless he has not less than three years of experience as superintendent, or assistant superintendent, of a general hospital. [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 General superintendent for hospitals having two hundred or more beds—Removal. The general superintendent may be removed for misfeasance or malfeasance in the following manner: Written notice setting forth the specific acts constituting the charges shall be served upon the general superintendent, and shall fix a time and place for hearing on the charges. At such hearing the general superintendent shall be given an opportunity to be present and meet the charges and be heard in his defense. The charges shall be heard before a tribunal consisting of the chairman of the board of county commissioners, the prosecuting attorney and the county auditor of the county in which the hospital or institution is situated. [1963 c 4 § 36.62.220. Prior: 1945 c 118 § 1, part; 1931 c 139 § 7, part; Rem. Supp. 1945 § 6090-15, part.]

36.62.230 General superintendent for hospitals having two hundred or more beds—Duties. The general 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. [1963 c 4 § 36.62.230. Prior: 1931 c 139 § 9; RRS § 6090-17.]

36.62.240 Inspection of hospitals having two hundred or more beds. Any institution maintained and operated under the provisions of RCW 36.62.110 through 36.62-.230 shall be subject to inspection by a duly authorized representative of the state department of health and any member of the board of county commissioners of the county or counties and governing officials of the cities by which the hospital has been established. [1963 c 4 § 36.62.240. Prior: 1931 c 139 § 10; RRS § 6090-18.]

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 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. Obligations incurred from such hospitalization and infirmary care shall be paid from the fund by the county treasurer in the same manner as general county obligations are paid. The county auditor shall furnish to the board of county commissioners a monthly report of receipts and disbursements in the county hospital fund which report shall also show the balance of cash on hand. [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.]

36.62.270 Supplementary budget. In the event that additional funds are needed for the operation of a county hospital or infirmary, the board of county commissioners 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. In the adoption of a supplemental budget the board of county commissioners shall follow the same procedure as required under the provisions of RCW 36.40.180. [1971 ex.s. c 277 § 2; 1963 c 4 § 36.62.270. Prior: 1951 c 256 § 3.]

36.62.281 Payment and advances from department of social and health services—Reimbursement. Payments from the state department of social and health services shall be made upon billing forms as prescribed by the department and shall be paid into the county hospital fund. Before the end of the 1969-1971 state fiscal biennium, each county which received an advance for an infirmary from the department of social and health services for that state fiscal biennium shall return the amount of such advance by county warrant or treasurer's check to the department. At the beginning of the 1971-1973 state fiscal biennium and conditioned upon recovery of the advances made for the previous biennium, the state department of social and health services shall advance to the county an amount equal to the amount paid by the department to the county for the

care of public assistance recipients in a county infirmary for the preceding two months of February and March, which amount may be used to defray costs in the first month's operation of the state fiscal biennium. No advance shall be made for a county hospital.

At the beginning of each succeeding state fiscal biennium, the department will advance an amount approximating two months' cost of operation as described in the preceding paragraph upon recovery in the preceding biennium of the amount advanced for that biennium. Reimbursements for the actual costs of operation, provided they are essential and necessary to the operation of the infirmary and have been included in the biennial appropriation, shall be made monthly by the state department of social and health services to the counties. [1971 ex.s. c 277 § 3.]

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 of two hundred or more beds, under the provisions of this chapter, the board of trustees of the hospital is empowered, with the approval of the board of county commissioners, 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 sections 36.62.210, 36.62.220 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 or the general superintendent in chapter 36.62 RCW 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. [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.] This applies to RCW 36.62.110, 36.62.252, and 36.62.290.

Chapter 36.63

JAILS *Repealed '77*

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- 36.63.440 Dissolution of joint district.
- 36.63.450 Inspection of all jails and detention facilities, establishment of standards, procedures and rules, reports to legislature, etc.
- 36.63.460 City and county jail act of 1974.

County prisoners may be committed to regional jail camp: RCW 72.64.100, 72.64.110.

County prisoners may be compelled to work: RCW 9.92.140.

Detention of state felons in county jail: Chapter 72.68 RCW.

Inspection of, standards for: RCW 72.01.420.

Narcotics users, portion of jail to be set aside for treatment of: RCW 69.32.090, 69.32.120.

Prisoners of third class cities may be confined in county jails: RCW 35.24.230.

Sexual psychopaths, psychopathic delinquents, housing of: RCW 71.06.040.

Town prisoners may be confined in county jail: RCW 35.27.320.

Venereal disease, portion of jail to be set aside for treatment of: RCW 70.24.030.

36.63.010 Establishment authorized. Counties may acquire, build, operate, and maintain jails, workhouses, workshops, stockades, and other places of detention and confinement at any place within their limits as may be

designated by the board of county commissioners. [1963 c 4 § 36.63.010. Prior: 1917 c 103 § 2; RRS § 10205.]

36.63.020 Jail as sheriff's charge—Rules and regulations. The sheriff shall have charge of the county jail of his county and of all persons by law confined therein and the sheriff shall conform to the rules and directions of the superior court of his county as provided by RCW 36.63.060 or which may from time to time by said court be made and communicated to him by the board of county commissioners. [1963 c 4 § 36.63.020. Prior: 1877 p 303 § 5; RRS § 10195.]

36.63.030 Jailer to be deputy sheriff. The jailer or keeper of the jail, unless the sheriff elects to act as jailer in person, shall be a deputy appointed by the sheriff, and such jailer shall take the necessary oath before entering upon the duties of his office. The sheriff shall in all cases be liable for the negligence and misconduct of the jailer as of other deputies. [1963 c 4 § 36.63.030. Prior: 1877 p 305 § 13; RRS § 10203.]

36.63.040 Sheriff to visit jail in person—Whitewashing. The sheriff shall visit the jail in person and examine into the condition of each prisoner at least once each month and it is hereby made his duty to cause all the cells and rooms used for the confinement of prisoners, to be thoroughly whitewashed at least three times in each year. [1963 c 4 § 36.63.040. Prior: 1877 p 304 § 10; RRS § 10200.]

36.63.050 Jail register. The sheriff shall procure at the expense of the county a suitable book to be called the jail register, in which he, by himself or his jailer, shall enter:

(1) The name of each prisoner, with the date and cause of his commitment, together with a list and value of property taken from the prisoner, or delivered to the sheriff or other officer, at the time of the commitment;

(2) The date or manner of his discharge;

(3) What sickness, if any, has prevailed in the jail during the year, and if known, what was the cause thereof;

(4) Whether any or what labor has been performed by the prisoners, and the value thereof;

(5) The practice observed during the year of whitewashing and cleaning the occupied cells or apartments, and the times and seasons of so doing;

(6) The habits of the prisoners as to personal cleanliness, diet, and order;

(7) The means furnished prisoners of literary, moral, and religious instruction;

(8) All other matters required by the rules or in the discretion of the sheriff deemed proper.

The sheriff shall carefully keep and preserve the jail register in the office of the jailer of his proper county, and at the expiration of his term shall deliver it to his successor. [1963 c 4 § 36.63.050. Prior: 1877 p 303 § 6; RRS § 10196.]

36.63.060 Jail rules prescribed by superior judge. The judges of the superior courts of the several counties

shall, from time to time, prescribe in writing, rules for the regulation and government of the jails, upon the following subjects:

(1) The cleanliness of the prisoners;

(2) The classification of prisoners in regard to sex;

(3) Bed and clothing for persons sentenced for felonies;

(4) Warming, lighting, and ventilation of the prison;

(5) The employment of medical and surgical aid, when necessary;

(6) Employment, temperance, and instruction of the prisoners;

(7) The supplying of each prisoner with a Bible;

(8) Communication between prisoners and their counsel and other persons;

(9) The punishment of prisoners for violation of the rules of the prison;

(10) Such other regulations as the judges deem necessary to promote the welfare of the prisoners: *Provided*, That such rules shall not be contrary to law. [1963 c 4 § 36.63.060. Prior: 1877 p 302 § 1; RRS § 10191.]

36.63.070 Rules may be revised. The judges may, from time to time, as they deem necessary, revise, alter, or amend the rules, and the revised rules shall be printed and disposed of by the commissioners and sheriff, in the manner provided for in RCW 36.63.080 and 36.63.090. [1963 c 4 § 36.63.070. Prior: 1877 p 303 § 4; RRS § 10194.]

36.63.080 Rules to be furnished officers. The judges shall cause a copy of the rules to be delivered to the board of county commissioners, which board shall forthwith cause them to be printed, and furnish the sheriff with a copy thereof for each room or cell of the jail, and also forward a copy to the secretary of state, who shall file and preserve it. [1963 c 4 § 36.63.080. Prior: 1877 p 302 § 2; RRS § 10192.]

36.63.090 Sheriff to keep rules posted. The sheriff shall, on the receipt of the rules, cause a copy thereof to be posted up in some conspicuous place in each room or cell of the jail. [1963 c 4 § 36.63.090. Prior: 1877 p 303 § 3; RRS § 10193.]

36.63.100 Grand jury informed of law, jail rules and regulations. The superior court shall give RCW 36.63.020 through 36.63.110, 36.63.130, 36.63.140 and 36.63.200 in charge of the grand jury once during each session of court, if a grand jury is in attendance, and lay before them any and all rules, plans, or regulations established by the superior judge relating to county jails and prison discipline which shall then be in force. [1963 c 4 § 36.63.100. Prior: 1877 p 304 § 8; RRS § 10198.]

36.63.110 Grand jury, prosecutor, and commissioners to visit jail. The grand jury of each county shall visit the jail of the county where the court is held, examine its state and condition; examine and inquire into the discipline and treatment of prisoners, their habits, diet, and accommodation; and it shall report to the court, in writing, whether the rules of the judges have been faithfully

kept and observed, or whether any of the provisions of RCW 36.63.020 through 36.63.110, 36.63.130, 36.63.140 or 36.63.200 have been violated. The prosecuting attorney of each county shall also, once in each year, visit the jails not accessible to the grand jury, and he shall make a report to the superior court to the same effect as required of the grand jury. The county commissioners shall visit the jail of their county once during each of their regular meetings. [1963 c 4 § 36.63.110. Prior: 1877 p 304 § 9; RRS § 10199.]

36.63.120 Allowance for prisoner's board. The board of county commissioners of each county in this state shall annually at budget time establish a daily rate of allowance for the boarding of each prisoner confined in the county jail. [1969 c 17 § 1; 1963 c 4 § 36.63.120. Prior: 1947 c 58 § 1; 1893 c 16 § 1; Rem. Supp. 1947 § 10188.]

36.63.130 Prisoner's hair may be cropped. The keeper of any prison may, upon the commitment of a person convicted of a felony punishable by imprisonment, cause the hair on the head of such prisoner to be closely cropped and so kept during his term of imprisonment. [1963 c 4 § 36.63.130. Prior: 1877 p 304 § 12; RRS § 10202.]

36.63.140 Solitary confinement. Whenever any person committed to prison is unruly, or disobeys any of the regulations established for the management of prisons, the sheriff or keeper may order such prisoner in solitary confinement, and fed on bread and water only, unless other food is necessary for the preservation of his health, and no intercourse shall be allowed with the prisoner during such confinement, except for conveyance of food and other necessary purposes, but the period of confinement shall not exceed twenty days for each offense. [1963 c 4 § 36.63.140. Prior: 1877 p 304 § 11; RRS § 10201.]

36.63.150 Joint county and city or town jails. Any county or any two or more counties acting jointly or under the provisions of a joint county jail district provision and any city within such county or counties may contract with each other for the joint acquisition, erection, ownership, control, and maintenance of any place of detention of prisoners within the limits of the county or counties and for the custody and the employment upon public works, or as otherwise provided by law, of prisoners convicted of offenses against any statute or any ordinance of the contracting city punishable by a jail sentence. [1963 c 4 § 36.63.150. Prior: 1961 c 171 § 29; 1917 c 103 § 3; RRS § 10206.]

36.63.160 Joint county and city or town jails—Joint authority and powers. When such contract has been entered into by any city and county or counties or joint county jail district for the joint acquisition, ownership, control, and maintenance of any jail, or for the custody, and employment of any such person in a place of detention, the legislative authority of the city and the board of county commissioners of the county, acting

under and by virtue of the sentence imposed by the court upon any person so convicted, may provide for the care, keep, and custody of such person in such place of detention, and provide for the employment of such person at or upon such public work, or as otherwise provided by law, as may be designated from time to time. [1963 c 4 § 36.63.160. Prior: 1961 c 171 § 30; 1917 c 103 § 4; RRS § 10207.]

36.63.170 Joint county and city or town jails—Unconvicted prisoner not to be worked. No person accused of an offense shall before conviction be put to any employment while confined in any place of detention. [1963 c 4 § 36.63.170. Prior: 1917 c 103 § 5; RRS § 10208.]

36.63.180 Federal prisoners. County sheriffs or other officials having charge of jails shall receive and keep in their jail, where room is available, all prisoners committed thereto by process or order issued under the authority of the United States until discharged according to law, the same as if such prisoners had been committed under process issued under authority of the state if provision is made by the United States for the support of such prisoners, and for any extra guards or attendants required. [1963 c 4 § 36.63.180. Prior: 1917 c 103 § 6; RRS § 10209.]

36.63.190 Temporary confinement of prisoners being moved. Any prisoner whom it may be necessary to convey to the place where the superior court is held, or to any place for an examination before the judge, if conveyed beyond the bounds of the county in which he is confined, shall be conveyed to and from his place of confinement by the sheriff of the county in which he is confined, or the sheriff of the county to which such prisoner belongs, at the expense, in the first instance, of the county to which he belongs; and such sheriff shall have a right to the custody of the prisoner within the limits of any county in this state through which he may pass; and for the temporary confinement of his prisoner may use the county jail of any county free of charge, except for board, which shall not exceed thirty cents a meal. [1963 c 4 § 36.63.190. Prior: Code 1881 § 1165; RRS § 10187.]

36.63.200 Annual report of sheriff. The sheriff shall, on or before the first day of October in each year, make out in writing from the jail register a jail report, one copy of which he shall forthwith file in the office of the clerk of the superior court of his county, and one copy with the county auditor of his county for the use of the commissioners. [1963 c 4 § 36.63.200. Prior: 1951 c 108 § 1; 1877 p 303 § 7; RRS § 10197.]

36.63.210 Farms and camps authorized. Each county of the state is authorized to establish and maintain, either within or without its territorial limits, farms or camps for confinement, care, treatment and employment of persons sentenced to the county jail as misdemeanants. The sheriff shall adopt reasonable rules and regulations for the transfer of such prisoners from the county

jail to a farm or camp and shall also adopt reasonable rules and regulations for the management of such farms and camps. [1963 c 4 § 36.63.210. Prior: 1961 c 171 § 6.]

36.63.220 Conviction and commitment deemed sentence to labor—Hours. Each person convicted of a criminal offense and by reason thereof committed to the county jail, or confined as such at a farm or camp, either as a punishment for such offense, or in satisfaction of any fine unpaid, or upon an order of probation, shall be deemed to have been sentenced or committed to labor. Such labor of not more than forty hours in any week may be performed by such persons upon the public streets, parks, or other public places of the county, or upon or in any farm or camp established under the provisions of this chapter or RCW 72.64.100 except in case of emergency, any provision of the laws of the state of Washington to the contrary notwithstanding. [1963 c 4 § 36.63.220. Prior: 1961 c 171 § 7.]

36.63.230 Sheriff's order of transfer to farm or camp. Except as otherwise provided in RCW 36.63.150, 36.63.160, 36.63.210 through 36.63.440, 72.01.420, 72.64.050, 72.64.060, 72.64.100 and 72.64.110, whenever it appears to the sheriff of the county that the best interest of a person sentenced to the county jail will be best served by causing his period of confinement to be served at a farm or camp established hereunder, the sheriff shall order that said prisoner be transferred from the county jail to such farm or camp and the confinement of such person on a farm or camp shall be a proper method of executing any order of the court directing that the person named in the commitment be confined in the county jail of such county: *Provided*, That the sheriff shall at no time cause to be transferred thereto a greater number of persons than can be reasonably accommodated thereon and furnished with constructive employment at such place of confinement. [1963 c 4 § 36.63.230. Prior: 1961 c 171 § 8.]

36.63.240 Confinement in jail of another county. All persons judged guilty of an offense punishable by imprisonment in the county jail, may be confined in such jail located in another county to the same extent as if it were located in the county having jurisdiction of the offense. [1963 c 4 § 36.63.240. Prior: 1961 c 171 § 9.]

36.63.250 Transfer to jail, farm, or camp maintained by state. Notwithstanding any other provisions of law, the sheriff of any county may, with the director of institutions approval, transfer prisoners committed to any jail of the county to any regional jail, industrial or agricultural farm, or any forestry camp maintained by the state. [1963 c 4 § 36.63.250. Prior: 1961 c 171 § 10.]

36.63.255 Transfer of convicted felon to state institution pending appeal. Any person imprisoned in a county jail pending the appeal of his conviction of a felony and who has not obtained bail bond pending his appeal shall be transferred after thirty days but within forty days from the date judgment was entered against

him to a state institution for felons designated by the director of the department of institutions: *Provided*, That when good cause is shown, a superior court judge may order the prisoner detained in the county jail beyond said forty days for an additional period not to exceed ten days. [1969 ex.s. c 4 § 2; 1969 c 103 § 2.]

36.63.260 Employment of prisoner—Conditions—Disposition of earnings—Diminution of term.

(1) The provisions of this section shall be operative in any county in which the board of county commissioners finds by resolution, on the basis of employment conditions, the state of the county jail facilities, and other pertinent circumstances, that the operation of this section in that county is feasible.

(2) When a person is convicted of a misdemeanor and sentenced to the county jail, or is imprisoned therein for nonpayment of a fine, for contempt, or as a condition of probation for any criminal offense, the court may direct that such person be permitted, subject to good conduct, to continue in his regular employment if such person has been regularly employed, or may authorize the sheriff or other appropriate officer to make every effort to secure some suitable employment or may authorize the person to secure employment for himself in the county.

(3) If the court so directs the prisoner be permitted to continue in his regular employment, the sheriff shall arrange for a continuation of such employment insofar as possible. In no event may any such employment be permitted where there is a labor dispute in the establishment in which the prisoner is, or is to be, employed.

(4) Whenever the prisoner is not employed and between the hours or periods of employment, he shall be confined in the jail unless the court directs otherwise.

(5) The earnings of the prisoner shall be collected by the sheriff, or other appropriate officer. From such earnings the sheriff, or other appropriate officer, shall pay the prisoner's board and personal expenses, both inside and outside the jail, and shall deduct so much of the costs of administration of this section as is allocable to the prisoner, and, to the extent directed by the court, shall pay the support of the prisoner's dependents, if any. If sufficient funds are available after making the foregoing payments, the sheriff may, with the consent of the prisoner, pay, in whole or in part, the preexisting debts of the prisoner. Any balance shall be retained until the prisoner's discharge and thereupon shall be paid to him.

(6) If approved by the court, the prisoner shall obtain a diminution of one-fourth of his term if his conduct, diligence and general attitude merits such diminution.

(7) In case of the violation of the conditions laid down for his conduct, custody and employment, he shall be returned to the court, and it may then require that the balance of his sentence be spent in actual confinement and may cancel any earned diminution of his term. [1963 c 4 § 36.63.260. Prior: 1961 c 171 § 11.]

36.63.270 Judge may designate jail of contiguous county if facilities inadequate. When there are not adequate jail facilities in a county, the judge of the superior court may, by written order filed with the county clerk,

designate the jail of a contiguous county for the confinement of prisoners of his county, or any of them, and may at any time modify or vacate such order. [1963 c 4 § 36.63.270. Prior: 1961 c 171 § 12.]

36.63.280 Districts for joint jails, farms and camps authorized. Any two or more counties may form a district for the purpose of establishing and operating a joint county jail, including jail farms and camps, to serve such counties. [1963 c 4 § 36.63.280. Prior: 1961 c 171 § 13.]

36.63.290 Powers of district. Any district organized under RCW 36.63.150, 36.63.160 and 36.63.280 to 36.63.440 shall have and exercise the powers expressly granted in such sections of this chapter, together with such other powers as are reasonably implied therefrom and necessary and proper to carry out the objects and purposes of RCW 36.63.150, 36.63.160, 36.63.210 through 36.63.440, 72.01.420, 72.64.050, 72.64.060, 72.64.100 and 72.64.110. [1963 c 4 § 36.63.290. Prior: 1961 c 171 § 14.]

36.63.300 County commissioners may initiate proceedings for joint district—Resolution of proposal. The board of commissioners of any county may initiate proceedings proposing the creation of a joint district for the purpose of maintaining a joint county jail under the provisions of RCW 36.63.150, 36.63.160, 36.63.210 through 36.63.440, 72.01.420, 72.64.050, 72.64.060, 72.64.100 and 72.64.110 to be composed of two or more counties by the adoption of a resolution reciting the following:

(1) That it will be beneficial to the public interest to create a joint district for the establishment or operation, or both, of a joint county jail to which persons from any of the counties proposed to be included in the proposed district may be committed.

(2) The names of the counties proposed to be included in the proposed district which will be benefited by the formation thereof.

(3) That it is proposed to create a joint district for the establishment or operation, or both, of a county jail under the provisions of RCW 36.63.150, 36.63.160, 36.63.210 through 36.63.440, 72.01.420, 72.64.050, 72.64.060, 72.64.100 and 72.64.110 for the counties so named. [1963 c 4 § 36.63.300. Prior: 1961 c 171 § 15.]

36.63.310 Transmission of resolution for proposal of joint district to other counties concerned—Board of directors appointed. When adopted, certified copies of the resolution provided for in RCW 36.63.300, shall be transmitted to the several clerks of the boards of commissioners in each of the counties named in the resolution other than that in which the proceedings are initiated.

Upon the adoption of the resolution provided for in RCW 36.63.300, the board of commissioners of the county adopting the same shall name and appoint two members of the board to represent the county upon the board of directors of the joint district proposed to be organized. [1963 c 4 § 36.63.310. Prior: 1961 c 171 § 16.]

36.63.320 Resolution of other counties adopting or rejecting proposal for joint district—Transmission to initiating board. Upon receipt of the resolution adopted under RCW 36.63.300, the boards of commissioners of the counties affected and to whom the same may be directed shall consider the advisability of creating and organizing a joint district as proposed in said resolution and, upon determining the facts involved therein, shall severally adopt resolutions either rejecting or approving the proposal to create such joint district. Each resolution of approval shall, in addition to the matters otherwise required therein, also name and appoint the members of the board of commissioners of the county adopting the resolution qualified to represent such county upon the board of directors of the proposed joint district. A certified copy of the resolution of approval shall be forthwith transmitted to the clerk of the board of commissioners initiating the proceedings. [1963 c 4 § 36.63.320. Prior: 1961 c 171 § 17.]

36.63.330 Resolution creating joint district—Filing with secretary of state. The board of commissioners of any county initiating proceedings for the creation of a joint district under this chapter shall, after the receipt of a copy of the resolution approving the proposal to form such district as provided in RCW 36.63.320 from the board of commissioners of each county proposed to be included within any such joint district, adopt a resolution declaring the creation and organization of said joint district and setting forth the names of the counties composing said district. A certified copy of the resolution shall be transmitted to and filed with the secretary of state, whereupon the joint district shall be deemed created and organized and shall exercise all the powers granted in this chapter and shall bear the name and designation of "Joint County Jail District No. ----- of the State of Washington." [1963 c 4 § 36.63.330. Prior: 1961 c 171 § 18.]

36.63.340 Joint districts to be numbered by secretary of state. All districts organized under this chapter shall be numbered in the order of their creation, the number to be assigned to said district forthwith upon the organization thereof by the secretary of state, and the secretary of state shall keep and maintain in his office a list and register showing the joint county jail districts organized under this chapter. [1963 c 4 § 36.63.340. Prior: 1961 c 171 § 19.]

36.63.350 Certificate of organization—First meeting of directors—Expenses of attending directors meetings. The secretary of state shall furnish and transmit to the clerk of the board of commissioners of the county adopting the initial resolution for the organization of any district under this chapter a certificate of the organization of the same. Upon receipt of the certificate the clerk shall within ten days send a certified copy of the certificate to each of the clerks of the several boards of commissioners of the counties constituting the district, and shall also within the time specified in this section notify each supervisor appointed as a member of the board of directors of the district of such fact and of the

time and place of the first meeting of the board of directors of the district. The time and place of the meeting shall be fixed and determined by the clerk of the board adopting the initial resolution, but said time of meeting shall be within thirty days after the date of mailing notices thereof. The necessary expense incurred by commissioners in attending and in going to and coming from any meeting of the board of directors of the district shall constitute a county charge of their respective counties. [1963 c 4 § 36.63.350. Prior: 1961 c 171 § 20.]

36.63.360 Designation as board of directors of joint district. The body formed under RCW 36.63.350 shall be called the board of directors of such district. [1963 c 4 § 36.63.360. Prior: 1961 c 171 § 21.]

36.63.370 Agreement by directors of district to bind counties—Apportionment of costs. The members of the board of directors may enter into an agreement for and on behalf of the counties appointing them binding said counties to the joint enterprise provided for in RCW 36.63.150, 36.63.160, 36.63.210 through 36.63.440, 72.01.420, 72.64.050, 72.64.060, 72.64.100 and 72.64.110 and apportioning the cost of establishing and maintaining a joint county jail. [1963 c 4 § 36.63.370. Prior: 1961 c 171 § 22.]

36.63.380 Charges against county collectible by directors of joint district or by county commissioners—Civil action. All sums found due from any county according to the provisions of this chapter are a charge against said county, and may be collected in the manner provided by law by the board of directors of a district formed under this chapter, or, in its behalf by the board of commissioners of any county in the district by an action instituted and tried in any county in the district in which the same may be filed. [1963 c 4 § 36.63.380. Prior: 1961 c 171 § 23.]

36.63.390 Directors may establish joint county jail—Conditions and standards. The board of directors may establish the joint county jail provided for in this chapter and shall provide for the feeding, care, and treatment of prisoners therein, and must conform to such standards for construction, feeding, clothing, bedding and programming as are imposed pursuant to law on county jails. [1963 c 4 § 36.63.390. Prior: 1961 c 171 § 24.]

36.63.400 Cash revolving fund for joint county jail—Counties payments for expenses. Each county in a district formed under this chapter shall pay from its general fund its proportionate share to the board of directors of such amount as the board may designate to constitute a cash revolving fund to carry on the work and expense of maintaining such joint county jail. Each month a statement of the expense of the joint county jail shall be sent to the board of commissioners of each county in the district, together with a claim for its proportionate share of expenses. Amounts when received

shall be paid into the cash revolving fund. [1963 c 4 § 36.63.400. Prior: 1961 c 171 § 25.]

36.63.410 Commitments to joint county jail. Convicted persons may be committed to a joint county jail from a county comprising the district the same as if the commitment were to a jail maintained by that county alone. [1963 c 4 § 36.63.410. Prior: 1961 c 171 § 26.]

36.63.420 Provisions of law applicable to joint county jails and superintendents. The provisions of RCW 36.63.150, 36.63.160, 36.63.210 through 36.63.440, 72.01.420, 72.64.050, 72.64.060, 72.64.100 and 72.64.110 shall, so far as appropriate, be applicable to a joint county jail established pursuant to this chapter, and the person appointed by the board of directors to superintend a joint county jail has such powers and duties as has a sheriff, with respect to county jails, under RCW 36.63.150, 36.63.160, 36.63.210 through 36.63.440, 72.01.420, 72.64.050, 72.64.060, 72.64.100 and 72.64.110. [1963 c 4 § 36.63.420. Prior: 1961 c 171 § 27.]

36.63.430 Director's rules for joint county jails. The board of directors may make rules and regulations for the government of a joint county jail not inconsistent with law. [1963 c 4 § 36.63.430. Prior: 1961 c 171 § 28.]

36.63.440 Dissolution of joint district. A joint county jail district formed under this chapter may be dissolved in the following manner:

(1) The board or boards of commissioners of a county or counties containing more than fifty percent of the population of the entire district shall by a unanimous vote adopt a resolution stating that the existence of a joint county jail is no longer desirable for the public welfare and announcing the intention to withdraw therefrom and to dissolve said district.

(2) The resolution or resolutions so adopted shall be communicated to the clerks of the board of commissioners of all the counties comprising the district and also to the secretary of state.

(3) If it appears that the resolution was unanimously adopted by the board or boards of commissioners in the counties desiring to withdraw, and that such county or counties contain more than two-thirds of the entire population in the district, the secretary of state shall thereupon certify to the clerks of the boards of commissioners of the counties composing the district that the district is dissolved.

(4) Thereupon the board of directors of the district shall within ninety days:

- (a) Abolish the joint county jail;
- (b) Return all prisoners therein to the custody of the sheriffs of their respective counties;
- (c) Dispose of all equipment belonging to said joint county jail and the district;
- (d) Render an accounting to the clerks of the boards of commissioners of the counties composing such district of all sums of money received and paid out since their last previous accounting, including the balance of revolving fund on hand at said last previous accounting;

(e) Apportion and repay to said counties all sums of money then remaining in their hands, and they shall thereupon be relieved of further responsibility in said matter. [1963 c 4 § 36.63.440. Prior: 1961 c 171 § 31.]

36.63.450 Inspection of all jails and detention facilities, establishment of standards, procedures and rules, reports to legislature, etc. See RCW 72.01.420.

36.63.460 City and county jail act of 1974. See chapter 36.63A RCW.

Chapter 36.63A CITY AND COUNTY JAIL ACT OF 1974

Sections

- 36.63A.010 Purpose.
 36.63A.020 Definitions.
 36.63A.030 State-wide city and county jail commission—Membership—Officers—Meetings—Office—Staff—Expenses.
 36.63A.040 Per diem and travel expenses.
 36.63A.050 State-wide city and county jail commission—Duties.
 36.63A.060 Minimum standards and rules for detention and correctional institutions.
 36.63A.900 Short title—Legislative directive.
 36.63A.905 Commission abolished—Effective date.
 36.63A.910 Severability—1974 ex.s. c 81.

Jails and detention facilities: RCW 72.01.420.

36.63A.010 Purpose. It is the policy of this state that jail facilities provide a humane and safe environment consistent with efficient use of available funds and it is therefore the purpose of this chapter to provide for the determination of the role of the state regarding detention and correctional services and facilities, to permit classification of local detention and correctional facilities on the basis of their purpose and their function, to allow for the formulation of state-wide minimum standards for any newly constructed or substantially remodeled facilities regarding physical plant, limitations on types of use, standards for health, safety, safekeeping, conditions of confinement, and welfare of persons confined, to allow for the determination of a fiscal impact of the implementation of these standards and to have presented to the legislature a proposal for financing of any construction or modernization required to meet these standards. [1974 ex.s. c 81 § 1.]

36.63A.020 Definitions. As used in this chapter:

(1) "Detention facility" means a facility operated by a governing unit, primarily designed, staffed and used for the temporary housing of persons charged with a violation or criminal offense prior to trial or sentencing and for the temporary housing of such persons for limited periods following trial and/or sentencing.

(2) "Correctional facility" means a facility operated by a governing unit primarily designed, staffed, and used for the housing of persons following conviction of a violation or criminal offense with primary emphasis on the provision of corrective and rehabilitative services to such persons.

(3) "Health care" means medical, dental, and mental health care, as well as the provision of prescription drugs.

(4) "Commission" means the state-wide city and county jail commission created by RCW 36.63A.030.

(5) "Substantially remodeled" means significant alterations made to the physical plant of a jail or correctional facility, as defined by the commission.

(6) "Jail" as used in this chapter or in other statutes relating to jails operated by governing units as defined in this chapter, means a detention facility as defined herein.

(7) "Governing unit" means the city and/or county or any combination of cities and/or counties responsible for the operation, supervision, and maintenance of a detention facility or correctional facility. [1974 ex.s. c 81 § 2.]

36.63A.030 State-wide city and county jail commission—Membership—Officers—Meetings—Office—Staff—Expenses. A state-wide city and county jail commission shall be appointed by the governor. This commission shall provide a plan for the periodic inspection of all detention and correctional facilities and shall promulgate all regulations pursuant to the provisions of this chapter. The commission shall consist of fifteen members, who shall be selected as follows:

(1) The governor shall appoint: (a) An incumbent sheriff from a county of the first class or larger; (b) an incumbent sheriff from a county of the second class or smaller; (c) an incumbent chief of police from a city with a population of one hundred thousand or more; and (d) an incumbent chief of police from a city with a population of less than one hundred thousand;

(2) The governor shall appoint one incumbent county prosecuting attorney or municipal attorney;

(3) The governor shall appoint one incumbent superior or district court judge;

(4) The governor shall appoint two elected officials of municipal governments;

(5) The governor shall appoint two elected officials of county governments;

(6) The governor shall appoint one medical doctor licensed by the state of Washington;

(7) The governor shall appoint a member of the local government committee of the Washington state house of representatives who is also a member of this committee's subcommittee on county, city jail standards;

(8) The governor shall appoint the secretary of the department of social and health services or his designee;

(9) The governor shall appoint two members of the public, one of whom has been incarcerated in a city or county jail or correctional facility: *Provided*, That at least six of these members of the commission shall reside east of the crest of the Cascade mountain range: *Provided, Further*, That, any member of the commission appointed pursuant to this section as an incumbent official shall immediately upon the termination of his holding of said office cease to be a member of the commission.

The chairman of the commission shall be appointed by the governor and shall serve as chairman at his pleasure. A vice chairman shall be elected by the commission. The commission shall meet on call of the chairman or on

request of a majority of its members, but not less than three times per year.

The secretary of the department of social and health services shall provide the necessary staff, office space and necessary expenses of the commission. [1974 ex.s. c 81 § 3.]

36.63A.040 Per diem and travel expenses. Members of the commission shall, pursuant to RCW 43.03.050, receive authorized per diem for the time spent in performance of their duties, and in addition all members shall be entitled to reimbursement for actual travel expenses incurred in the performance of their duties pursuant to RCW 43.03.060. [1974 ex.s. c 81 § 4.]

36.63A.050 State-wide city and county jail commission—Duties. The commission shall:

(1) Examine, and by December 1, 1974, present to the legislature recommendations relating to detention and correction services, including the formulation of the role of the state and local governing units regarding detention and correctional facilities;

(2) Formulate proposed minimum standards and rules for detention and correctional facilities regarding physical plant, limitations on types of use, standards for health safety, safekeeping, conditions of confinement, and welfare of persons confined: *Provided*, That all such standards shall be adopted pursuant to the provisions of chapter 34.04 RCW: *Provided further*, That such standards shall not be enforceable before an effective date set by the legislature which date shall not be sooner than one year following receipt by the legislature of the commission's report regarding the matters set forth in this section;

(3) Propose the administrative form for formulating and enforcing minimum standards and rules for detention and correctional facilities;

(4) Determine the fiscal impact of the implementation of the standards and rules enumerated in RCW 36.63A.050(2) and 36.63A.060; and

(5) Present to the legislature a proposal for the financing of any implementation, construction or modernization required to meet the standards and rules enumerated in RCW 36.63A.050(2) and 36.63A.060: *Provided*, That the commission shall present these determinations and standards to the legislature by December 1, 1974. [1974 ex.s. c 81 § 5.]

36.63A.060 Minimum standards and rules for detention and correctional institutions. The commission shall formulate proposed minimum standards and rules for detention and correctional facilities regarding:

- (1) The keeping of records;
- (2) The separation of inmates;
- (3) The posting of rules of conduct in jails;
- (4) The employment of inmates;
- (5) The provision of emergency and other health care for all inmates;
- (6) A sufficient number of personnel to be on duty in jail facilities;
- (7) Plans for fire suppression;
- (8) An inmate education plan;

- (9) An inmate visitation plan;
- (10) An inmate correspondence plan, providing for confidential communications between an inmate and his or her counsel;
- (11) An inmate library service plan utilizing the services of professional librarians in formulating the plan;
- (12) An inmate exercise and recreation program;
- (13) The use of and purchase of books, magazines and newspapers by inmates;
- (14) The use of disciplinary actions: *Provided*, That all cruel and unusual punishment is prohibited;
- (15) The provision of healthful food;
- (16) The supplying of personal care items for inmates;
- (17) Showering or bathing by inmates;
- (18) Cleanliness and sanitation of the facilities;
- (19) Visiting and attorney interviews, religious services, group counseling, classroom and study, meetings, library services and indoor recreation. [1974 ex.s. c 81 § 6.]

36.63A.900 Short title—Legislative directive. RCW 36.63A.010 through 36.63A.060 shall constitute a new chapter in Title 36 RCW and shall be known and cited as the city and county jail act of 1974. [1974 ex.s. c 81 § 7.]

36.63A.905 Commission abolished—Effective date. The provisions of this chapter shall cease to be effective and all commissions formed hereunder shall be abolished on June 30, 1975. [1974 ex.s. c 81 § 8.]

36.63A.910 Severability—1974 ex.s. c 81. If any provision of this 1974 act, or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1974 ex.s. c 81 § 9.]

**Chapter 36.64
JOINT GOVERNMENTAL ACTIVITIES**

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36.64.040	Joint courthouse and city hall—Funds, how provided.
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- 36.64.010 Joint courthouse and city hall.** If the county seat of a county is in an incorporated city, the county and city may contract, one with the other, for the joint purchase, acquisition, leasing, ownership, control, and disposition of land and other property suitable as a site for a county courthouse and city hall and for the joint construction, ownership, control, and disposition of a building or buildings thereon for the use by such county and city as a county courthouse and city hall. Any county or city owning a site or any interest therein, or a site with buildings thereon, may, upon such terms as appear fair and just to the board of county commissioners of such county and to the legislative body of such city, contract with reference to the joint ownership, acquisition, leasing, control, improvement, and occupation of such property. [1963 c 4 § 36.64.010. Prior: 1913 c 90 § 1; RRS § 3992.]
- 36.64.020 Joint courthouse and city hall—Terms of contract.** A contract made in pursuance of RCW 36.64.010 shall fully set forth the amount of money to be contributed by each towards acquisition of the site and the improvement thereof and the manner in which such property shall be improved and the character of the building or buildings to be erected thereon. The contract may provide for the amount of money to be contributed annually by each 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 such county and city shall annually pay. The contract shall specify the parts of such building or buildings which shall be set apart for the exclusive use and occupation of each. [1963 c 4 § 36.64.020. Prior: 1913 c 90 § 2; RRS § 3993.]

36.64.030 Joint courthouse and city hall—Approval of contract. The contract between a county and a city shall be made only after a proper resolution of the board of county commissioners of the county and a proper ordinance of the city have been passed specifically authorizing it. The contract shall be binding upon the county and the city during the term thereof, or until it is modified or abrogated by mutual consent evidenced by a proper resolution and ordinance of the county and city. [1963 c 4 § 36.64.030. Prior: 1913 c 90 § 4; RRS § 3995.]

36.64.040 Joint courthouse and city hall—Funds, how provided. The money to be contributed by a county or a city or both may be raised by a sale of its bonds, or by general taxation. Any county or city possessing funds or having funds available for a county courthouse or city hall from the sale of bonds or otherwise, may contract for the expenditure of such funds. [1963 c 4 § 36.64.040. Prior: 1913 c 90 § 3; RRS § 3994.]

36.64.050 Joint armory sites. Any city or county in the state may expend money from its current expense funds in payment in whole or in part for an armory site whenever the legislature has authorized the construction of an armory within such city or county. [1963 c 4 § 36.64.050. Prior: 1913 c 91 § 1; RRS § 3996.]

36.64.060 Joint canal construction. Whenever the board of county commissioners of a county of the first class deems it for the interest of the county to construct or to aid the United States in constructing a canal to connect any bodies of water within the county, such county may construct such canal or aid the United States in constructing it and incur indebtedness for such purpose to an amount not exceeding five hundred thousand dollars and issue its negotiable bonds therefor in the manner and form provided in *RCW 36.67.020 through 36.67.060. Such construction or aid in construction is a county purpose. [1963 c 4 § 36.64.060. Prior: (i) 1907 c 158 § 1; RRS § 9664. (ii) 1907 c 158 § 2; RRS § 9665.]

*Reviser's note: "RCW 36.67.020" was repealed by 1971 c 76 § 6.

36.64.070 Class AA or A counties may contract with cities concerning buildings and related improvements. Any class AA or class A county may contract with any city or cities within such county for the financing, erection, ownership, use, lease, operation, control or maintenance of any building or buildings, including open spaces, off-street parking facilities for the use of county and city employees and persons doing business with such county or city, plazas and other improvements incident thereto, for county or city, or combined county-city, or other public use. Property for such buildings and related improvements may be acquired by either such county or city or by both by lease, purchase, donation, exchange, and/or gift or by eminent domain in the manner provided by law for the exercise of such power by counties and cities respectively and any property acquired hereunder, together with the improvements thereon, may be sold, exchanged or leased, as the interests of said county,

city or cities may from time to time require. [1965 c 24 § 1.]

36.64.080 Conferences to study regional and governmental problems—Counties and cities may establish—Subjects—Recommendations. The boards of county commissioners of any county and any counties contiguous thereto and the governing body of any cities and/or towns within said counties may establish and organize a regional agency hereinafter referred to as a conference, for the purpose of studying regional and governmental problems of mutual interest and concern, including but not limited to, facility studies on highways, transit, airports, ports or harbor development, water supply and distribution, codes and ordinances, governmental finances, flood control, air and water pollution, recommendations of sites for schools and educational institutions, hospitals and health facilities, parks and recreation, public buildings, land use and drainage; and to formulate recommendations for review and action by the member counties and/or cities legislative body. [1965 ex.s. c 84 § 1.]

Youth agencies, joint establishment: RCW 35.21.630.

36.64.090 Conferences to study regional and governmental problems—Articles—Officers—Agents and employees. The governing bodies of the counties and cities so associated in a conference shall adopt articles of association and bylaws, select a chairman and such other officers as they may determine, and may employ and discharge such agents and employees as the officers deem convenient to carry out the purposes of the conference. [1965 ex.s. c 84 § 2.]

36.64.100 Conferences to study regional and governmental problems—Contracts with other governmental agencies—Grants and gifts—Consultants. The conference is authorized to contract generally and to enter into any contract with the federal government, the state, any municipal corporation and/or other governmental agency for the purpose of conducting the study of regional problems of mutual concern, and shall have the power to receive grants and gifts in furtherance of the program. The conference may retain consultants if deemed advisable. [1965 ex.s. c 84 § 3.]

36.64.110 Conferences to study regional and governmental problems—Public purpose—Contributions to support by municipal corporations. The formation of the conference is hereby declared to be a public purpose, and any municipal corporation may contribute to the expenses of such conference pursuant to the budgetary laws of the municipal corporations and such bylaws as may be adopted by the conference: *Provided*, That services and facilities may be provided by a municipal corporation in lieu of assessment. [1965 ex.s. c 84 § 4.]

Chapter 36.67
LIMITATION OF INDEBTEDNESS—COUNTY BONDS

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- 36.67.010 Limitations under RCW 39.36.020(2).
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REVENUE BONDS

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36.67.010 Limitations under RCW 39.36.020(2). A county may contract indebtedness for general county purposes subject to the limitations on indebtedness provided for in RCW 39.36.020(2). [1971 c 76 § 1; 1970 ex.s. c 42 § 17; 1963 c 4 § 36.67.010. Prior: 1890 p 37 § 1; RRS § 5575.]

36.67.030 Negotiable bonds may be issued. Whenever any debt is incurred under the provisions of either RCW 36.67.010 or *36.67.020 the board of commissioners of the county may issue its negotiable bonds in the name of the county for the purposes designated in resolution or notice of election. [1963 c 4 § 36.67.030. Prior: 1890 p 38 § 3; RRS § 5577.]

*Reviser's note: RCW "36.67.020" was repealed by 1971 c 76 § 6.

36.67.040 Content of bonds. The bonds shall bear the date of issue, shall be made payable to the bearer and bear interest at a rate of not exceeding eight percent per year, payable semiannually, with coupons attached for each interest payment. Except as otherwise provided in RCW 39.44.100, the bonds and each coupon shall be

signed by the chairman of the board of county commissioners, or in counties having an elected executive, the elected executive officer, and shall be attested by the clerk of the board, and the seal of such board shall be affixed to each bond, but not to the coupon. Each bond shall be printed, engraved, or lithographed on good bond paper. [1969 c 142 § 5; 1967 c 107 § 3; 1963 c 4 § 36.67.040. Prior: 1890 p 38 § 4; RRS § 5578.]

Validation—1969 c 142: See RCW 39.36.900.

36.67.050 Bonds may be exchanged for warrants or sold. The bonds may be exchanged at not less than their par value and accrued interest for an equal amount of warrants of the county issuing them or they may be sold by the county commissioners at not less than their par value and accrued interest, in which event the proceeds shall be applied only for the purpose for which the bonds were issued. [1963 c 4 § 36.67.050. Prior: 1890 p 39 § 5; RRS § 5579.]

36.67.060 Payment of principal and interest. Bonds issued under this chapter shall be serial in form and maturity and interest shall be paid and the principal of the bonds retired by an annual tax levy in accordance with the provisions of chapter 39.44 RCW and by any other moneys lawfully available and pledged therefor. [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.]

Severability—1975 1st ex.s. c 188: See RCW 36.94.921.

36.67.070 Coupons considered county warrants. The coupons for the payment of interest on the bonds shall be considered for all purposes as warrants drawn upon the current expense fund of the county issuing bonds, and if when presented to the treasurer of the county no funds are in the treasury to pay them, the treasurer shall indorse the coupons as presented for payment, in the same manner as county warrants are indorsed, and thereafter they shall bear interest at the same rate as county warrants presented and unpaid. [1963 c 4 § 36.67.070. Prior: 1890 p 39 § 8; RRS § 5582.]

36.67.080 Registry of bonds. Before the bonds are delivered to the purchaser they shall be presented to the county treasurer, who shall register them in a book kept for that purpose and known as the "bond register," in which register he shall enter the number of each bond, its date of issue and maturity, amount, rate of interest, to whom and when payable. [1963 c 4 § 36.67.080. Prior: 1890 p 40 § 9; RRS § 5583.]

REVENUE BONDS

36.67.500 "This chapter" means RCW 36.67.510 through 36.67.570. As used in RCW 36.67.500 through 36.67.570 "this chapter" means RCW 36.67.510 through 36.67.570. [1965 c 142 § 8.]

36.67.510 Revenue bonds authorized. The board of county commissioners of any county is hereby authorized for the purpose of carrying out the lawful powers granted to the counties by the laws of the state to contract indebtedness and to issue revenue bonds evidencing such indebtedness in conformity with this chapter. [1965 c 142 § 1.]

36.67.520 When issued—Amounts—Purposes—Costs and expenses. All such revenue bonds authorized under the terms of this chapter may be issued and sold by the counties from time to time and in such amounts as is deemed necessary by the board of county commissioners of each county to provide sufficient funds for the carrying out of all county powers, without limiting the generality thereof, including the following: Acquisition; construction; reconstruction; maintenance; repair; additions; operations of parks and recreations; flood control facilities; pollution facilities; parking facilities as a part of a courthouse or combined county-city building facility; and any other county purpose from which revenues can be derived. Included in the costs thereof shall be any necessary engineering, inspection, accounting, fiscal, and legal expenses, the cost of issuance of bonds, including printing, engraving and advertising and other similar expenses, and the proceeds of such bond issue are hereby made available for all such purposes. [1969 ex.s. c 8 § 2; 1965 c 142 § 2.]

Parking facilities as part of courthouse or county-city building: RCW 36.01.080.

36.67.530 Form—Terms—Interest—Execution and signatures. When revenue bonds are issued for authorized purposes, said bonds shall be either registered as to principal only or shall be bearer bonds; shall be in such denominations, shall be numbered, shall bear such date, shall be payable at such time or times up to a maximum period of not to exceed thirty years and payable at the office of the county treasurer, and such other places as determined by the county commissioners of the county; shall bear interest payable semiannually and evidenced to maturity by coupons attached to said bonds bearing a coupon interest rate or rates as authorized by the board of county commissioners; shall be executed by the chairman of the board of county commissioners, and attested by the clerk of the board, and the seal of such board shall be affixed to each bond, but not to the coupon; and may have facsimile signatures of the chairman and the clerk imprinted on the interest coupons in lieu of original signatures. [1970 ex.s. c 56 § 50; 1969 ex.s. c 232 § 27; 1965 c 142 § 3.]

Effective date—Purpose—1970 ex.s. c 56: See notes following RCW 39.44.030.

Validation—Saving—Severability—1969 ex.s. c 232: See notes following RCW 39.44.030.

36.67.540 Special funds, creation and use—Use of tax revenue prohibited—Bonds are negotiable instruments—Statement on face—Remedy for failure to set aside revenue. Bonds issued under the provisions of this chapter shall be payable solely out of the operating revenues of the county. Such bonds shall be authorized

by resolution adopted by the board of county commissioners, which resolution shall create a special fund or funds into which the board of county commissioners may obligate and bind the county to set aside and pay any part or parts of, or all of, or a fixed proportion of, or fixed amounts of gross revenue received by the county from moneys for services or activities as stated in the resolution, for the purpose of paying the principal of and interest on such bonds as the same shall become due, and if deemed necessary to maintain adequate reserves therefor. Such fund or funds shall be drawn upon solely for the purpose of paying the principal and interest upon the bonds issued pursuant to this chapter.

The bonds shall be negotiable instruments within the provision and intent of the negotiable instruments law of this state, even though they shall be payable solely from such special fund or funds, and the tax revenue of the county may not be used to pay, secure, or guarantee the payment of the principal of and interest on such bonds. The bonds and the coupons attached thereto shall state upon their face that they are payable solely from such special fund or funds. If the county fails to set aside and pay into such fund or funds, the payments provided for in such resolution, the holder of any such bonds may bring suit to compel compliance with the provisions of the resolution. [1965 c 142 § 4.]

36.67.550 Covenants—Law and resolutions constitute contract with holders—Remedies. The board of county commissioners may provide covenants as it may deem necessary to secure the payment of the principal of and interest on such bonds and may, but shall not be required to, include covenants to create a reserve fund or account and to authorize the payment or deposit of certain moneys therein for the purpose of securing the payment of such principal and interest; to establish, maintain, and collect rates, charges, fees, rentals, and the like on the facilities and service the income of which is pledged for the payment of such bonds, sufficient to pay or secure the payment of such principal and interest and to maintain an adequate coverage over annual debt service; and to make any and all other covenants not inconsistent with the provisions of this chapter which will increase the marketability of such bonds. The board may also provide that revenue bonds payable out of the same source or sources may later be sold on a parity with any revenue bonds being issued and sold. The provisions of this chapter and any resolution or resolutions providing for the authorization, issuance, and sale of such bonds shall constitute a contract with the holder of such bonds, and the provisions thereof shall be enforceable by any owner or holder of such bonds by mandamus or any appropriate suit, action or proceeding at law or in equity in any court of competent jurisdiction. [1965 c 142 § 5.]

36.67.560 Funding and refunding. The board of county commissioners of any county may by resolution, from time to time, provide for the issuance of funding or refunding revenue bonds to fund or refund any outstanding revenue bonds and any premiums due thereon, and matured coupons evidencing interest upon any such

bonds at or before the maturity of such bonds, and parts or all of various series and issues of outstanding revenue bonds and matured coupons in the amount thereof to be funded or refunded.

The board shall create a special fund for the sole purpose of paying the principal of and interest on such funding or refunding revenue bonds, into which fund the commission shall obligate and bind the county to set aside and pay any part or parts of, or all of, or a fixed proportion of, or a fixed amount of the revenue of the facility of the county sufficient to pay such principal and interest as the same shall become due, and if deemed necessary to maintain adequate reserves therefor.

Such funding or refunding bonds shall be negotiable instruments within the provisions and intent of the negotiable instruments law of this state, and the tax revenue of the county may not be used to pay, secure, or guarantee the payment of the principal of and interest on such bonds.

The county may exchange such funding or refunding bonds for the bonds, and coupons being funded or refunded, or it may sell such funding or refunding bonds in the manner, at such price and at such rate or rates of interest as the board shall deem to be for the best interest of the county and its inhabitants, either at public or private sale.

The provisions of this chapter relating to the terms, conditions, covenants, issuance, and sale of revenue bonds shall be applicable to such funding or refunding bonds except as may be otherwise specifically provided in this section. [1970 ex.s. c 56 § 51; 1969 ex.s. c 232 § 28; 1965 c 142 § 6.]

Effective date—Purpose—1970 ex.s. c 56: See notes following RCW 39.44.030.

Validation—Saving—Severability—1969 ex.s. c 232: See notes following RCW 39.44.030.

36.67.570 Liberal construction—Effect of other acts. This chapter shall be complete authority for the issuance of the revenue bonds hereby authorized, and shall be liberally construed to accomplish its purposes. Any restrictions, limitations or regulations relative to the issuance of such revenue bonds contained in any other act shall not apply to the bonds issued under this chapter. Any act inconsistent herewith shall be deemed modified to conform with the provisions of this chapter for the purpose of this chapter only. [1965 c 142 § 7.]

Chapter 36.68

PARKS AND RECREATIONAL FACILITIES

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Transfer of real property or contract for use for park and recreational purposes: RCW 39.33.060.

36.68.010 Counties may establish park and playground systems—Disposition of surplus park property. Counties may establish park and playground systems for public recreational purposes and for such purposes shall have the power to acquire lands, buildings and other facilities by gift, purchase, lease, devise, bequest and condemnation. A county may lease or sell any park property, buildings or facilities surplus to its needs, or no longer suitable for park purposes: *Provided*, That such park property shall be subject to the requirements and provisions of notice, hearing, bid or intergovernmental transfer as provided in chapter 36.34 RCW: *Provided further*, That nothing in this section shall be construed as authorizing any county to sell any property which such county acquired by condemnation for park or playground or other public recreational purposes on or after January 1, 1960, until held for five years or more after such acquisition: *Provided further*, That funds acquired from the lease or sale of any park property, buildings or facilities shall be placed in the park and recreation fund to be used for capital purposes. [1963 c 4 § 36.68.010.]

Prior: 1961 c 92 § 1; 1949 c 94 § 1; Rem. Supp. 1949 § 3991-14.]

36.68.020 Programs of public recreation. Counties may conduct programs of public recreation, and in any such program property or facilities owned by any individual, group or organization, whether public or private, may be utilized by consent of the owner. [1963 c 4 § 36.68.020. Prior: 1949 c 94 § 2; Rem. Supp. 1949 § 3991-15.]

36.68.030 Park and recreation board—Composition. Each county may form a county park and recreation board composed of seven members, who shall be appointed by the board of county commissioners to serve without compensation. [1969 ex.s. c 176 § 93; 1963 c 4 § 36.68.030. Prior: 1949 c 94 § 3; Rem. Supp. 1949 § 3991-16.]

36.68.040 Park and recreation board—Terms of members. For the appointive positions on the county park and recreation board the initial terms shall be two years for two positions, four years for two positions, and six years for the remaining positions plus the period in each instance to the next following June 30th; thereafter the term for each appointive position shall be six years and shall end on June 30th. [1969 ex.s. c 176 § 94; 1963 c 4 § 36.68.040. Prior: 1949 c 94 § 4; Rem. Supp. 1949 § 3991-17.]

36.68.050 Park and recreation board—Removal of members—Vacancies. Any appointed county park and recreation board member may be removed by a majority vote of the board of county commissioners either for cause or upon the joint written recommendation of five members of the county park and recreation board. Vacancies on the county park and recreation board shall be filled by appointment, made by the board of county commissioners for the unexpired portions of the terms vacated. [1963 c 4 § 36.68.050. Prior: 1949 c 94 § 5; Rem. Supp. 1949 § 3991-18.]

36.68.060 Park and recreation board—Powers and duties. The county park and recreation board:

(1) Shall elect its officers, including a chairman, vice chairman and secretary, and such other officers as it may determine it requires.

(2) Shall hold regular public meetings at least monthly.

(3) Shall adopt rules for transaction of business and shall keep a written record of its meetings, resolutions, transactions, findings and determinations, which record shall be a public record.

(4) Shall initiate, direct, and administer county recreational activities, and shall select and employ a county park and recreation superintendent and such other properly qualified employees as it may deem desirable.

(5) Shall improve, operate, and maintain parks, playgrounds, and other recreational facilities, together with all structures and equipment useful in connection therewith, and may recommend to the board of county commissioners acquisition of real property.

(6) Shall promulgate and enforce reasonable rules and regulations deemed necessary in the operation of parks, playgrounds, and other recreational facilities, and may recommend to the board of county commissioners adoption of any rules or regulations requiring enforcement by legal process which relate to parks, playgrounds, or other recreational facilities.

(7) Shall each year submit to the board of county commissioners for approval a proposed budget for the following year in the manner provided by law for the preparation and submission of budgets by elective or appointive county officials.

(8) May, subject to the approval of the board of county commissioners, enter into contracts with any other municipal corporation, governmental or private agency for the conduct of park and recreational programs. [1963 c 4 § 36.68.060. Prior: 1949 c 94 § 6; Rem. Supp. 1949 § 3991-19.]

36.68.070 Park and recreation fund. In counties in which county park and recreation boards are formed, a county park and recreation fund shall be established. Into this fund shall be placed the allocation as the board of county commissioners annually appropriates thereto, together with miscellaneous revenues derived from the operation of parks, playgrounds, and other recreational facilities, as well as grants, gifts, and bequests for park or recreational purposes. All expenditures shall be disbursed from this fund by the county park and recreation board, and all balances remaining in this fund at the end of any year shall be carried over in such fund to the succeeding year. [1963 c 4 § 36.68.070. Prior: 1949 c 94 § 7; Rem. Supp. 1949 § 3991-20.]

36.68.080 Penalty for violations of regulations. Any person violating any rules or regulations adopted by the board of county commissioners relating to parks, playgrounds, or other recreational facilities shall be guilty of a misdemeanor. [1963 c 4 § 36.68.080. Prior: 1949 c 94 § 8; Rem. Supp. 1949 § 3991-21.]

36.68.090 Counties authorized to build, improve, operate and maintain, etc., parks, playgrounds, gymnasiums, swimming pools, beaches, stadiums, golf courses, etc., and other recreational facilities—Regulation—Charges for use. Any county, acting through its board of county commissioners, is empowered to build, construct, care for, control, supervise, improve, operate and maintain parks, playgrounds, gymnasiums, swimming pools, field houses, bathing beaches, stadiums, golf courses, automobile race tracks and drag strips, coliseums for the display of spectator sports, public campgrounds, boat ramps and launching sites, public hunting and fishing areas, arboretums, bicycle and bridle paths, and other recreational facilities, and to that end may make, promulgate and enforce such rules and regulations regarding the use thereof, and make such charges for the use thereof, as may be deemed by said board to be reasonable. [1967 ex.s. c 144 § 11.]

Authority to establish park and playground systems: RCW 36.68.010. Stadiums, powers of cities and counties to acquire and operate: Chapter 67.28 RCW.

PARK AND RECREATION SERVICE AREAS

36.68.400 Creation authorized—Purposes—Taxing districts. Any county shall have the power to create county park and recreation service areas for the purpose of financing the acquisition, construction, improvement, maintenance or operation of neighborhood park and recreational facilities which shall be owned by the county and administered as other county parks. The service districts created as hereinafter set forth may finance any of the following park purposes: Acquisition of park sites and buildings; construction of improvements upon county park allocated lands which will promote leisure time and recreational activities of county residents on a neighborhood basis, including but not limited to the construction of field houses, swimming pools, tennis courts, playfields, and other facilities; the maintenance of any county-owned park or recreational facility, including the purchase of athletic equipment and supplies and the upkeep of park buildings, grounds and facilities; and to finance the cost of engaging custodial, recreational and park program personnel at any county-owned park or recreational facility. Local service areas shall be "taxing districts" within the meaning of section 2, Article 7 of the Constitution as amended by Amendment 17. [1965 ex.s. c 76 § 1; 1963 c 218 § 1.]

May acquire property for park, recreational, viewpoint, greenbelt, conservation, historic, scenic, or view purposes: RCW 36.34.340.

Parks, county commissioners may designate name of: RCW 36.32.430.

36.68.410 May be initiated by resolution or petition. Local service areas may be initiated in any unincorporated area of any county by resolution adopted by the board of county commissioners or by a petition signed by ten percent of the registered voters within the proposed service area. [1965 ex.s. c 76 § 2; 1963 c 218 § 2.]

36.68.420 Resolution or petition—Contents. Any resolution or petition initiating a local service area shall set forth the boundaries of the service district with certainty, describe the purpose or purposes for which the service area is to be formed, contain an estimate of the initial cost of any capital improvements or services to be authorized in the service area.

"Initial costs" as used herein shall include the estimated cost during the first year of operation of:

(1) Land to be acquired for county neighborhood park purposes by the service area to establish a park or park facility specified in the resolution or petition;

(2) Capital improvements specified in the objectives or purposes of the service area;

(3) Forming the service area; and

(4) Personnel, maintenance or operation of any county park facility within the service area as specified by the resolution or petition. [1963 c 218 § 3.]

36.68.430 Petitions—Verification of signatures. Petitions shall be submitted to the county auditor who shall verify the signatures thereon to determine that the petition has been signed by the requisite number of persons who are registered voters within the proposed service area. If the petition is found not to have the requisite

number of signatures, it shall be returned to the petitioners. If the petition is found to be sufficient, the auditor shall so certify and transmit the same to the board of county commissioners. [1963 c 218 § 4.]

36.68.440 Feasibility and cost studies—Public hearing—Notice. Upon accepting a petition to form a local service area, or upon passage of a resolution to establish such a service area, the board of county commissioners shall order a full investigation for the purpose or purposes of the proposed service area to determine the feasibility of forming the same and to determine the estimated initial costs involved in obtaining the objectives set forth in the petition or resolution. The board shall require that the reports on the feasibility and the cost of the proposed service area be made available to the board and that copies of such reports be filed with the clerk of the board not more than eighty days after the board first directs that the studies and reports be undertaken. The board shall also provide by resolution that within twenty days after receiving the reports a public hearing shall be held at the county seat or at some convenient location within the proposed service area. At least five days before the hearing, the board shall give notice of the hearing not less than twice in a legal newspaper of general circulation in the county. The notice shall describe the boundaries of the proposed service area, the purpose or purposes of the proposed service area, the estimated initial costs, indicate that the reports and other materials prepared at the order of the board are available in the office of the clerk of the board for the study and review of any interested party, and set the time, date and place of the hearing. [1963 c 218 § 5.]

36.68.450 Hearing procedure—Inclusion of property—Examination of reports—Recess. At the hearing, the board of county commissioners shall first provide for an explanation of the objectives of the proposed service area and the estimated initial costs thereof. The board shall permit any resident or property owner of the service area to appear and be heard, and may permit property owners in contiguous areas to include their property within the service area in the event that they make their request for inclusion in writing. The board shall examine all reports on the feasibility of the proposed area and its initial costs and may, if they deem it necessary, recess the hearing for not more than twenty days to obtain any additional information necessary to arrive at the findings provided for in RCW 36.68.420. [1963 c 218 § 6.]

36.68.460 Findings of county commissioners—Dismissal of proceedings, limitation on subsequent initiation. At the conclusion of a hearing, the board of county commissioners shall make the following findings:

(1) Whether or not the service area's objectives fit within the general framework of the county's comprehensive park plan and general park policies.

(2) The exact boundaries of the service area: The board shall be empowered to modify the boundaries as originally defined in the petition or resolution initiating

the proposed service area: *Provided*, That the boundaries of the service area may not be enlarged unless the property owners within the area to be added consent to their inclusion in writing; or unless the board gives the property owners of the area to be added, written notice, mailed to their regular permanent residences as shown on the latest records of the county auditor, five days prior to a regular or continued hearing upon the formation of the proposed service area.

(3) A full definition or explanation of the nature of improvements or services to be financed by the proposed service area.

(4) Whether or not the objectives of the service area are feasible.

(5) The number or name of the service area.

If satisfactory findings cannot be made by the board, the petition or resolution shall be dismissed, and no petition or resolution embracing the same area may be accepted or heard for at least two years. [1963 c 218 § 7.]

36.68.470 Resolution ordering election. Upon making findings under the provisions of RCW 36.68.460, the board of county commissioners shall, by resolution, order an election of the property owners or voters of the district to determine if the service area shall be formed. The commissioners shall in their resolution direct the county auditor to set the date of the election, the date to be not more than sixty days following the conclusion of the hearing and the making of findings as provided for in RCW 36.68.420 and 36.68.460; describe the purposes of the service area; set forth the estimated cost of any initial improvements or services to be financed by the service area should it be formed; describe the method of financing the initial improvements or services described in the resolution or petition; and order that notice of election be published in a newspaper of general circulation in the county at least twice prior to the election date. [1963 c 218 § 8.]

36.68.480 Election procedure—Formation—Special levy or bond issue. If the petition or resolution initiating the formation of the proposed service area proposes that the initial improvements of services are to be financed by a special levy, a special election for that purpose shall be conducted within the boundaries of the service area. All registered voters within the service area shall be eligible to vote on the proposition. The county auditor, for the purpose of the special election, may combine or divide precincts in order to provide the greatest convenience to voters of the service area.

The county auditor, in submitting the issue to the voters for their approval or rejection, shall submit and express two propositions on the ballot in substantially the following form:

(1) FORMATION OF LOCAL SERVICE AREA

Shall a county service area be established for the area described in a resolution of the board of commissioners of _____ county, adopted on the _____ day of

_____ 19___, to provide financing for neighborhood park facilities, improvements and services?

Yes ----- No -----

(2) SPECIAL LEVY (SPECIAL BOND ISSUE)

Shall the county commissioners, for the purposes of "_____ local service area No. _____" or "(name of district) local service area of _____ county", levy a general tax of _____ dollars per thousand dollars of assessed value for one year upon taxable property within said service area in excess of the constitutional and/or statutory tax limits for authorized purposes of the service area?

OR shall the county commissioners for the purposes of _____ local park service area No. _____ issue _____ dollars of general obligation bonds for a period of not to exceed twenty years and levy a tax of approximately _____ dollars per thousand dollars of assessed value upon all taxable property in said service area to pay the interest on and to retire said bonds; said levy to be excess of the constitutional and/or statutory tax limits?

Yes ----- No -----

[1973 1st ex.s. c 195 § 38; 1963 c 218 § 9.]

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

36.68.490 Election procedure—Vote required. In order for the service area to be established and the special tax levy proposition or bond retirement levy proposition to be approved, voters exceeding in number at least sixty percent of the number of voters who cast ballots for the office of county commissioner within the proposed service area in the last preceding general election of county commissioners must cast ballots at the service area election and on the tax levy proposition, and of all the votes cast at the election at least sixty percent of said votes must favor the establishment of the service area and the levy of the special one-year tax or the special levy for the retirement of the specified bond issue. [1963 c 218 § 10.]

36.68.500 Resolution declaring formation—Treasurer—Disbursement procedure. If the formation of the service area is approved by the voters of the area under the provisions of RCW 36.68.480 and 36.68.490, the county commissioners shall by resolution declare the service area to be formed and direct the county treasurer to be the treasurer of the service area. Expenditures of the service area shall be made upon warrants drawn by the county auditor pursuant to vouchers approved by the board of county commissioners. [1963 c 218 § 11.]

36.68.510 Local service area fund. If the service area is formed, there shall be created in the office of the county treasurer a local service area fund with such accounts as the treasurer may find convenient, or as the state auditor may direct, into which shall be deposited all revenues received by the service area from tax levy, from gifts or donations, and from service or admission charges. Such fund shall be designated "(name of county) service area No. _____ fund." Or "(name of

district) service area fund." Special accounts shall be established within the fund for the deposit of the proceeds of each bond issue made for the construction of a specified project or improvement, and there shall also be established special accounts, within the fund for the deposit of revenues raised by special levy or derived from other specific revenues, to be used exclusively for the retirement of an outstanding bond issue or for paying the interest or service charges on any bond issue. [1963 c 218 § 12.]

36.68.520 Tax levies and bond issues. A service area shall not have power to levy an annual authorized levy, but it shall have the power to levy a tax upon the property included within the service district in the manner prescribed for cities for the purpose of exceeding the limitations established by section 2, Article 7 of the Constitution and by RCW 84.52.052.

The special voted levy may be either for operating fund or for capital outlay, or for a cumulative reserve fund.

A service area may issue general obligations bonds for capital purposes only, not to exceed an amount, together with any outstanding general obligation indebtedness, equal to three-eighths of one percent of the value of the taxable property within the district, and may provide for the retirement thereof by levies in excess of dollar rate in accordance with the provisions of RCW 84.52.056: *Provided*, That such districts may issue 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. [1973 1st ex.s. c 195 § 39; 1970 ex.s. c 42 § 19; 1963 c 218 § 13.]

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.

36.68.530 Budgets—Appropriations—Accumulation of reserves. The board of county commissioners shall annually compile a budget for each service area in a form prescribed by the state division of municipal corporations for the ensuing calendar year which shall, to the extent that anticipated income is actually realized, constitute the appropriations for the service area. The budget may include an amount to accumulate a reserve for a stated capital purpose. In compiling the budget, all available funds and anticipated income shall be taken into consideration, including contributions or contractual payments from school districts, cities, or towns, county or any other governmental entity, gifts and donations, special tax levy, fees and charges, proceeds of bond issues, and cumulative reserve funds. [1963 c 218 § 14.]

36.68.540 Employees. All employees, whether their salary is paid in whole or in part from funds raised by levies of the service area, shall be employees of the county and shall be subject to all rules and benefits which are applicable to other county employees. [1963 c 218 § 15.]

36.68.550 Admission fees and charges. The county commissioners may establish admission fees or other direct charges to be paid by persons using county park facilities, as hereinafter defined, which have been financed in whole or in part by a service area. Such direct charges to users may be made for the use of or admission to swimming pools, field houses, tennis and handball courts, bathhouses, swimming beaches, boat launching, storage or moorage facilities, ski lifts, picnic areas and other similar recreation facilities, and for parking lots used in conjunction with such facilities. All funds collected under the provisions of this section shall be deposited to the fund of the service area established in the office of the county treasurer, to be disbursed under the service area budget as approved by the board. [1963 c 218 § 16.]

36.68.560 Concessions. The board may, as with other county park properties and facilities, grant concessions for food and other services: *Provided*, That the proceeds from any concessions accruing to the county from park or park facilities which have been financed in part or wholly from service area funds shall be deposited to the fund of the service area in the office of the county treasurer to be disbursed under the service area budget as approved by the board. [1963 c 218 § 17.]

36.68.570 Use of funds—Purchases. The board may reimburse from service funds any charge incurred by the county current expense fund which is properly an expense of the service area, including reasonable administrative costs incurred by the offices of county treasurer and the county auditor in providing accounting, clerical or other services for the benefit of the service area. The board may provide for the payment of any personnel engaged in activities financed by service area funds from current expense or salary funds, and reimburse current expense or salary funds from service area funds. The board shall, where a county purchasing department has been established, provide for the purchase of all supplies and equipment through the department. [1963 c 218 § 18.]

36.68.580 Ownership of parks and facilities—Expenditure of funds budgeted for park purposes. Any park facility or park acquired, improved or otherwise financed in whole or in part by local service area funds shall be owned by the county. The county may make expenditures from current expense funds budgeted for park purposes for the maintenance, operation or capital improvement of any county park or park facility. [1963 c 218 § 19.]

36.68.590 Purpose—Level of services—General park programs. The purpose of RCW 36.68.400 et seq. shall be to provide a higher level of park services and shall not in any way diminish the right of a county to provide a general park program financed from current expense funds. [1963 c 218 § 20.]

36.68.600 Use of local service funds in exercise of powers enumerated in chapter 67.20 RCW. The county

may exercise any of the powers enumerated in chapter 67.20 RCW with respect to any park and recreation facility financed in whole or part from local service funds. [1963 c 218 § 21.]

36.68.610 Area which may be included—Inclusion of area within city or town—Procedure. A park and recreation service area may include any unincorporated area in the state, and when any part of the proposed district lies within the corporate limits of any city or town said resolution or petition shall be accompanied by a certified copy of a resolution of the governing body of said city or town, approving inclusion of the area within the corporate limits of the city or town. [1973 c 65 § 1.]

36.68.620 Enlargement by inclusion of additional area—Procedure. After a park and recreation service area has been organized, an additional area may be added by the same procedure within the proposed additional area as is provided herein for the organization of a park and recreation service area, and all electors within both the organized park and recreation service area and the proposed additional territory shall vote upon the proposition for enlargement. [1973 c 65 § 2.]

Chapter 36.69

RECREATION DISTRICTS ACT

Sections

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36.69.010 Park and recreation districts authorized—"Recreational facilities" defined. Park and recreation districts are hereby authorized to be formed in each and every class of county as municipal corporations for the purpose of providing leisure time activities and facilities and recreational facilities, of a nonprofit nature as a public service to the residents of the geographical areas included within their boundaries.

The term "recreational facilities" means parks, playgrounds, gymnasiums, swimming pools, field houses, bathing beaches, stadiums, golf courses, automobile race tracks and drag strips, coliseums for the display of spectator sports, public campgrounds, boat ramps and launching sites, public hunting and fishing areas, arboretums, bicycle and bridle paths, and other recreational facilities. [1972 ex.s. c 94 § 1; 1969 c 26 § 1; 1967 c 63 § 1; 1963 c 4 § 36.69.010. Prior: 1961 c 272 § 1; 1959 c 304 § 1; 1957 c 58 § 1.]

36.69.020 Formation of district by petition—Procedure. The formation of a park and recreation district shall be initiated by a petition designating the boundaries thereof by metes and bounds, or by describing the land to be included therein by townships, ranges and legal subdivisions. Such petition shall set forth the object of the district and state that it will be conducive to the public welfare and convenience, and that it will be a benefit to the area therein. Such petition shall be signed by not less than fifteen percent of the registered voters within the area so described. No person signing the petition may withdraw his name therefrom after filing.

The petition shall be filed with the auditor of the county within 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 provided for in RCW 36.69.040. The county auditor shall, within thirty days from the date of filing the petition, examine the signatures and certify to the sufficiency or insufficiency thereof; and for that purpose shall have access to all registration books or records in the possession of the registration officers of the election precincts included, in whole or in part, within the proposed district. Such books and records shall be prima facie evidence of the truth of the certificate.

If the petition is found to contain a sufficient number of signatures of qualified persons, the auditor shall transmit it, together with his certificate of sufficiency attached thereto, to the county commissioners who shall by resolution entered upon their minutes, receive it and fix a day and hour when they will publicly hear the petition, as provided in RCW 36.69.040. [1969 c 26 § 2; 1967 c 63 § 2; 1963 c 4 § 36.69.020. Prior: 1961 c 272 § 2; 1959 c 304 § 2; 1957 c 58 § 2.]

36.69.030 Area which may be included—Resolution of governing body of city or town. A park and recreation district may include any unincorporated area in the state and, when any part of the proposed district lies within the corporate limits of any city or town, said petition shall be accompanied by a certified copy of a resolution of the governing body of said city or town, approving inclusion of the area within the corporate limits of the city or town. [1969 c 26 § 3; 1967 c 63 § 3; 1963 c 4 § 36.69.030. Prior: 1961 c 272 § 3; 1959 c 304 § 3; 1957 c 58 § 3.]

36.69.040 Hearing on petition—Notice. The board of county commissioners shall set a time for a hearing on the petition for the formation of a park and recreation district to be held not more than sixty days following the receipt of such petition. Notice of hearing shall be given by publication three times, at intervals of not less than one week, in a newspaper of general circulation within the county. Such notice shall state the time and place of hearing and describe particularly the area proposed to be included within the district. [1963 c 4 § 36.69.040. Prior: 1957 c 58 § 4.]

36.69.050 Boundaries—Name—Inclusion, exclusion of lands. The board of county commissioners shall designate a name for and fix the boundaries of the proposed district following such hearing. No land shall be included in the boundaries as fixed by the county commissioners which was not described in the petition, unless the owners of such land shall consent in writing thereto.

The board of county commissioners shall eliminate from the boundaries of the proposed district land which they find will not be benefited by inclusion therein. [1963 c 4 § 36.69.050. Prior: 1957 c 58 § 5.]

36.69.060 District subdivisions—Candidates—Election for formation. The board of county commissioners, in addition to setting the boundaries of the proposed district, shall also divide it into five subdivisions and shall name five resident electors, no two of whom shall reside within the same subdivisions of said district, as candidates for election as the first park and recreation district commissioners of the district. The proposition for the formation of the proposed park and recreation district shall be submitted to the voters of such district for their approval or rejection at the next general election. [1963 c 4 § 36.69.060. Prior: 1957 c 58 § 6.]

36.69.070 Elections—Procedure. All elections pursuant to this chapter regardless of county classification shall be conducted in accordance with the provisions of chapter 29.13 RCW as for class AA counties: *Provided*, That a special election for the formation of any park and recreation district may be held at such time as may be ordered by the board of county commissioners. Notices of the election for the formation of the park and recreation district shall state generally and briefly the purpose thereof and shall give the boundaries of the proposed district, define the election precincts, designate the polling place of each, give the names of the five nominated park and recreation commissioner candidates of the proposed district, and name the day of the election and the hours during which the polls will be open. The proposition to be submitted to the voters shall be stated in such manner that the voters may indicate yes or no upon the proposition of forming the proposed park and recreation district. The ballot shall be so arranged that voters may vote for the five nominated candidates or may write in the names of other candidates. [1963 c 4 § 36.69.070. Prior: 1959 c 304 § 4; 1957 c 58 § 7.]

36.69.080 Declaration of result of election. If a majority of all votes cast upon the proposition favors the formation of the district, the board of county commissioners shall, by resolution, declare the territory organized as a park and recreation district under the name theretofore designated, and shall declare the candidate from each subdivision receiving the highest number of votes for park and recreation commissioner the duly elected first park and recreation commissioner of the subdivision of the district. [1963 c 4 § 36.69.080. Prior: 1957 c 58 § 8.]

36.69.090 Commissioners—Residence qualification—Terms—Election procedure. Elections for park and recreation district commissioners shall be held biennially in conjunction with the general election on the first Tuesday after the first Monday of November in each even-numbered year: *Provided*, That in class AA counties the election shall be held on the first Tuesday after the first Monday of November in each odd-numbered year. Residence anywhere within the district shall qualify an elector for any position on the commission after the initial election. Following the initial election declarations of candidacy for the office of commissioner shall be filed with the county auditor not more than sixty nor less than forty-six days prior to said election. Any candidate may withdraw his declaration at any time to and including the first Friday after the last day for filing a declaration of candidacy. All names of candidates to be voted upon shall be printed upon the ballot alphabetically in a group under the designation of the title of the offices for which they are candidates. There shall be no rotation of names. All commissioners shall serve until their successors are elected and qualified. The terms of office of all commissioners after the first commissioners shall begin as of noon on the second Monday in January following their respective elections. At the first election following the formation of the district, the candidate receiving the highest number of votes shall serve for a

term of six years, the two candidates receiving the next highest number of votes shall serve for four years and the two candidates receiving the next highest number of votes shall serve for two years. Thereafter all commissioners shall be elected for six year terms. [1963 c 200 § 18; 1963 c 4 § 36.69.090. Prior: 1957 c 58 § 9.]

36.69.100 Commissioners—Vacancies. Vacancies on the board of park and recreation commissioners shall be filled by a majority vote of the remaining commissioners. [1963 c 4 § 36.69.100. Prior: 1957 c 58 § 10.]

36.69.110 Commissioners—Compensation, expenses. The park and recreation commissioners shall receive no compensation for their services but shall receive necessary expenses in attending meetings of the board or when otherwise engaged on district business. [1963 c 4 § 36.69.110. Prior: 1957 c 58 § 11.]

36.69.120 Commissioners—Duties. The park and recreation district board of commissioners shall:

(1) Elect its officers including a chairman, vice chairman, secretary, and such other officers as it may determine it requires;

(2) Hold regular public meetings at least monthly;

(3) Adopt policies governing transaction of board business, keeping of records, resolutions, transactions, findings and determinations, which shall be of public record;

(4) Initiate, direct and administer district park and recreation activities, and select and employ such properly qualified employees as it may deem necessary. [1963 c 4 § 36.69.120. Prior: 1957 c 58 § 12.]

36.69.130 Powers of districts. Park and recreation districts shall have such powers as are necessary to carry out the purpose for which they are created, including, but not being limited to, the power: (1) To acquire and hold real and personal property; (2) to dispose of real and personal property only by unanimous vote of the district commissioners; (3) to make contracts; (4) to sue and be sued; (5) to borrow money to the extent and in the manner authorized by this chapter; (6) to grant concessions; (7) to make or establish charges, fees, rates, rentals and the like for the use of facilities (including recreational facilities) or for participation; (8) to make and enforce rules and regulations governing the use of property, facilities or equipment and the conduct of persons thereon; (9) to contract with any municipal corporation, governmental, or private agencies for the conduct of park and recreation programs; (10) to operate jointly with other governmental units any facilities or property including participation in the acquisition; (11) to hold in trust or manage public property useful to the accomplishment of their objectives; (12) to establish cumulative reserve funds in the manner and for the purposes prescribed by law for cities; (13) to acquire, construct, reconstruct, maintain, repair, add to, and operate recreational facilities; and, (14) to make improvements or to acquire property by the local improvement method in the manner prescribed by this chapter: *Provided*, That such improvement or acquisition is within the scope of

the purposes granted to such park and recreation district. [1972 ex.s. c 94 § 2; 1969 c 26 § 4; 1967 c 63 § 4; 1963 c 4 § 36.69.130. Prior: 1961 c 272 § 4; 1959 c 304 § 5; 1957 c 58 § 13.]

36.69.140 Special levies authorized—Bonds. A park and recreation district shall not have power to levy an annual authorized levy, but it shall have the power to levy a tax upon the property included within the district, in the manner prescribed for cities for the purpose of exceeding the limitations established by Article VII, section 2, of the Constitution and by RCW 84.52.052. Such special, voted 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 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, 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. [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.]

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.

36.69.150 District treasurer—Warrants—Vouchers. The county treasurer of the county in which the district shall be located shall be the treasurer of the district, and expenditures shall be made upon warrants drawn by the county auditor pursuant to vouchers approved by the board of park and recreation commissioners. [1963 c 4 § 36.69.150. Prior: 1957 c 58 § 16.]

36.69.160 Budget. The board of park and recreation commissioners of each park and recreation district shall annually compile a budget, in form prescribed by the state division of municipal corporations, for the ensuing calendar year, and which shall, to the extent that anticipated income is actually realized, constitute the appropriations for the district. The budget may include an amount to accumulate a reserve for a stated capital purpose. In compiling the budget, all available funds and anticipated income shall be taken into consideration, including contributions or contractual payments from school districts, cities or towns, county, or any other governmental unit; gifts and donations; special tax levy; assessments; fees and charges; proceeds of bond issues; cumulative reserve funds. [1963 c 4 § 36.69.160. Prior: 1957 c 58 § 17.]

36.69.170 Expenditures. Expenditures shall be made solely in accordance with the budget, and should revenues accrue at a rate below the anticipated amounts, the board of park and recreation commissioners shall reduce expenditures accordingly: *Provided*, That the board may, by unanimous vote, authorize such expenditures, or

authorize expenditures in excess of those budgeted, if sufficient revenue to pay such expenditures is derived by the levy of the district or if provided by other governmental agencies specifically for such purposes. [1963 c 4 § 36.69.170. Prior: 1957 c 58 § 18.]

36.69.180 Violation of rules—Penalty. The violation of any of the rules or regulations of a park and recreation district adopted by its board for the preservation of order, control of traffic, protection of life or property or for the regulation of the use of park property shall constitute a misdemeanor. [1963 c 4 § 36.69.180. Prior: 1957 c 58 § 19.]

36.69.190 Additional area may be added to district. After a park and recreation district has been organized, an additional area may be added by the same procedure within the proposed additional area as is provided herein for the organization of a park and recreation district, except that no first commissioners shall be nominated by the board of county commissioners or elected, and all electors within both the organized park and recreation district and the proposed additional territory shall vote upon the proposition for enlargement. [1969 c 26 § 6; 1967 c 63 § 6; 1963 c 4 § 36.69.190. Prior: 1961 c 272 § 6; 1959 c 304 § 7; 1957 c 58 § 20.]

36.69.200 L.I.D.'s—Authorization—Assessments, warrants, bonds—County treasurer's duties. Whenever the board of park and recreation commissioners of any district shall determine that any proposed capital improvement would be of special benefit to all or to any portion of the district, it may establish local improvement districts within its territory; levy special assessments under the mode of annual installments extending over a period not exceeding twenty years, on all property specially benefited by a local improvement, on the basis of special benefits to pay in whole or in part the damage or costs of any improvements ordered in the district; and issue local improvement bonds in the improvement district to be repaid by the collection of local improvement assessments. The method of establishment, levying, collection and enforcement of such assessments and issuance and redemption of local improvement warrants and bonds and the provisions regarding the conclusiveness of the assessment roll and the review by the superior court of any objections thereto shall be as provided for the levying, collection, and enforcement of local improvement assessments and the issuance of local improvement bonds by cities of the first class, including the restraints provided for in *RCW 35.43.160 through 35.43.170, insofar as consistent herewith. The duties devolving upon the city treasurer are hereby imposed upon the county treasurer for the purposes hereof. The mode of assessment shall be determined by the board. [1963 c 4 § 36.69.200. Prior: 1957 c 58 § 21.]

*Reviser's note: "RCW 35.43.160 through 35.43.170" were repealed by 1971 ex.s. c 116 § 12.

36.69.210 L.I.D.'s—Initiation by resolution or petition. Local improvement districts may be initiated

either (1) by resolution of the board of park and recreation commissioners, or, (2) by petition signed by the owners (according to the county auditor's records) of at least fifty-one percent of the area of land within the limits of the local improvement district to be created. [1963 c 4 § 36.69.210. Prior: 1957 c 58 § 22.]

36.69.220 L.I.D.'s—Procedure when by resolution. If the board of park and recreation commissioners desires to initiate the formation of a local improvement district by resolution, it shall first pass a resolution declaring its intention to order such improvement, setting forth the nature and territorial extent of such proposed improvement, designating the number of the proposed local improvement district and describing the boundaries thereof, stating the estimated cost and expense of the improvement and the proportionate amount thereof which will be borne by the property within the proposed district, and fixing a date, time and place for a public hearing on the formation of the proposed local district. [1963 c 4 § 36.69.220. Prior: 1957 c 58 § 23.]

36.69.230 L.I.D.'s—Procedure when by petition—Publication of notice of intent by either resolution or petition. If such local improvement district is initiated by petition, such petition shall set forth the nature and territorial extent of the proposed improvement requested to be ordered and the fact that the signers thereof are the owners (according to the records of the county auditor) of at least fifty-one percent of the area of land within the limits of the local improvement district to be created. Upon the filing of such petition the board of park and recreation commissioners shall determine whether it is sufficient, and the board's determination thereof shall be conclusive upon all persons. No person shall withdraw his name from the petition after it has been filed with the board. If the board shall find the petition to be sufficient, it shall proceed to adopt a resolution declaring its intention to order the improvement petitioned for, setting forth the nature and territorial extent of said improvement, designating the number of the proposed local district and describing the boundaries thereof, stating the estimated cost and expense of the improvement and the proportionate amount thereof which will be borne by the property within the proposed local district, and fixing a date, time and place for a public hearing on the formation of the proposed local district.

The resolution of intention, whether adopted on the initiative of the board or pursuant to a petition of the property owners, shall be published in at least two consecutive issues of a newspaper of general circulation in the proposed local district, the date of the first publication to be at least fifteen days prior to the date fixed by such resolution for hearing before the board. [1963 c 4 § 36.69.230. Prior: 1957 c 58 § 24.]

36.69.240 L.I.D.'s—Notice—Contents. Notice of the adoption of the resolution of intention shall be given each owner or reputed owner of any lot, tract, parcel of land or other property within the proposed

improvement district by mailing said notice at least fifteen days before the date fixed for the public hearing to the owner or reputed owner of the property as shown on the tax rolls of the county treasurer at the address shown thereon. The notice shall refer to the resolution of intention and designate the proposed improvement district by number. Said notice shall also set forth the nature of the proposed improvement, the total estimated cost, the proportion of total cost to be borne by assessments, the estimated amount of the cost and expense of such improvement to be borne by the particular lot, tract or parcel, the date, time and place of the hearing before the board of park and recreation commissioners; and in the case of improvements initiated by resolution, the notice shall also state that all persons desiring to object to the formation of the proposed district must file their written protests with the secretary of the board before the time fixed for said public hearing. [1963 c 4 § 36.69.240. Prior: 1957 c 58 § 25.]

36.69.250 L.I.D.'s—Public hearing—Inclusion, exclusion of property. Whether the improvement is initiated by petition or resolution, the board of park and recreation commissioners shall conduct a public hearing at the time and place designated in the notice to property owners. At this hearing the board shall hear objections from any person affected by the formation of the local district and may make such changes in the boundaries of the district or such modifications in the plans for the proposed improvement as shall be deemed necessary: *Provided*, That the board may not change the boundaries of the district to include or exclude property not previously included or excluded without first passing a new resolution of intention and giving a new notice to property owners in the manner and form and within the time herein provided for the original notice. [1963 c 4 § 36.69.250. Prior: 1957 c 58 § 26.]

36.69.260 L.I.D.'s—Protests—Procedure—Jurisdiction of board. After said hearing the board of park and recreation commissioners shall have jurisdiction to overrule protests and proceed with any such improvement initiated by petition or resolution: *Provided*, That the jurisdiction of the board to proceed with any improvement initiated by resolution shall be divested by a protest filed with the secretary of the board prior to said public hearing for the improvement signed by the owners of the property within the proposed local improvement district which is subject to sixty percent or more of the cost of the improvement as shown and determined by the preliminary estimates and assessment roll of the proposed improvement district. [1963 c 4 § 36.69.260. Prior: 1957 c 58 § 27.]

36.69.270 L.I.D.'s—Powers and duties of board upon formation. If the board of park and recreation commissioners finds that the district should be formed, it shall by resolution order the improvement, adopt detailed plans of the local improvement district and declare the estimated cost thereof, acquire all necessary land therefor, pay all damages caused thereby, and

commence in the name of the park and recreation district such eminent domain proceedings as may be necessary to entitle the district to proceed with the work. The board shall thereupon proceed with the work and file with the county treasurer its roll levying special assessments in the amount to be paid by special assessment against the property situated within the improvement district in proportion to the special benefits to be derived by the property therein from the improvement. [1963 c 4 § 36.69.270. Prior: 1957 c 58 § 28.]

36.69.280 L.I.D.'s—Assessment roll—Procedure for approval—Objections. Before approval of the roll a notice shall be published once a week for two consecutive weeks in a newspaper of general circulation in the local district, stating that the roll is on file and open to inspection in the office of the secretary, and fixing the time, not less than fifteen or more than thirty days from the date of the first publication of the notice within which protests must be filed with the secretary against any assessments shown thereon, and fixing a time when a hearing will be held by the board of park and recreation commissioners on the protests. Notice shall also be given by mailing, at least fifteen days before the hearing, a similar notice to the owners or reputed owners of the land in the local district as they appear on the books of the treasurer of the county in which the park and recreation district is located. At the hearing, or any adjournment thereof, the commissioners may correct, change or modify the roll, or any part thereof, or set aside the roll and order a new assessment, and may then by resolution approve it. If an assessment is raised a new notice similar to the first shall be given, after which final approval of the roll may be made. When property has been entered originally upon the roll and the assessment thereon is not raised, no objection thereto shall be considered by the commissioners or by any court on appeal unless the objection is made in writing at, or prior, to the date fixed for the original hearing upon the roll. [1963 c 4 § 36.69.280. Prior: 1957 c 58 § 29.]

36.69.290 L.I.D.'s—Segregation of assessments—Power of board. Whenever any land against which there has been levied any special assessment by any park and recreation district shall have been sold in part or subdivided, the board of park and recreation commissioners of such district shall have the power to order a segregation of the assessment. [1963 c 4 § 36.69.290. Prior: 1957 c 58 § 30.]

36.69.300 L.I.D.'s—Segregation of assessments—Procedure—Fee, charges. Any person desiring to have such a special assessment against a tract of land segregated to apply to smaller parts thereof shall apply to the board of park and recreation commissioners of the park and recreation district which levied the assessment. If the board determines that a segregation should be made, it shall by resolution order the county treasurer to make segregation on the original assessment roll as directed in the resolution. The segregation shall be made as nearly as possible on the same basis as the

original assessment was levied, and the total of the segregated parts of the assessment shall equal the assessment before segregation. The resolution shall describe the original tract, the amount and date of the original assessment, and shall define the boundaries of the divided parts and the amount of the assessment chargeable to each part. A certified copy of the resolution shall be delivered to the county treasurer who shall proceed to make the segregation ordered upon being tendered a fee of three dollars for each tract of land for which a segregation is to be made. In addition to such charge the board may require as a condition to the order of segregation that the person seeking it pay the district the reasonable engineering and clerical costs incident to making the segregation. [1963 c 4 § 36.69.300. Prior: 1957 c 58 § 31.]

36.69.305 L.I.D.'s—Acquisition of property subject to unpaid or delinquent assessments by state or political subdivision—Payment of lien or installments. See RCW 79.44.190.

36.69.310 Dissolution. Any park and recreation district formed under the provisions of this chapter may be dissolved in the manner provided in chapter 53.48 RCW, relating to port districts. [1963 c 4 § 36.69.310. Prior: 1957 c 58 § 32.]

36.69.320 Disincorporation of district located in class A or AA county and inactive for five years. See chapter 57.90 RCW.

36.69.350 Board authorized to contract indebtedness and issue revenue bonds. The board of parks and recreation commissioners is hereby authorized for the purpose of carrying out the lawful powers granted to park and recreation districts by the laws of the state to contract indebtedness and to issue revenue bonds evidencing such indebtedness in conformity with this chapter. [1972 ex.s. c 94 § 3.]

36.69.360 Revenue bonds—Authorized purposes. All such revenue bonds authorized under the terms of this chapter may be issued and sold by the district from time to time and in such amounts as is deemed necessary by the board of park and recreation commissioners of each district to provide sufficient funds for the carrying out of all district powers, without limiting the generality thereof, including the following: Acquisition; construction; reconstruction; maintenance; repair; additions; operations of recreational facilities; parking facilities as a part of a recreational facility; and any other district purpose from which revenues can be derived. Included in the costs thereof shall be any necessary engineering, inspection, accounting, fiscal, and legal expenses, the cost of issuance of bonds, including printing, engraving and advertising and other similar expenses, and the proceeds of such bond issue are hereby made available for all such purposes. [1972 ex.s. c 94 § 4.]

36.69.370 Revenue bonds—Issuance, form, seal, etc. When revenue bonds are issued for authorized purposes, said bonds shall be either registered as to principal only or shall be bearer bonds; shall be in such denominations, shall be numbered, shall bear such date, shall be payable at such time or times up to a maximum period of not to exceed thirty years and payable at the office of the county treasurer, and such other places as determined by the park and recreation commissioners of the district; shall bear interest payable semiannually and evidenced to maturity by coupons attached to said bonds bearing a coupon interest rate or rates as authorized by the board of park and recreation commissioners; shall be executed by the chairman of the board of park and recreation commissioners, and attested by the secretary of the board, and the seal of such board shall be affixed to each bond, but not to the coupon; and may have facsimile signatures of the chairman and the secretary imprinted on the interest coupons in lieu of original signatures. [1972 ex.s. c 94 § 5.]

36.69.380 Resolution to authorize bonds—Contents. Bonds issued under the provisions of this chapter shall be payable solely out of the operating revenues of the park and recreation district. Such bonds shall be authorized by resolution adopted by the board of park and recreation commissioners, which resolution shall create a special fund or funds into which the board of park and recreation commissioners may obligate and bind the district to set aside and pay any part or parts of, or all of, or a fixed proportion of, or fixed amounts of gross revenue received by the district from moneys for services or activities as stated in the resolution, for the purpose of paying the principal of and interest on such bonds as the same shall become due, and if deemed necessary to maintain adequate reserves therefor. Such fund or funds shall be drawn upon solely for the purpose of paying the principal and interest upon the bonds issued pursuant to this chapter.

The bonds shall be negotiable instruments within the provision and intent of the negotiable instruments law of this state, even though they shall be payable solely from such special fund or funds, and the tax revenue of the district may not be used to pay, secure, or guarantee the payment of the principal of and interest on such bonds. The bonds and the coupons attached thereto shall state upon their face that they are payable solely from such special fund or funds. If the county fails to set aside and pay into such fund or funds, the payments provided for in such resolution, the holder of any such bonds may bring suit to compel compliance with the provisions of the resolution. [1972 ex.s. c 94 § 6.]

36.69.390 Payment of bonds—Covenants—Enforcement. The board of park and recreation commissioners may provide covenants as it may deem necessary to secure the payment of the principal of and interest on such bonds and may, but shall not be required to, include covenants to create a reserve fund or account and to authorize the payment or deposit of certain moneys therein for the purpose of securing the payment of such principal and interest; to establish, maintain, and

collect rates, charges, fees, rentals, and the like on the facilities and service the income of which is pledged for the payment of such bonds, sufficient to pay or secure the payment of such principal and interest and to maintain an adequate coverage over annual debt service; and to make any and all other covenants not inconsistent with the provisions of this chapter which will increase the marketability of such bonds. The board may also provide that revenue bonds payable out of the same source or sources may later be sold on a parity with any revenue bonds being issued and sold. The provisions of this chapter and any resolution or resolutions providing for the authorization, issuance, and sale of such bonds shall constitute a contract with the holder of such bonds, and the provisions thereof shall be enforceable by any owner or holder of such bonds by mandamus or any appropriate suit, action or proceeding at law or in equity in any court of competent jurisdiction. [1972 ex.s. c 94 § 7.]

36.69.400 Funding, refunding bonds. The board of parks and recreation commissioners of any district may by resolution, from time to time, provide for the issuance of funding or refunding revenue bonds to fund or refund any outstanding revenue bonds and any premiums due thereon, and matured coupons evidencing interest upon any such bonds at or before the maturity of such bonds, and parts or all of various series and issues of outstanding revenue bonds and matured coupons in the amount thereof to be funded or refunded.

The board shall create a special fund for the sole purpose of paying the principal of and interest on such funding or refunding revenue bonds, into which fund the board shall obligate and bind the district to set aside and pay any part or parts of, or all of, or a fixed proportion of, or a fixed amount of the revenue of the recreational facility of the district sufficient to pay such principal and interest as the same shall become due, and if deemed necessary to maintain adequate reserves therefor.

Such funding or refunding bonds shall be negotiable instruments within the provisions and intent of the negotiable instruments law of this state, and the tax revenue of the district may not be used to pay, secure, or guarantee the payment of the principal of and interest on such bonds.

The district may exchange such funding or refunding bonds for the bonds, and coupons being funded or refunded, or it may sell such funding or refunding bonds in the manner, at such price and at such rate or rates of interest as the board shall deem to be for the best interest of the district and its inhabitants, either at public or private sale.

The provisions of this chapter relating to the terms, conditions, covenants, issuance, and sale of revenue bonds shall be applicable to such funding or refunding bonds except as may be otherwise specifically provided in this section. [1972 ex.s. c 94 § 8.]

36.69.410 Authority for issuance of bonds—Construction. This chapter shall be complete authority for the issuance of the revenue bonds hereby authorized,

and shall be liberally construed to accomplish its purposes. Any restrictions, limitations or regulations relative to the issuance of such revenue bonds contained in any other act shall not apply to the bonds issued under this chapter. Any act inconsistent herewith shall be deemed modified to conform with the provisions of this chapter for the purpose of this chapter only. [1972 ex.s. c 94 § 9.]

36.69.900 Short title. This chapter may be cited as the "Recreation Districts Act for Counties." [1969 c 26 § 7; 1967 c 63 § 7; 1963 c 4 § 36.69.900. Prior: 1961 c 272 § 7; 1959 c 304 § 9; 1957 c 58 § 33.]

**Chapter 36.70
PLANNING ENABLING ACT**

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Comprehensive plans to be filed with state planning and community affairs agency: RCW 43.63A.110.

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County planning commission: Chapter 35.63 RCW.

Joint operations by political subdivisions, deposit and control of funds: RCW 43.09.285.

Unfit dwellings, buildings, and structures: Chapter 35.80 RCW.

36.70.010 Purpose and intent. The purpose and intent of this chapter is to provide the authority for, and the procedures to be followed in, guiding and regulating the physical development of a county or region through correlating both public and private projects and coordinating their execution with respect to all subject matters

utilized in developing and servicing land, all to the end of assuring the highest standards of environment for living, and the operation of commerce, industry, agriculture and recreation, and assuring maximum economies and conserving the highest degree of public health, safety, morals and welfare. [1963 c 4 § 36.70.010. Prior: 1959 c 201 § 1.]

36.70.015 Expenditure of funds declared public purpose. Regional planning under the provisions of this chapter is hereby declared to be a proper public purpose for the expenditure of the funds of counties, school districts, public utility districts, housing authorities, port districts, cities or towns or any other public organization interested in regional planning. [1963 c 4 § 36.70.015. Prior: 1961 c 232 § 6.]

36.70.020 Definitions. The following words or terms as used in this chapter shall have the following meaning unless a different meaning is clearly indicated by the context:

(1) "Approval by motion" is a means by which a board, through other than by ordinance, approves and records recognition of a comprehensive plan or amendments thereto.

(2) "Board" means the board of county commissioners.

(3) "Certification" means the affixing on any map or by adding to any document comprising all or any portion of a comprehensive plan a record of the dates of action thereon by the commission and by the board, together with the signatures of the officer or officers authorized by ordinance to so sign.

(4) "Commission" means a county or regional planning commission.

(5) "Commissioners" means members of a county or regional planning commission.

(6) "Comprehensive plan" means the policies and proposals approved and recommended by the planning agency or initiated by the board and approved by motion by the board (a) as a beginning step in planning for the physical development of the county; (b) as the means for coordinating county programs and services; (c) as a source of reference to aid in developing, correlating, and coordinating official regulations and controls; and (d) as a means for promoting the general welfare. Such plan shall consist of the required elements set forth in RCW 36.70.330 and may also include the optional elements set forth in RCW 36.70.350 which shall serve as a policy guide for the subsequent public and private development and official controls so as to present all proposed developments in a balanced and orderly relationship to existing physical features and governmental functions.

(7) "Conditional use" means a use listed among those classified in any given zone but permitted to locate only after review by the board of adjustment, or zoning adjustor if there be such, and the granting of a conditional use permit imposing such performance standards as will make the use compatible with other permitted uses in the same vicinity and zone and assure against

imposing excessive demands upon public utilities, provided the county ordinances specify the standards and criteria that shall be applied.

(8) "Department" means a planning department organized and functioning as any other department in any county.

(9) "Element" means one of the various categories of subjects, each of which constitutes a component part of the comprehensive plan.

(10) "Ex officio member" means a member of the commission who serves by virtue of his official position as head of a department specified in the ordinance creating the commission.

(11) "Official controls" means legislatively defined and enacted policies, standards, precise detailed maps and other criteria, all of which control the physical development of a county or any part thereof or any detail thereof, and are the means of translating into regulations and ordinances all or any part of the general objectives of the comprehensive plan. Such official controls may include, but are not limited to, ordinances establishing zoning, subdivision control, platting, and adoption of detailed maps.

(12) "Ordinance" means a legislative enactment by a board; in this chapter the word, "ordinance", is synonymous with the term "resolution", as representing a legislative enactment by a board of county commissioners.

(13) "Planning agency" means (a) a planning commission, together with its staff members, employees and consultants, or (b) a department organized and functioning as any other department in any county government together with its planning commission.

(14) "Variance". A variance is the means by which an adjustment is made in the application of the specific regulations of a zoning ordinance to a particular piece of property, which property, because of special circumstances applicable to it, is deprived of privileges commonly enjoyed by other properties in the same vicinity and zone and which adjustment remedies disparity in privileges. [1963 c 4 § 36.70.020. Prior: 1959 c 201 § 2.]

36.70.030 Commission—Creation. By ordinance a board may create a planning commission and provide for the appointment by the commission of a director of planning. [1963 c 4 § 36.70.030. Prior: 1959 c 201 § 3.]

36.70.040 Department—Creation—Creation of commission to assist department. By ordinance a board may, as an alternative to and in lieu of the creation of a planning commission as provided in RCW 36.70.030, create a planning department which shall be organized and function as any other department of the county. When such department is created, the board shall also create a planning commission which shall assist the planning department in carrying out its duties, including assistance in the preparation and execution of the comprehensive plan and recommendations to the department for the adoption of official controls and/or amendments thereto. To this end, the planning commission shall conduct such hearings as are required by this chapter and shall make findings and conclusions therefrom which shall be transmitted to the department which shall

transmit the same on to the board with such comments and recommendations it deems necessary. [1963 c 4 § 36.70.040. Prior: 1959 c 201 § 4.]

36.70.050 Authority for planning. Upon the creation of a planning agency as authorized in RCW 36.70.030 and 36.70.040, a county may engage in a planning program as defined by this chapter. Two or more counties may jointly engage in a planning program as defined herein for their combined areas. [1963 c 4 § 36.70.050. Prior: 1959 c 201 § 5.]

36.70.060 Regional planning commission—Appointment and powers. A county or a city may join with one or more other counties, cities and towns, and/or with one or more school districts, public utility districts, private utilities, housing authorities, port districts, or any other private or public organizations interested in regional planning to form and organize a regional planning commission and provide for the administration of its affairs. Such regional planning commission may carry on a planning program involving the same subjects and procedures provided by this chapter for planning by counties, provided this authority shall not include enacting official controls other than by the individual participating municipal corporations. The authority to initiate a regional planning program, define the boundaries of the regional planning district, specify the number, method of appointment and terms of office of members of the regional planning commission and provide for allocating the cost of financing the work shall be vested individually in the governing bodies of the participating municipal corporations.

Any regional planning commission or municipal corporation participating in any regional planning district is authorized to receive grants-in-aid from, or enter into reasonable agreement with any department or agency of the government of the United States or of the state of Washington to arrange for the receipt of federal funds and state funds for planning in the interests of furthering the planning program. [1963 c 4 § 36.70.060. Prior: 1961 c 232 § 1; 1959 c 201 § 6.]

Commission as employer for retirement system purposes: RCW 41.40.010.

36.70.070 Commission—Composition. Whenever a commission is created by a county, it shall consist of five, seven, or nine members as may be provided by ordinance: *Provided*, That where a commission, on June 10, 1959, is operating with more than nine members, no further appointments shall be made to fill vacancies for whatever cause until the membership of the commission is reduced to five, seven or nine, whichever is the number specified by the county ordinance under this chapter. Departments of a county may be represented on the commission by the head of such departments as are designated in the ordinance creating the commission, who shall serve in an ex officio capacity, but such ex officio members shall not exceed one of a five-member commission, two of a seven-member commission, or three of a nine-member commission. At no time shall there be more than three ex officio members serving on a

commission: *Provided further*, That in lieu of one ex officio member, only, one employee of the county other than a department head may be appointed to serve as a member of the commission. [1963 c 4 § 36.70.070. Prior: 1959 c 201 § 7.]

36.70.080 Commission—Appointment—County. The members of a commission shall be appointed by the chairman of the board with the approval of a majority of the board: *Provided*, That each member of the board shall submit to the chairman a list of nominees residing in his commissioner district, and the chairman shall make his appointments from such lists so that as nearly as mathematically possible, each commissioner district shall be equally represented on the commission. [1963 c 4 § 36.70.080. Prior: 1959 c 201 § 8.]

36.70.090 Commission—Membership—Terms—Existing commissions. When a commission is created after June 10, 1959, the first terms of the members of the commission consisting of five, seven, and nine members, respectively, other than ex officio members, shall be as follows:

(1) For a five-member commission—one, shall be appointed for one year; one, for two years; one, for three years; and two, for four years.

(2) For a seven-member commission—one, shall be appointed for one year; two, for two years; two, for three years; and two, for four years.

(3) For a nine-member commission—two, shall be appointed for one year; two, for two years; two, for three years; and three, for four years.

Thereafter, the successors to the first member shall be appointed for four year terms: *Provided*, That where the commission includes one ex officio member, the number of appointive members first appointed for a four year term shall be reduced by one; if there are to be two ex officio members, the number of appointive members for the three year and four year terms shall each be reduced by one; if there are to be three ex officio members, the number of appointive members for the four year term, the three year term, and the two year term shall each be reduced by one. The term of an ex officio member shall correspond to his official tenure: *Provided further*, That where a commission, on the effective date of this chapter, is operating with members appointed for longer than four year terms, such members shall serve out the full term for which they were appointed, but their successors, if any, shall be appointed for four year terms. [1963 c 4 § 36.70.090. Prior: 1959 c 201 § 9.]

36.70.100 Commission—Vacancies. Vacancies occurring for any reason other than the expiration of the term shall be filled by appointment for the unexpired portion of the term except if, on June 10, 1959, the unexpired portion of a term is for more than four years the vacancy shall be filled for a period of time that will obtain the maximum staggered terms, but shall not exceed four years. Vacancies shall be filled from the same commissioner district as that of the vacating member. [1963 c 4 § 36.70.100. Prior: 1959 c 201 § 10.]

36.70.110 Commission—Removal. After public hearing, any appointee member of a commission may be removed by the chairman of the board, with the approval of the board, for inefficiency, neglect of duty, or malfeasance in office. [1963 c 4 § 36.70.110. Prior: 1959 c 201 § 11.]

36.70.120 Commission—Officers. Each commission shall elect its chairman and vice chairman from among the appointed members. The commission shall appoint a secretary who need not be a member of the commission. [1963 c 4 § 36.70.120. Prior: 1959 c 201 § 12.]

36.70.130 Planning agency—Meetings. Each planning agency shall hold not less than one regular meeting in each month: *Provided*, That if no matters over which the planning agency has jurisdiction are pending upon its calendar, a meeting may be canceled. [1963 c 4 § 36.70.130. Prior: 1959 c 201 § 13.]

36.70.140 Planning agency—Rules and records. Each planning agency shall adopt rules for the transaction of its business and shall keep a public record of its transactions, findings, and determinations. [1963 c 4 § 36.70.140. Prior: 1959 c 201 § 14.]

36.70.150 Planning agency—Joint meetings. Two or more county planning agencies in any combination may hold joint meetings and by approval of their respective boards may have the same chairman. [1963 c 4 § 36.70.150. Prior: 1959 c 201 § 15.]

36.70.160 Director—Appointment. If a director of planning is provided for, he shall be appointed:

(1) By the commission when a commission is created under RCW 36.70.030;

(2) If a planning department is established as provided in RCW 36.70.040, then he shall be appointed by the board. [1963 c 4 § 36.70.160. Prior: 1959 c 201 § 16.]

36.70.170 Director—Employees. The director of planning shall be authorized to appoint such employees as are necessary to perform the duties assigned to him within the budget allowed. [1963 c 4 § 36.70.170. Prior: 1959 c 201 § 17.]

36.70.180 Joint director. The boards of two or more counties or the legislative bodies of other political subdivisions or special districts may jointly engage a single director of planning and may authorize him to employ such other personnel as may be necessary to carry out the joint planning program. [1963 c 4 § 36.70.180. Prior: 1959 c 201 § 18.]

36.70.190 Special services. Each planning agency, subject to the approval of the board, may employ or contract with the planning consultants or other specialists for such services as it requires. [1963 c 4 § 36.70.190. Prior: 1959 c 201 § 19.]

36.70.200 Board of adjustment—Creation—Zoning adjustor. Whenever a board shall have created a planning agency, it shall also by ordinance, coincident with the enactment of a zoning ordinance, create a board of adjustment, and may establish the office of zoning adjustor: *Provided*, That any county that has prior to June 10, 1959, enacted a zoning ordinance, shall, within ninety days thereof, create a board of adjustment. [1963 c 4 § 36.70.200. Prior: 1959 c 201 § 20.]

36.70.210 Board of adjustment—Membership—Quorum. A board of adjustment shall consist of five or seven members as may be provided by ordinance, and a majority of the members shall constitute a quorum for the transaction of all business. [1965 ex.s. c 24 § 1; 1963 c 4 § 36.70.210. Prior: 1959 c 201 § 21.]

36.70.220 Board of adjustment—Appointment—Appointment of zoning adjustor. The members of a board of adjustment and the zoning adjustor shall be appointed in the same manner as provided for the appointment of commissioners in RCW 36.70.080. One member of the board of adjustment may be an appointee member of the commission. [1963 c 4 § 36.70.220. Prior: 1959 c 201 § 22.]

36.70.230 Board of adjustment—Terms. If the board of adjustment is to consist of three members, when it is first appointed after June 10, 1959, the first terms shall be as follows: One shall be appointed for one year; one, for two years; and one, for three years. If it consists of five members, when it is first appointed after June 10, 1959, the first terms shall be as follows: One shall be appointed for one year; one, for two years; one, for three years; one, for four years; and one, for six years. Thereafter the terms shall be for six years and until their successors are appointed and qualified. [1963 c 4 § 36.70.230. Prior: 1959 c 201 § 23.]

36.70.240 Board of adjustment—Vacancies. Vacancies in the board of adjustment shall be filled by appointment in the same manner in which the commissioners are appointed in RCW 36.70.080. Appointment shall be for the unexpired portion of the term. [1963 c 4 § 36.70.240. Prior: 1959 c 201 § 24.]

36.70.250 Board of adjustment—Removal. Any member of the board of adjustment may be removed by the chairman of the board with the approval of the board for inefficiency, neglect of duty or malfeasance in office. [1963 c 4 § 36.70.250. Prior: 1959 c 201 § 25.]

36.70.260 Board of adjustment—Organization. The board of adjustment shall elect a chairman and vice chairman from among its members. The board of adjustment shall appoint a secretary who need not be a member of the board. [1963 c 4 § 36.70.260. Prior: 1959 c 201 § 26.]

36.70.270 Board of adjustment—Meetings. The board of adjustment shall hold not less than one regular meeting in each month of each year: *Provided*, That if

no issues over which the board has jurisdiction are pending upon its calendar, a meeting may be canceled. [1963 c 4 § 36.70.270. Prior: 1959 c 201 § 27.]

36.70.280 Board of adjustment—Rules and records. The board of adjustment shall adopt rules for the transaction of its business and shall keep a public record of its transactions, findings and determinations. [1963 c 4 § 36.70.280. Prior: 1959 c 201 § 28.]

36.70.290 Appropriation for planning agency, board of adjustment. The board shall provide the funds, equipment and accommodations necessary for the work of the planning agency. Such appropriations may include funds for joint ventures as set forth in RCW 36.70.180. The expenditures of the planning agency, exclusive of gifts, shall be within the amounts appropriated for the respective purposes. The provisions herein for financing the work of the planning agencies shall also apply to the board of adjustment and the zoning adjustor. [1963 c 4 § 36.70.290. Prior: 1959 c 201 § 29.]

36.70.300 Accept gifts. The planning agency of a county may accept gifts in behalf of the county to finance any planning work authorized by law. [1963 c 4 § 36.70.300. Prior: 1959 c 201 § 30.]

36.70.310 Conference and travel expenses—Commission members and staff. Members of planning agencies shall inform themselves on matter affecting the functions and duties of planning agencies. For that purpose, and when authorized, such members may attend planning conferences, meetings of planning executives or of technical bodies; hearings on planning legislation or matters relating to the work of the planning agency. The reasonable travel expenses, registration fees and other costs incident to such attendance at such meetings and conferences shall be charges upon the funds allocated to the planning agency. In addition, members of a commission may also receive reasonable travel expenses to and from their usual place of business to the place of a regular meeting of the commission. The planning agency may, when authorized, pay dues for membership in organizations specializing in the subject of planning. The planning agency may, when authorized, subscribe to technical publications pertaining to planning. [1963 c 4 § 36.70.310. Prior: 1959 c 201 § 31.]

36.70.320 Comprehensive plan. Each planning agency shall prepare a comprehensive plan for the orderly physical development of the county, or any portion thereof, and may include any land outside its boundaries which, in the judgment of the planning agency, relates to planning for the county. The plan shall be referred to as the comprehensive plan, and, after hearings by the commission and approval by motion of the board, shall be certified as the comprehensive plan. Amendments or additions to the comprehensive plan shall be similarly processed and certified.

Any comprehensive plan adopted for a portion of a county shall not be deemed invalid on the ground that the remainder of the county is not yet covered by a

comprehensive plan. *This 1973 amendatory act shall also apply to comprehensive plans adopted for portions of a county prior to April 24, 1973. [1973 1st ex.s. c 172 § 1; 1963 c 4 § 36.70.320. Prior: 1959 c 201 § 32.]

*Reviser's note: "This 1973 amendatory act" refers to 1973 1st ex.s. c 172 § 1.

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;

(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. [1963 c 4 § 36.70.330. Prior: 1959 c 201 § 33.]

36.70.340 Comprehensive plan—Amplification of required elements. When the comprehensive plan containing the mandatory subjects as set forth in RCW 36.70.330 shall have been approved by motion by the board and certified, it may thereafter be progressively amplified and augmented in scope by expanding and increasing the general provisions and proposals for all or any one of the required elements set forth in RCW 36.70.330 and by adding provisions and proposals for the optional elements set forth in RCW 36.70.350. The comprehensive plan may also be amplified and augmented in scope by progressively including more completely planned areas consisting of natural homogeneous communities, distinctive geographic areas, or other types of districts having unified interests within the total area of the county. In no case shall the comprehensive plan, whether in its entirety or area by area or subject by subject be considered to be other than in such form as to serve as a guide to the later development and adoption of official controls. [1963 c 4 § 36.70.340. Prior: 1959 c 201 § 34.]

36.70.350 Comprehensive plan—Optional elements. A comprehensive plan may include—

(1) a conservation element for the conservation, development and utilization of natural resources, including water and its hydraulic force, forests, water sheds, soils, rivers and other waters, harbors, fisheries, wild life, minerals and other natural resources,

(2) a recreation element showing a comprehensive system of areas and public sites for recreation, natural reservations, parks, parkways, beaches, playgrounds and other recreational areas, including their locations and proposed development,

(3) a transportation element showing a comprehensive system of transportation, including general locations of rights of way, terminals, viaducts and grade separations. This element of the plan may also include port, harbor, aviation and related facilities,

(4) a transit element as a special phase of transportation, showing proposed systems of rail transit lines, including rapid transit in any form, and related facilities,

(5) a public services and facilities element showing general plans for sewerage, refuse disposal, drainage and local utilities, and rights of way, easements and facilities for such services,

(6) a public buildings element, showing general locations, design and arrangements of civic and community centers, and showing locations of public schools, libraries, police and fire stations and all other public buildings,

(7) a housing element, consisting of surveys and reports upon housing conditions and needs as a means of establishing housing standards to be used as a guide in dealings with official controls related to land subdivision, zoning, traffic, and other related matters,

(8) a renewal and/or redevelopment element comprising surveys, locations, and reports for the elimination of slums and other blighted areas and for community renewal and/or redevelopment, including housing sites, business and industrial sites, public building sites and for other purposes authorized by law,

(9) a plan for financing a capital improvement program,

(10) as a part of a comprehensive plan the commission may prepare, receive and approve additional elements and studies dealing with other subjects which, in its judgment, relate to the physical development of the county. [1963 c 4 § 36.70.350. Prior: 1959 c 201 § 35.]

36.70.360 Comprehensive plan—Cooperation with affected agencies. During the formulation of the comprehensive plan, and especially in developing a specialized element of such comprehensive plan, the planning agency may cooperate to the extent it deems necessary with such authorities, departments or agencies as may have jurisdiction over the territory or facilities for which plans are being made, to the end that maximum correlation and coordination of plans may be secured and properly located sites for all public purposes may be indicated on the comprehensive plan. [1963 c 4 § 36.70.360. Prior: 1959 c 201 § 36.]

36.70.370 Comprehensive plan—Filing of copies. Whenever a planning agency has developed a comprehensive plan, or any addition or amendment thereto, covering any land outside of the boundaries of the county as provided in RCW 36.70.320, copies of any features of the comprehensive plan extending into an adjoining jurisdiction shall for purposes of information be filed with such adjoining jurisdiction. [1963 c 4 § 36.70.370. Prior: 1959 c 201 § 37.]

36.70.380 Comprehensive plan—Public hearing required. Before approving all or any part of the comprehensive plan or any amendment, extension or addition thereto, the commission shall hold at least one public hearing and may hold additional hearings at the discretion of the commission. [1963 c 4 § 36.70.380. Prior: 1959 c 201 § 38.]

36.70.390 Comprehensive plan—Notice of hearing. Notice of the time, place and purpose of any public hearing shall be given by one publication in a newspaper of general circulation in the county and in the official gazette, if any, of the county, at least ten days before the hearing. [1963 c 4 § 36.70.390. Prior: 1959 c 201 § 39.]

36.70.400 Comprehensive plan—Approval—Required vote—Record. The approval of the comprehensive plan, or of any amendment, extension or addition thereto, shall be by the affirmative vote of not less than a majority of the total members of the commission. Such approval shall be by a recorded motion which shall incorporate the findings of fact of the commission and the reasons for its action and the motion shall refer expressly to the maps, descriptive, and other matters intended by the commission to constitute the plan or amendment, addition or extension thereto. The indication of approval by the commission shall be recorded on the map and descriptive matter by the signatures of the chairman and the secretary of the commission and of such others as the commission in its rules may designate. [1963 c 4 § 36.70.400. Prior: 1961 c 232 § 2; 1959 c 201 § 40.]

36.70.410 Comprehensive plan—Amendment. When changed conditions or further studies by the planning agency indicate a need, the commission may amend, extend or add to all or part of the comprehensive plan in the manner provided herein for approval in the first instance. [1963 c 4 § 36.70.410. Prior: 1959 c 201 § 41.]

36.70.420 Comprehensive plan—Referral to board. A copy of a comprehensive plan or any part, amendment, extension of or addition thereto, together with the motion of the planning agency approving the same, shall be transmitted to the board for the purpose of being approved by motion and certified as provided in this chapter. [1963 c 4 § 36.70.420. Prior: 1959 c 201 § 42.]

36.70.430 Comprehensive plan—Board may initiate or change—Notice. When it deems it to be for the public interest, or when it considers a change in the recommendations of the planning agency to be necessary, the board may initiate consideration of a comprehensive plan, or any element or part thereof, or any change in or addition to such plan or recommendation. The board shall first refer the proposed plan, change or addition to the planning agency for a report and recommendation. Before making a report and recommendation, the commission shall hold at least one public hearing on the proposed plan, change or addition. Notice of the time and place and purpose of the hearing shall be given by

one publication in a newspaper of general circulation in the county and in the official gazette, if any, of the county, at least ten days before the hearing. [1963 c 4 § 36.70.430. Prior: 1959 c 201 § 43.]

36.70.440 Comprehensive plan—Board may approve or change—Notice. After the receipt of the report and recommendations of the planning agency on the matters referred to in RCW 36.70.430, or after the lapse of the prescribed time for the rendering of such report and recommendation by the commission, the board may approve by motion and certify such plan, change or addition without further reference to the commission: *Provided*, That the plan, change or addition conforms either to the proposal as initiated by the county or the recommendation thereon by the commission: *Provided further*, That if the planning agency has failed to report within a ninety day period, the board shall hold at least one public hearing on the proposed plan, change or addition. Notice of the time, place and purpose of the hearing shall be given by one publication in a newspaper of general circulation in the county and in the official gazette, if any, of the county, at least ten days before the hearing. Thereafter, the board may proceed to approve by motion and certify the proposed comprehensive plan or any part, amendment or addition thereto. [1963 c 4 § 36.70.440. Prior: 1959 c 201 § 44.]

36.70.450 Planning agency—Relating projects to comprehensive plan. After a board has approved by motion and certified all or parts of a comprehensive plan for a county or for any part of a county, the planning agency shall use such plan as the basic source of reference and as a guide in reporting upon or recommending any proposed project, public or private, as to its purpose, location, form, alignment and timing. The report of the planning agency on any project shall indicate wherein the proposed project does or does not conform to the purpose of the comprehensive plan and may include proposals which, if effected, would make the project conform. If the planning agency finds that a proposed project reveals the justification or necessity for amending the comprehensive plan or any part of it, it may institute proceedings to accomplish such amendment, and in its report to the board on the project shall note that appropriate amendments to the comprehensive plan, or part thereof, are being initiated. [1963 c 4 § 36.70.450. Prior: 1959 c 201 § 45.]

36.70.460 Planning agency—Annual report. After all or part of the comprehensive plan of a county has been approved by motion and certified, the planning agency shall render an annual report to the board on the status of the plan and accomplishments thereunder. [1963 c 4 § 36.70.460. Prior: 1959 c 201 § 46.]

36.70.470 Planning agency—Promotion of public interest in plan. Each planning agency shall endeavor to promote public interest in, and understanding of, the comprehensive plan and its purpose, and of the official controls related to it. [1963 c 4 § 36.70.470. Prior: 1959 c 201 § 47.]

36.70.480 Planning agency—Cooperation with agencies. Each planning agency shall, to the extent it deems necessary, cooperate with officials and agencies, public utility companies, civic, educational, professional and other organizations and citizens generally with relation to carrying out the purpose of the comprehensive plan. [1963 c 4 § 36.70.480. Prior: 1959 c 201 § 48.]

36.70.490 Information to be furnished agency. Upon request, all public officials or agencies shall furnish to the planning agency within a reasonable time such available information as is required for the work of the planning agency. [1963 c 4 § 36.70.490. Prior: 1959 c 201 § 49.]

36.70.500 Right of entry—Commission or planning staff. In the performance of their functions and duties, duly authorized members of a commission or planning staff may enter upon any land and make examinations and surveys: *Provided*, That such entries, examinations and surveys do not damage or interfere with the use of the land by those persons lawfully entitled to the possession thereof. [1963 c 4 § 36.70.500. Prior: 1959 c 201 § 50.]

36.70.510 Special referred matters—Reports. By general or special rule the board creating a planning agency may provide that other matters shall be referred to the planning agency before final action is taken thereupon by the board or officer having final authority on the matter, and final action thereon shall not be taken upon the matter so referred until the planning agency has submitted its report within such period of time as the board shall designate. In reporting upon the matters referred to in this section the planning agency may make such investigations, maps, reports and recommendations as it deems desirable. [1963 c 4 § 36.70.510. Prior: 1959 c 201 § 51.]

36.70.520 Required submission of capital expenditure projects. At least five months before the end of each fiscal year each county officer, department, board or commission and each governmental body whose jurisdiction lies entirely within the county, except incorporated cities and towns, whose functions include preparing and recommending plans for, or constructing major public works, shall submit to the respective planning agency a list of the proposed public works being recommended for initiation or construction during the ensuing fiscal year. [1963 c 4 § 36.70.520. Prior: 1959 c 201 § 52.]

36.70.530 Relating capital expenditure projects to comprehensive plan. The planning agency shall list all such matters referred to in RCW 36.70.520 and shall prepare for and submit a report to the board which report shall set forth how each proposed project relates to all other proposed projects on the list and to all features in the comprehensive plan both as to location and timing. The planning agency shall report to the board through the planning director if there be such. [1963 c 4 § 36.70.530. Prior: 1959 c 201 § 53.]

36.70.540 Referral procedure—Reports. Whenever a board has approved by motion and certified all or part of a comprehensive plan, no street, square, park or other public ground or open space shall be acquired by dedication or otherwise, no street shall be disposed of, closed or abandoned, and no public building or structure shall be constructed or authorized to be constructed in the area to which the comprehensive plan applies until its location, purpose and extent has been submitted to and reported upon by the planning agency. The report by the planning agency shall set forth the manner and the degree to which the proposed project does or does not conform to the objectives of the comprehensive plan. If final authority is vested by law in some governmental officer or body other than the board, such officer or governmental body shall report the project to the planning agency and the planning agency shall render its report to such officer or governmental body. In both cases the report of the planning agency shall be advisory only. Failure of the planning agency to report on such matter so referred to it within forty days or such longer time as the board or other governmental officer or body may indicate, shall be deemed to be approval. [1963 c 4 § 36.70.540. Prior: 1959 c 201 § 54.]

36.70.550 Official controls. From time to time, the planning agency may, or if so requested by the board shall, cause to be prepared official controls which, when adopted by ordinance by the board, will further the objectives and goals of the comprehensive plan. The planning agency may also draft such regulations, programs and legislation as may, in its judgment, be required to preserve the integrity of the comprehensive plan and assure its systematic execution, and the planning agency may recommend such plans, regulations, programs and legislation to the board for adoption. [1963 c 4 § 36.70.550. Prior: 1959 c 201 § 55.]

36.70.560 Official controls—Forms of controls. Official controls may include:

(1) Maps showing the exact boundaries of zones within each of which separate controls over the type and degree of permissible land uses are defined;

(2) Maps for streets showing the exact alignment, gradients, dimensions and other pertinent features, and including specific controls with reference to protecting such accurately defined future rights of way against encroachment by buildings, other physical structures or facilities;

(3) Maps for other public facilities, such as parks, playgrounds, civic centers, etc., showing exact location, size, boundaries and other related features, including appropriate regulations protecting such future sites against encroachment by buildings and other physical structures or facilities;

(4) Specific regulations and controls pertaining to other subjects incorporated in the comprehensive plan or establishing standards and procedures to be employed in land development including, but not limited to, subdividing of land and the approval of land plats and the

preservation of streets and lands for other public purposes requiring future dedication or acquisition and general design of physical improvements. [1963 c 4 § 36.70.560. Prior: 1959 c 201 § 56.]

36.70.570 Official controls—Adoption. Official controls shall be adopted by ordinance and shall further the purpose and objectives of a comprehensive plan and parts thereof. [1963 c 4 § 36.70.570. Prior: 1959 c 201 § 57.]

36.70.580 Official controls—Public hearing by commission. Before recommending an official control or amendment to the board for adoption, the commission shall hold at least one public hearing. [1963 c 4 § 36.70.580. Prior: 1959 c 201 § 58.]

36.70.590 Official controls—Notice of hearing. Notice of the time, place and purpose of the hearing shall be given by one publication in a newspaper of general circulation in the county and in the official gazette, if any, of the county at least ten days before the hearing. The board may prescribe additional methods for providing notice. [1963 c 4 § 36.70.590. Prior: 1959 c 201 § 59.]

36.70.600 Official controls—Recommendation to board—Required vote. The recommendation to the board of any official control or amendments thereto by the planning agency shall be by the affirmative vote of not less than a majority of the total members of the commission. Such approval shall be by a recorded motion which shall incorporate the findings of fact of the commission and the reasons for its action and the motion shall refer expressly to the maps, descriptive and other matters intended by the commission to constitute the plan, or amendment, addition or extension thereto. The indication of approval by the commission shall be recorded on the map and descriptive matter by the signatures of the chairman and the secretary of the commission and of such others as the commission in its rules may designate. [1963 c 4 § 36.70.600. Prior: 1961 c 232 § 3; 1959 c 201 § 60.]

36.70.610 Official controls—Reference to board. A copy of any official control or amendment recommended pursuant to RCW 36.70.550, 36.70.560, 36.70.570 and 36.70.580 shall be submitted to the board not later than fourteen days following the action by the commission and shall be accompanied by the motion of the planning agency approving the same, together with a statement setting forth the factors considered at the hearing, and analysis of findings considered by the commission to be controlling. [1963 c 4 § 36.70.610. Prior: 1961 c 232 § 4; 1959 c 201 § 61.]

36.70.620 Official controls—Action by board. Upon receipt of any recommended official control or amendment thereto, the board shall at its next regular public meeting set the date for a public meeting where it may, by ordinance, adopt or reject the official control or

amendment. [1963 c 4 § 36.70.620. Prior: 1959 c 201 § 62.]

36.70.630 Official controls—Board to conduct hearing, adopt findings prior to incorporating changes in recommended control. If after considering the matter at a public meeting as provided in RCW 36.70.620 the board deems a change in the recommendations of the planning agency to be necessary, the change shall not be incorporated in the recommended control until the board shall conduct its own public hearing, giving notice thereof as provided in RCW 36.70.590, and it shall adopt its own findings of fact and statement setting forth the factors considered at the hearing and its own analysis of findings considered by it to be controlling. [1963 c 4 § 36.70.630. Prior: 1961 c 232 § 5; 1959 c 201 § 63.]

36.70.640 Official controls—Board may initiate. When it deems it to be for the public interest, the board may initiate consideration of an ordinance establishing an official control, or amendments to an existing official control, including those specified in RCW 36.70.560. The board shall first refer the proposed official control or amendment to the planning agency for report which shall, thereafter, be considered and processed in the same manner as that set forth in RCW 36.70.630 regarding a change in the recommendation of the planning agency. [1963 c 4 § 36.70.640. Prior: 1959 c 201 § 64.]

36.70.650 Board final authority. The report and recommendation by the planning agency, whether on a proposed control initiated by it, whether on a matter referred back to it by the board for further report, or whether on a matter initiated by the board, shall be advisory only and the final determination shall rest with the board. [1963 c 4 § 36.70.650. Prior: 1959 c 201 § 65.]

36.70.660 Procedures for adoption of controls limited to planning matters. The provisions of this chapter with references to the procedures to be followed in the adoption of official controls shall apply only to establishing official controls pertaining to subjects set forth in RCW 36.70.560. [1963 c 4 § 36.70.660. Prior: 1959 c 201 § 66.]

36.70.670 Enforcement—Official controls. The board may determine and establish administrative rules and procedures for the application and enforcement of official controls, and may assign or delegate such administrative functions, powers and duties to such department or official as may be appropriate. [1963 c 4 § 36.70.670. Prior: 1959 c 201 § 67.]

36.70.680 Subdividing and platting. The planning agency shall review all proposed land plats and subdivisions and make recommendations to the board thereon with reference to approving, or recommending any modifications necessary to assure conformance to the general purposes of the comprehensive plan and to standards and

specifications established by state law or local controls. [1963 c 4 § 36.70.680. Prior: 1959 c 201 § 68.]

36.70.690 County improvements. No county shall improve any street or lay or authorize the laying of sewers or connections or other improvements to be laid in any street within any territory for which the board has adopted an official control in the form of precise street map or maps, until the matter has been referred to the planning agency by the department or official having jurisdiction for a report thereon and a copy of the report has been filed with the department or official making the reference unless one of the following conditions apply:

(1) The street has been accepted, opened, or has otherwise received legal status of a public street;

(2) it corresponds with and conforms to streets shown on the official controls applicable to the subject;

(3) it corresponds with and conforms to streets shown on a subdivision (land plat) approved by the board. [1963 c 4 § 36.70.690. Prior: 1959 c 201 § 69.]

36.70.700 Planning agency—Time limit for report. Failure of the planning agency to report on the matters referred to in RCW 36.70.690 within forty days after the reference, or such longer period as may be designated by the board, department or official making the reference, shall be deemed to be approval of such matter. [1963 c 4 § 36.70.700. Prior: 1959 c 201 § 70.]

36.70.710 Final authority. Reports and recommendations by the planning agency on all matters shall be advisory only, and final determination shall rest with the administrative body, official, or the board whichever has authority to decide under applicable law. [1963 c 4 § 36.70.710. Prior: 1959 c 201 § 71.]

36.70.720 Prerequisite for zoning. Zoning maps as an official control may be adopted only for areas covered by a comprehensive plan containing not less than a land use element and a circulation element. Zoning ordinances and maps adopted prior to June 10, 1959, are hereby validated, provided only that at the time of their enactment the comprehensive plan for the county existed according to law applicable at that time. [1963 c 4 § 36.70.720. Prior: 1959 c 201 § 72.]

36.70.730 Text without map. The text of a zoning ordinance may be prepared and adopted in the absence of a comprehensive plan providing no zoning map or portion of a zoning map may be adopted thereunder until there has been compliance with the provisions of RCW 36.70.720. [1963 c 4 § 36.70.730. Prior: 1959 c 201 § 73.]

36.70.740 Zoning map—Progressive adoption. Because of practical considerations, the total area of a county to be brought under the control of zoning may be divided into areas possessing geographical, topographical or urban identity and such divisions may be progressively and separately officially mapped. [1963 c 4 § 36.70.740. Prior: 1959 c 201 § 74.]

36.70.750 Zoning—Types of regulations. Any board, by ordinance, may establish classifications, within each of which, specific controls are identified, and which will:

(1) Regulate the use of buildings, structures, and land as between agriculture, industry, business, residence, and other purposes;

(2) regulate location, height, bulk, number of stories and size of buildings and structures; the size of yards, courts, and other open spaces; the density of population; the percentage of a lot which may be occupied by buildings and structures; and the area required to provide off-street facilities for the parking of motor vehicles. [1963 c 4 § 36.70.750. Prior: 1959 c 201 § 75.]

36.70.760 Establishing zones. For the purpose set forth in RCW 36.70.750 the county may divide a county, or portions thereof, into zones which, by number, shape, area and classification are deemed to be best suited to carry out the purposes of this chapter. [1963 c 4 § 36.70.760. Prior: 1959 c 201 § 76.]

36.70.770 All regulations shall be uniform in each zone. All regulations shall be uniform in each zone, but the regulations in one zone may differ from those in other zones. [1963 c 4 § 36.70.770. Prior: 1959 c 201 § 77.]

36.70.780 Classifying unmapped areas. After the adoption of the first map provided for in RCW 36.70.740, and pending the time that all property within a county can be precisely zoned through the medium of a zoning map, all properties not so precisely zoned by map shall be given a classification affording said properties such broad protective controls as may be deemed appropriate and necessary to serve public and private interests. Such controls shall be clearly set forth in the zoning ordinance in the form of a zone classification, and such classification shall apply to such areas until they shall have been included in the detailed zoning map in the manner provided for the adoption of a zoning map. [1963 c 4 § 36.70.780. Prior: 1959 c 201 § 78.]

36.70.790 Interim zoning. If the planning agency in good faith, is conducting or intends to conduct studies within a reasonable time for the purpose of, or is holding a hearing for the purpose of, or has held a hearing and has recommended to the board the adoption of any zoning map or amendment or addition thereto, or in the event that new territory for which no zoning may have been adopted as set forth in RCW 36.70.800 may be annexed to a county, the board, in order to protect the public safety, health and general welfare may, after report from the commission, adopt as an emergency measure a temporary interim zoning map the purpose of which shall be to so classify or regulate uses and related matters as constitute the emergency. [1963 c 4 § 36.70.790. Prior: 1959 c 201 § 79.]

36.70.800 Procedural amendments—Zoning ordinance. An amendment to the text of a zoning ordinance which does not impose, remove or modify any regulation

theretofore existing and affecting the zoning status of land shall be processed in the same manner prescribed by this chapter for the adoption of an official control except that no public hearing shall be required either by the commission or the board. [1963 c 4 § 36.70.800. Prior: 1959 c 201 § 80.]

36.70.810 Board of adjustment—Authority. The board of adjustment, subject to appropriate conditions and safeguards as provided by the zoning ordinance or the ordinance establishing the board of adjustment, if there be such, shall hear and decide:

(1) Applications for conditional uses or other permits when the zoning ordinance sets forth the specific uses to be made subject to conditional use permits and establishes criteria for determining the conditions to be imposed;

(2) Application for variances from the terms of the zoning ordinance: *Provided*, That any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which subject property is situated, and that the following circumstances are found to apply;

(a) because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance is found to deprive subject property of rights and privileges enjoyed by other properties in the vicinity and under identical zone classification;

(b) that the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which subject property is situated.

(3) Appeals, where it is alleged by the applicant that there is error in any order, requirement, permit, decision, or determination made by an administrative official in the administration or enforcement of this chapter or any ordinance adopted pursuant to it. [1963 c 4 § 36.70.810. Prior: 1959 c 201 § 81.]

36.70.820 Board of adjustment—Quasi judicial powers. The board of adjustment may also exercise such other quasi judicial powers as may be granted by county ordinance. [1963 c 4 § 36.70.820. Prior: 1959 c 201 § 82.]

36.70.830 Board of adjustment—Appeals—Time limit. Appeals may be taken to the board of adjustment by any person aggrieved, or by any officer, department, board or bureau of the county affected by any decision of an administrative official. Such appeals shall be filed in writing in duplicate with the board of adjustment within twenty days of the date of the action being appealed. [1963 c 4 § 36.70.830. Prior: 1959 c 201 § 83.]

36.70.840 Board of adjustment—Notice of time and place of hearing on conditional permit. Upon the filing of an application for a conditional use permit or a variance as set forth in RCW 36.70.810, the board of

adjustment shall set the time and place for a public hearing on such matter, and written notice thereof shall be addressed through the United States mail to all property owners of record within a radius of three hundred feet of the exterior boundaries of subject property. The written notice shall be mailed not less than twelve days prior to the hearing. [1963 c 4 § 36.70.840. Prior: 1959 c 201 § 84.]

36.70.850 Board of adjustment—Appeal—Notice of time and place. Upon the filing of an appeal from an administrative determination, or from the action of the zoning adjustor, the board of adjustment shall set the time and place at which the matter will be considered. At least a ten day notice of such time and place together with one copy of the written appeal, shall be given to the official whose decision is being appealed. At least ten days notice of the time and place shall also be given to the adverse parties of record in the case. The officer from whom the appeal is being taken shall forthwith transmit to the board of adjustment all of the records pertaining to the decision being appealed from, together with such additional written report as he deems pertinent. [1963 c 4 § 36.70.850. Prior: 1959 c 201 § 85.]

36.70.860 Board of adjustment—Scope of authority on appeal. In exercising the powers granted by RCW 36.70.810 and 36.70.820, the board of adjustment may, in conformity with this chapter, reverse or affirm, wholly or in part, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as should be made and, to that end, shall have all the powers of the officer from whom the appeal is taken, insofar as the decision on the particular issue is concerned. [1963 c 4 § 36.70.860. Prior: 1959 c 201 § 86.]

36.70.870 Zoning adjustor—Powers and duties. If the office of zoning adjustor is established as provided in this chapter, all of the provisions of this chapter defining the powers, duties, and procedures of the board of adjustment shall also apply to the zoning adjustor. [1963 c 4 § 36.70.870. Prior: 1959 c 201 § 87.]

36.70.880 Zoning adjustor—Action final unless appealed. The action by the zoning adjustor on all matters coming before him shall be final and conclusive unless within ten days after the zoning adjustor has made his order, requirement, decision or determination, an appeal in writing is filed with the board of adjustment. Such an appeal may be taken by the original applicant, or by opponents of record in the case. [1963 c 4 § 36.70.880. Prior: 1959 c 201 § 88.]

36.70.890 Board of adjustment—Action final—Writs. The action by the board of adjustment on an application for a conditional use permit or a variance, or on an appeal from the decision of the zoning adjustor or an administrative officer shall be final and conclusive unless within ten days from the date of said action the original applicant or an adverse party makes application

to a court of competent jurisdiction for a writ of certiorari, a writ of prohibition or a writ of mandamus. [1963 c 4 § 36.70.890. Prior: 1959 c 201 § 89.]

36.70.900 Inclusion of findings of fact. Both the board of adjustment and the zoning adjustor shall, in making an order, requirement, decision or determination, include in a written record of the case the findings of fact upon which the action is based. [1963 c 4 § 36.70.900. Prior: 1959 c 201 § 90.]

36.70.910 Short title. This chapter shall be known as the "Planning Enabling Act of the State of Washington". [1963 c 4 § 36.70.910. Prior: 1959 c 201 § 91.]

36.70.920 Duties and responsibilities imposed by other acts. Any duties and responsibilities which by other acts are imposed upon a planning commission shall, after June 10, 1959, be performed by a planning agency however constituted. [1963 c 4 § 36.70.920. Prior: 1959 c 201 § 92.]

36.70.930 Chapter alternative method. This chapter shall not repeal, amend, or modify any other law providing for planning methods but shall be deemed an alternative method providing for such purpose. [1963 c 4 § 36.70.930. Prior: 1959 c 201 § 93.]

36.70.940 Elective adoption. Any county or counties presently operating under the provisions of chapter 35.63 RCW may elect to operate henceforth under the provisions of this chapter. Such election shall be effected by the adoption of an ordinance under the procedure prescribed by RCW 36.32.120(7), and by compliance with the provisions of this chapter. [1963 c 4 § 36.70.940. Prior: 1959 c 201 § 94.]

Chapter 36.71

PEDDLERS' AND HAWKERS' LICENSES

Sections

36.71.010	Peddlers' license—"Peddler" defined.
36.71.020	Peddlers' license—Application for and issuance of license.
36.71.030	Peddlers' license—Record of applications.
36.71.040	Peddlers' license—Cancellation of license.
36.71.050	Peddlers' license—Liability of deposit—Lien on.
36.71.060	Peddlers' license—Penalty for peddling without license.
36.71.070	Hawkers, auctioneers, and barterers must procure license—Exceptions.
36.71.080	Hawkers, auctioneers, and barterers must procure license—Issuance of license.
36.71.090	Farmers, gardeners, etc., peddling own produce exempt from license requirements.

Auctions of jewelry and appliances, licenses: Chapter 18.12 RCW.

36.71.010 Peddlers' license—"Peddler" defined. The term "peddler" for the purpose of this chapter includes all persons, both principals and agents, who go from place to place and house to house, carrying for sale and offering for sale or exposure for sale, goods, wares, or merchandise except agricultural, horticultural, or farm products, which they may grow or raise, and except vendors of books, periodicals, or newspapers: *Provided*, That

nothing in this chapter shall apply to peddlers within the limits of any city or town which by ordinance regulates the sale of goods, wares, or merchandise by peddlers. [1963 c 4 § 36.71.010. Prior: 1929 c 110 § 1; 1909 c 214 § 1; RRS § 8353.]

36.71.020 Peddlers' license—Application for and issuance of license. Every peddler, before commencing business in any county of the state, shall apply in writing and under oath to the county treasurer of the county in which he proposes to operate for a county license. The application must state the names and residences of the owners or parties in whose interest the business is to be conducted, and shall state the number of horses and/or vehicles to be used. Applicant at the same time shall file a true statement under oath of the quantity and value of the stock of goods, wares, and merchandise that is in the county for sale or to be kept or exposed for sale in the county, make a special deposit of five hundred dollars with the county treasurer, and pay the treasurer the county license fee as follows:

- (1) Peddler on foot, one hundred dollars.
- (2) Peddler with one horse and a wagon, one hundred fifty dollars.
- (3) Peddler with two horses and a wagon, two hundred fifty dollars.
- (4) Peddler with any other conveyance, three hundred dollars.

The county treasurer shall thereupon issue to the applicant a peddler's license, authorizing him to do business in the county for the term of one year from the date thereof. Every county license shall contain a copy of the application therefor, shall not be transferable, and shall not authorize more than one person to sell goods as a peddler, either by agent or clerk, or in any other way than his own proper person. [1963 c 4 § 36.71.020. Prior: 1927 c 89 § 1; 1909 c 214 § 3; RRS § 8355.]

36.71.030 Peddlers' license—Record of applications. The county treasurer of each county shall keep on file all applications for peddlers' licenses that are issued. All files and records of the county treasurer shall be in convenient form and open to public inspection. [1963 c 4 § 36.71.030. Prior: 1909 c 214 § 4; RRS § 8356.]

36.71.040 Peddlers' license—Cancellation of license. Upon the expiration and return of a county license, the county treasurer shall cancel it, indorse thereon the cancellation, and place it on file. After holding the special deposit of the licensee for a period of ninety days from the date of cancellation, he shall return the deposit or such portion as may remain in his hands after satisfying the claims made against it. [1963 c 4 § 36.71.040. Prior: 1909 c 214 § 5; RRS § 8357.]

36.71.050 Peddlers' license—Liability of deposit—Lien on. Each deposit made with the county treasurer shall be subject to all taxes legally chargeable thereto, to attachment and execution on behalf of the creditors of the licensee whose claims arise in connection with the business done under his license, and the treasurer may be held to answer as trustee in any civil action

in contract or tort brought against any licensee, and shall pay over, under order of the court or upon execution, such amount of money as the licensee may be chargeable with upon the final determination of the case. Such deposit shall also be subject to the payment of any and all fines and penalties incurred by the licensee through violations of the provisions of RCW 36.71.010, 36.71.020, 36.71.030, 36.71.040 and 36.71.060, which shall be a lien upon the deposit and shall be collected in the manner provided by law. [1963 c 4 § 36.71.050. Prior: 1909 c 214 § 6; RRS § 8358.]

36.71.060 Peddlers' license—Penalty for peddling without license. Every peddler who sells or offers for sale or exposes for sale, at public or private sale any goods, wares, or merchandise without a county license, shall be punished by imprisonment for not less than thirty days nor more than ninety days or by fine of not less than fifty dollars nor more than two hundred dollars or by both. [1963 c 4 § 36.71.060. Prior: 1909 c 214 § 2; RRS § 8354.]

36.71.070 Hawkers, auctioneers, and barterers must procure license—Exceptions. 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. [1963 c 4 § 36.71.070. Prior: 1879 p 130 § 1; 1873 p 437 § 1; RRS § 8341.]

36.71.080 Hawkers, auctioneers, and barterers must procure license—Issuance of license. The board of county commissioners may, by its order, direct the county auditor to issue a license to any person to do any business designated in RCW 36.71.070 for such sum not exceeding twenty-five dollars per year as it deems proper and expedient. [1963 c 4 § 36.71.080. Prior: 1873 p 438 § 3; RRS § 8342.]

36.71.090 Farmers, gardeners, etc., peddling own produce exempt from license requirements. It shall be lawful for any farmer, gardener, or other person, without license, to sell, deliver, or peddle any fruits, vegetables, berries, butter, eggs, fish, milk, poultry, meats, or any farm produce or edibles raised, caught, produced, or manufactured by such person in any place in this state, each and every day except Sundays, 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, and all city or town ordinances in violation hereof are hereby declared void: *Provided*, That this section shall not prohibit the sale or delivery of dairy products on Sunday. [1963 c 4 § 36.71.090. Prior: 1917 c 45 § 1; 1897 c 62 § 1; RRS § 8343.]

**Chapter 36.72
PRINTING**

Sections	
36.72.010	Official county paper.
36.72.020	Procedure where county has no newspaper.
36.72.030	Procedure where county has no newspaper—Bond.
36.72.040	Procedure where county has no newspaper—Term of contract.
36.72.050	Procedure where county has no newspaper—Advertisement for proposals for printing.
36.72.060	Procedure where county has no newspaper—Specifications.
36.72.070	All county officers to use official paper.
36.72.080	Forms for public blanks, compilation of.
36.72.090	Forms for public blanks, compilation of—Material to be provided by state.

36.72.010 Official county paper. In all counties where two or more weekly, semiweekly or daily newspapers are published, the board of county commissioners, at its April meeting each year, shall let the advertising and official publication of all notices to the publisher thereof who is the best and lowest responsible bidder. The board of county commissioners shall consider the question of circulation in awarding the county printing contract, with a view to giving such printing the widest publicity; and no newspaper shall be eligible as a competitor nor shall a contract be let to any newspaper, unless it has been established, published, and circulated in the county for at least six months, and has a general and bona fide circulation throughout the county in which it is published. [1963 c 4 § 36.72.010. Prior: 1917 c 114 § 1, part; 1886 p 108 § 1, part; Code 1881 § 2692, part; 1873 p 478 § 1, part; RRS § 4080, part.]

36.72.020 Procedure where county has no newspaper. In counties where no newspaper is published, the commissioners shall cause the printing of the county to be done in some newspaper in the state, of general circulation in the county, and the newspaper to which such contract is let, shall be designated as the official newspaper of the county. [1963 c 4 § 36.72.020. Prior: 1917 c 114 § 1, part; 1886 p 108 § 1, part; Code 1881 § 2692, part; 1873 p 478 § 1, part; RRS § 4080, part.]

36.72.030 Procedure where county has no newspaper—Bond. The board of county commissioners shall require a bond in double the amount involved in the contract, for the correct and faithful performance of all contracts and the work to be done thereunder. [1963 c 4 § 36.72.030. Prior: 1917 c 114 § 1, part; 1886 p 108 § 1, part; Code 1881 § 2692, part; 1873 p 478 § 1, part; RRS § 4080, part.]

36.72.040 Procedure where county has no newspaper—Term of contract. The term of the successful bidder shall not commence until the first day of July succeeding the letting of the contract. [1963 c 4 § 36.72.040. Prior: 1917 c 114 § 1, part; 1886 p 108 § 1, part; Code 1881 § 2692, part; 1873 p 478 § 1, part; RRS § 4080, part.]

36.72.050 Procedure where county has no newspaper—Advertisement for proposals for printing. The county auditor, at least five weeks, but not more than eight weeks, before the meeting of the county legislative authority in April of each year, shall advertise for proposals for the public printing, for the term of one year, beginning on the first day of July following, which advertisement shall be inserted for four consecutive weeks in the official newspaper of the county, or if there is no official newspaper, then in some other newspaper published in the county, or in a county adjacent to such county, and having a general circulation therein.

The county legislative authority shall not be compelled in any event to accept any bid for a greater price than four dollars and twenty cents per folio of one hundred words for the first insertion, and three dollars and fifteen cents per folio of one hundred words for each subsequent insertion, or its equivalent in number of words. [1973 1st ex.s. c 28 § 1; 1969 ex.s. c 43 § 1; 1963 c 4 § 36.72.050. Prior: 1955 c 312 § 2; prior: 1947 c 141 § 1, part; 1917 c 114 § 2, part; 1907 c 229 § 1, part; 1886 p 108 § 2, part; Code 1881 § 2693, part; 1873 p 478 § 2, part; Rem. Supp. 1947 § 4081, part.]

36.72.060 Procedure where county has no newspaper—Specifications. The county auditor, when calling for bids, shall state how the matter shall be set, what kind of type, and whether solid or leaded. [1963 c 4 § 36.72.060. Prior: 1955 c 312 § 3, prior: 1947 c 141 § 1, part; 1917 c 114 § 2, part; 1907 c 229 § 1, part; 1886 p 108 § 2, part; Code 1881 § 2693, part; 1873 p 478 § 2, part; Rem. Supp. 1947 § 4081, part.]

36.72.070 All county officers to use official paper. All county officers shall cause all legal notices and delinquent tax lists to be advertised in the official paper designated by the board of county commissioners. [1963 c 4 § 36.72.070. Prior: Code 1881 § 2694; 1873 p 478 § 3; RRS § 4082.]

36.72.080 Forms for public blanks, compilation of. The state auditor, with the aid and advice of the attorney general shall compile the forms for all public blanks used in the counties of this state in conformity with the general statutes thereof. The various blanks shall be uniform throughout the state. [1963 c 4 § 36.72.080. Prior: 1897 c 35 § 1; RRS § 4078.]

36.72.090 Forms for public blanks, compilation of—Material to be provided by state. The material used in such blank forms and the printing and binding thereof shall be provided for by the state in the same manner and under the same rules and regulations as

other public printing is now provided for under the general statutes of this state. [1963 c 4 § 36.72.090. Prior: 1897 c 35 § 2; RRS § 4079.]

Chapter 36.75

ROADS AND BRIDGES—GENERAL PROVISIONS

Sections

- 36.75.010 Definitions.
- 36.75.020 County commissioners as agents of state.
- 36.75.030 State and county cooperation.
- 36.75.040 Powers of county commissioners.
- 36.75.050 Powers—How exercised.
- 36.75.060 County road districts.
- 36.75.070 Highways worked seven years are county roads.
- 36.75.080 Highways used ten years are county roads.
- 36.75.090 Abandoned state highways.
- 36.75.100 Informalities not fatal.
- 36.75.110 True locations to be determined—Survey.
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- 36.75.130 Approaches to county roads.
- 36.75.140 Approaches to county roads—Rules regarding construction.
- 36.75.150 Approaches to county roads—Penalty.
- 36.75.160 Power of county commissioners as to roads, bridges, and other structures crossing boundary lines.
- 36.75.170 Power of county commissioners as to roads, bridges, and other structures crossing boundary lines—Resolution to acquire or construct.
- 36.75.180 Power of county commissioners as to roads, bridges, and other structures crossing boundary lines—Freeholders' petition to acquire or construct.
- 36.75.190 Engineer's report—Hearing—Order.
- 36.75.200 Bridges on city or town streets.
- 36.75.205 Street as extension of road in town of less than one thousand.
- 36.75.207 Agreements for planning, establishment, construction, and maintenance of city streets by counties—Use of county road fund—Payment by city—Contracts, bids.
- 36.75.210 Roads crossing and recrossing boundaries.
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- 36.75.230 Acquisition of land under RCW 36.75.210 and 36.75.220.
- 36.75.240 Sidewalks and pedestrian paths or walks—Bicycle paths, lanes, routes, and roadways.
- 36.75.250 State may intervene if maintenance neglected.
- 36.75.260 Annual report to director of highways.
- 36.75.270 Limitation of type or weight of vehicles authorized—Penalty.
- 36.75.280 Centralized repair and storage of machinery, equipment, supplies, etc.
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Bridges across navigable waters: Chapter 88.28 RCW.

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- annexation of unincorporated areas, disposition of road district taxes: RCW 35.13.270.*
- disincorporation, effect on streets: RCW 35.07.110.*
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Commission and board to coordinate long range needs studies: RCW 47.01.240.

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- construction or maintenance of, cooperative agreements: RCW 47.28.140.*
- defined for highway purposes: RCW 47.04.010(9).*
- defined for motor vehicle purposes: RCW 46.04.150.*
- designation as arterial: RCW 46.61.195.*
- federal funds for, state to match: RCW 47.08.020.*
- federal grants to, highway commission to administer: RCW 47.04.060, 47.04.070.*
- may be selected as state highway route: RCW 47.28.010.*
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state participation in building: RCW 47.04.080.
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Destroying native flora near county roads unlawful: RCW 47.40.080.

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Diking, drainage, and sewerage improvement districts
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Diking, drainage district benefits to roads, how paid: RCW 85.07.040,
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 47.40.090.

Highway advertising control act
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State cooperation in building roads, bridges, etc.: RCW 47.04.080.

Street railways, may cross public road: RCW 81.64.030.

Telephone and telegraph companies, use of county roads, how: RCW
 80.36.040.

Title to rights of way in county roads vested in state: RCW 47.04.040.

Toll bridges
 ferry crossings not to infringe existing franchises: RCW
 47.60.120.
 state given right of way through county roads: RCW 47.56.100.

Toll roads, bridges, and ferries of state, sale or lease of unneeded
 property to county: RCW 47.56.252, 47.56.253.

Traffic control devices
 flagmen, signs required at work sites on county roads: RCW
 47.36.200.
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 highway commission to furnish counties with: RCW 47.36.040.
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 railroad signals, warning devices on county roads: RCW 81.53-
 .261–81.53.281.
 required on county roads: RCW 47.36.060.
 procedure on counties' failure to erect: RCW 47.36.070.
 road signs, penalty for defacing, etc.: RCW 46.61.080.
 specifications to be furnished counties: RCW 47.36.030.
 stop signs on county roads: RCW 47.36.100.

36.75.010 Definitions. Terms used in this title, with relation to roads and bridges, 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;
- (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" shall include 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 department of highways of the state, or such state agency as may succeed to its powers and duties;
- (8) "Director," the acting director of the department of highways or his duly authorized assistant;
- (9) "Highway commission," the state highway commission as provided for in chapter 47.01 RCW;
- (10) "Pedestrian," any person afoot;
- (11) "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;
- (12) "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;
- (13) "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;
- (14) "Roadway," the paved, improved, or proper driving portion of a highway designed, or ordinarily used for vehicular travel;
- (15) "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;
- (16) "State highway," includes every highway as herein defined, or part thereof, which has been designated as a state highway, or branch thereof, by legislative enactment. [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—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.]

36.75.020 County commissioners as agents of state. All of the county roads in each of the several counties shall be established, laid out, constructed, altered, repaired, improved, and maintained by the board of county commissioners of the respective counties as

agents of the state. [1963 c 4 § 36.75.020. Prior: 1943 c 82 § 1; 1937 c 187 § 2; Rem. Supp. 1943 § 6450-2.]

36.75.030 State and county cooperation. The state highway commission 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 highway commission in the improvement or maintenance of state highways, or the highway commission 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. [1963 c 4 § 36.75.030. Prior: 1939 c 181 § 11; RRS § 6450-2a.]

36.75.040 Powers of county commissioners. The board of county commissioners of each county, in relation to roads and bridges, shall have the power and it shall be its duty to:

(1) Acquire in the manner provided by law property real and personal and acquire or erect structures necessary for the administration of the county roads of such county;

(2) Maintain a county engineering office and keep record of all proceedings and orders pertaining to the county roads of such county;

(3) Acquire land for county road purposes by purchase, gift, or condemnation, and exercise the right of eminent domain as by law provided for the taking of land for public use by counties of this state;

(4) Perform all acts necessary and proper for the administration of the county roads of such county as by law provided;

(5) In its discretion rent or lease any lands, improvements or air space above or below any county road or unused county roads to any person or entity, public or private: *Provided*, That the said renting or leasing will not interfere with vehicular traffic along said county road or adversely affect the safety of the traveling public: *Provided further*, That any such sale, lease or rental shall be by public bid in the manner provided by law: *And provided further*, That nothing herein shall prohibit any county from granting easements of necessity. [1969 ex.s. c 182 § 15; 1963 c 4 § 36.75.040. Prior: 1937 c 187 § 3; RRS § 6450-3.]

36.75.050 Powers—How exercised. The powers and duties vested in or imposed upon the boards with respect to establishing, examining, surveying, constructing, altering, repairing, improving, and maintaining county roads, shall be exercised under the supervision and direction of the county road engineer.

The board shall by resolution, and not otherwise, order the survey, establishment, construction, alteration, or improvement of county roads; the county road engineer shall prepare all necessary maps, plans, and specifications therefor, showing the right of way widths, the alignments, gradients, and standards of construction. [1963 c 4 § 36.75.050. Prior: 1943 c 73 § 1, part; 1937 c 187 § 4, part; Rem. Supp. 1943 § 6450-4.]

36.75.060 County road districts. For the purpose of efficient administration of the county roads of each county the board may, but not more than once in each year, form their respective counties, or any part thereof, into suitable and convenient road districts, not exceeding nine in number, and cause a description thereof to be entered upon their records.

Unless the board decides otherwise by majority vote, there shall be at least one road district in each county commissioner's district embracing territory outside of cities and towns and no road district shall extend into more than one county commissioner's district. [1969 ex.s. c 182 § 3; 1963 c 4 § 36.75.060. Prior: 1937 c 187 § 5; RRS § 6450-5.]

36.75.070 Highways worked seven years are county roads. All public highways in this state, outside incorporated cities and towns and not designated as state highways, which have been used as public highways for a period of not less than seven years, where they have been worked and kept up at the expense of the public, are county roads. [1963 c 4 § 36.75.070. Prior: 1955 c 361 § 2; prior: 1945 c 125 § 1, part; 1937 c 187 § 10, part; Rem. Supp. 1945 § 6450-10, part.]

36.75.080 Highways used ten years are county roads. All public highways in this state, outside incorporated cities and towns and not designated as state highways which have been used as public highways for a period of not less than ten years are county roads: *Provided*, That no duty to maintain such public highway nor any liability for any injury or damage for failure to maintain such public highway or any road signs thereon shall attach to the county until the same shall have been adopted as a part of the county road system by resolution of the county commissioners. [1963 c 4 § 36.75.080. Prior: 1955 c 361 § 3; prior: 1945 c 125 § 1, part; 1937 c 187 § 10, part; Rem. Supp. 1945 § 6450-10, part.]

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 highway commission to the board of the county in which any portion of such highway is located, be and become a county road of such county, and if situated within the corporate limits of any city or town shall upon certification thereof by the state highway commission to the mayor of the city or town in which any portion of such highway is located be and become a street of such city or town, and upon such certification the state highway commission may certify to the governor the abandonment of such highways, giving a description thereof and the governor may execute and the secretary of state shall attest and deliver to the county or city as the case may be a deed of conveyance on behalf of the state to such abandoned highways or portions thereof. [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.]

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 highway commission, shall be construed to invalidate or vacate such public highways. [1963 c 4 § 36.75.100. Prior: 1937 c 187 § 11; RRS § 6450-11.]

36.75.110 True locations to be determined—Survey. Whenever the board declares by resolution that the true location, course, or width of any county road is uncertain and that the same should be determined, it shall direct the county road engineer to make examination and survey thereof.

This shall embrace an examination and survey of the original petition, report, and field notes on the establishment of such road; a survey of the present traveled roadway; all topography within a reasonable distance and having a bearing on the true location of such road; the distance from the center line of the traveled roadway to the nearest section and quarter section corners; a map of sufficient scale accurately showing the above with field notes thereon; a map on the same scale showing the original field notes, such field notes to be transposed and the same meridian used on both maps. [1963 c 4 § 36.75.110. Prior: 1937 c 187 § 12; RRS § 6450-12.]

36.75.120 Action to determine true location. When the true location, course, or width of a county road, which was prior thereto uncertain, has been reported by the examining engineer, the board shall file an action in the superior court of such county for the determination thereof. All persons affected by the determination of the true location, course, or width insofar as the same may vary from the originally established location, course, or width shall be made parties defendant in such action and service had and return made as in the case of civil actions. Upon the hearing the court shall consider the survey, maps, and all data with reference to the investigation of the examining engineer and may demand such further examination as it may deem necessary and any objection of any party defendant may be heard and considered. The court shall determine the true location, course, and width of the road and may in its discretion assess the cost of such action against the county to be paid from the county road fund. [1963 c 4 § 36.75.120. Prior: 1937 c 187 § 13; RRS § 6450-13.]

36.75.130 Approaches to county roads. No person shall be permitted to build or construct any approach to any county road without first obtaining permission therefor from the board. [1963 c 4 § 36.75.130. Prior: 1943 c 174 § 1; Rem. Supp. 1943 § 6450-95.]

36.75.140 Approaches to county roads—Rules regarding construction. The boards of the several counties of the state may adopt reasonable rules for the construction of approaches which, when complied with, shall entitle a person to build or construct an approach from any abutting property to any county road. The rules may include provisions for the construction of culverts under the approaches, the depth of fills over the culverts and

for such other drainage facilities as the board deems necessary. The construction of approaches, culverts, fills, or such other drainage facilities as may be required, shall be under the supervision of the county road engineer, and all such construction shall be at the expense of the person benefited by the construction. [1969 ex.s. c 182 § 4; 1963 c 4 § 36.75.140. Prior: 1943 c 174 § 2; Rem. Supp. 1943 § 6450-96.]

36.75.150 Approaches to county roads—Penalty. Any person violating any of the provisions of RCW 36.75.130 and 36.75.140 shall be guilty of a misdemeanor. [1963 c 4 § 36.75.150. Prior: 1943 c 174 § 3; Rem. Supp. 1943 § 6450-97.]

36.75.160 Power of county commissioners as to roads, bridges, and other structures crossing boundary lines. The board of county commissioners of any county may erect and construct or acquire by purchase, gift, or condemnation, any bridge, trestle, or any other structure which crosses any stream, body of water, gulch, navigable water, swamp or other topographical formation requiring such structure for the continuation or connection of any county road if such topographical formation constitutes the boundary of a city, town, another county or the state of Washington or another state or a county, city or town of such other state.

The board of such county may join with such city, town, other county, the state of Washington, or other state, or a county, city or town of such other state in paying for, erecting, constructing, acquiring by purchase, gift, or condemnation any such bridge, trestle, or other structure, and the purchase or condemnation of right of way therefor.

The board of any county may construct, maintain, and operate any county road which forms the boundary line between another county within the state or another county in any other state or which through its meandering crosses and recrosses such boundary; and acquire by purchase or condemnation any lands or rights within this state, either within or without its county, necessary for such boundary road; and enter into joint contracts with authorities of adjoining counties for the construction, operation, and maintenance of such boundary roads. The power of condemnation herein granted may be exercised jointly by two counties in the manner provided in RCW 36.75.170 for bridges, or it may be exercised by a single county in the manner authorized by law. [1963 c 4 § 36.75.160. Prior: 1943 c 82 § 3; 1937 c 187 § 26; Rem. Supp. 1943 § 6450-26.]

36.75.170 Power of county commissioners as to roads, bridges, and other structures crossing boundary lines—Resolution to acquire or construct. The board may by original resolution entered upon its minutes declare its intention to pay for and erect or construct, or acquire by purchase, gift, or condemnation, any bridge, trestle, or other structure upon any county road which crosses any stream, body of water, gulch, navigable water, swamp or other topographical formation constituting a boundary, or to join therein with any other county, city or town, or with this state, or with any other

state, or with any county, city or town of any other state, in the erection, or construction, or acquisition of any such structure, and declare that the same is a public necessity, and direct the county road engineer to report upon such project, dividing any just proportional cost thereof.

In the event two counties or any county and any city wish to join in paying for the erection or acquisition of any such structure, the resolution provided in this section shall be a joint resolution of the governing authorities of the counties and cities and they shall further, by such resolution, designate an engineer employed by one county to report upon the proposed erection or acquisition. [1963 c 4 § 36.75.170. Prior: 1937 c 187 § 27; RRS § 6450-27.]

36.75.180 Power of county commissioners as to roads, bridges, and other structures crossing boundary lines—Freeholders' petition to acquire or construct. Ten or more freeholders of any county may petition the board for the erection and construction or acquisition by purchase, gift, or condemnation of any bridge, trestle, or any other structure in the vicinity of their residence, and upon any county road which crosses any stream, body of water, gulch, navigable waters, swamp or other topographical formation constituting a boundary by joining with any other county, city or town, or the state of Washington, or with any other state or with any county, city or town of any other state, setting forth and describing the location proposed for the erection of such bridge, trestle, or other structure, and stating that the same is a public necessity. The petition shall be accompanied by a bond with the same requirements, conditions, and amount and in the same manner as in case of a freeholders' petition for the establishing of a county road. Upon the filing of such petition and bond and being satisfied that the petition has been signed by freeholders residing in the vicinity of such proposed bridge, trestle, or other structure, the board shall direct the county road engineer to report upon the project, dividing any just proportional cost thereof.

In the event two counties or any county and any city or town are petitioned to join in paying for the erection or acquisition of such structure, the board of county commissioners of the counties or the board of county commissioners of the county and governing authorities of the city or town shall act jointly in the selection of the engineer who shall report upon such acquisition or erection. [1963 c 4 § 36.75.180. Prior: 1937 c 187 § 28; RRS § 6450-28.]

36.75.190 Engineer's report—Hearing—Order. Upon report by the examining engineer for the erection and construction upon any county road, or for acquisition by purchase, gift or condemnation of any bridge, trestle, or any other structure crossing any stream, body of water, gulch, navigable water, swamp or other topographical formation, which constitutes a boundary, publication shall be made and joint hearing had upon such report in the same manner and upon the same procedure as in the case of resolution or petition for the laying out and establishing of county roads. If upon the hearing the

governing authorities jointly order the erection and construction or acquisition of such bridge, trestle, or other structure, they may jointly acquire land necessary therefor by purchase, gift, or condemnation in the manner as provided for acquiring land for county roads, and shall advertise calls for bids, require contractor's deposit and bond, award contracts, and supervise construction as by law provided and in the same manner as required in the case of the construction of county roads.

Any such bridges, trestles or other structures may be operated free, or may be operated as toll bridges, trestles, or other structures under the provisions of the laws of this state relating thereto. [1963 c 4 § 36.75.190. Prior: 1937 c 187 § 29; RRS § 6450-29.]

36.75.200 Bridges on city or town streets. The boards of the several counties may expend funds from the county road fund for the construction, improvement, repair, and maintenance of any bridge upon any city street within any city or town in such county where such city street and bridge are essential to the continuation of the county road system of the county. Such construction, improvement, repair, or maintenance shall be ordered by resolution and proceedings conducted in respect thereto in the same manner as provided for the laying out and establishing of county roads by counties, and for the preparation of maps, plans, and specifications, advertising and award of contracts therefor. [1963 c 4 § 36.75.200. Prior: 1937 c 187 § 30; RRS § 6450-30.]

36.75.205 Street as extension of road in town of less than one thousand. Whenever any street in any town, having a population of less than one thousand persons, forms an extension of a county road of the county in which such town is located, and where the board of county commissioners of such county and the governing body of such town, prior to the commencement of any work, have mutually agreed and each adopted a resolution setting forth the nature and scope of the work to be performed and the share of the cost or labor which each shall bear, such county may expend county road funds for construction, improvement, repair, or maintenance of such street. [1963 c 4 § 36.75.205. Prior: 1959 c 83 § 1.]

36.75.207 Agreements for planning, establishment, construction, and maintenance of city streets by counties—Use of county road fund—Payment by city—Contracts, bids. See RCW 35.77.020-35.77.040.

36.75.210 Roads crossing and recrossing boundaries. Whenever a county road is established within any county, and such county road crosses the boundary of the county and again enters the county, the board of the county within which the major portion of the road is located may expend the county road fund of such county in laying out, establishing, constructing, altering, repairing, improving, and maintaining that portion of the road lying outside the county, in the manner provided by law for the expenditure of county funds for the construction, alteration, repair, improvement, and maintenance of county roads within the county.

The board of any county may construct, maintain, and operate any county road which forms the boundary line between another county within the state or another county in any other state or which through its meandering crosses and recrosses such boundary; and acquire by purchase or condemnation any lands or rights within this state, either within or without its county, necessary for such boundary road; and enter into joint contracts with authorities of adjoining counties for the construction, operation, and maintenance of such boundary roads. The power of condemnation herein granted may be exercised jointly by two counties in the manner provided for bridges, or it may be exercised by a single county in the manner authorized by law. [1963 c 4 § 36.75.210. Prior: 1937 c 187 § 23; RRS § 6450-23. FORMER PART OF SECTION: 1943 c 82 § 3, part; 1937 c 187 § 26, part; Rem. Supp. 1943 § 6450-26, part, now codified in RCW 36.75.160.]

36.75.220 Connecting road across segment of third county. Whenever two counties are separated by an intervening portion of a third county not exceeding one mile in width, and each of such counties has constructed or shall construct a county road to the boundary thereof, and the boards of the two counties deem it beneficial to such counties to connect the county roads by the construction and maintenance of a county road across the intervening portion of the third county, it shall be lawful for the boards of the two counties to expend jointly the county road funds of their respective counties in acquiring right of way for the construction, improvement, repair, and maintenance of such connecting county road and any necessary bridges thereon, in the manner provided by law for the expenditure of county road funds for the construction, improvement, repair, and maintenance of county roads lying within a county. [1963 c 4 § 36.75.220. Prior: 1937 c 187 § 24; RRS § 6450-24.]

36.75.230 Acquisition of land under RCW 36.75.210 and 36.75.220. For the purpose of carrying into effect RCW 36.75.210 and 36.75.220 and under the circumstances therein set out the boards may acquire land necessary for the right of way for any portion of a county road lying outside such county or counties by gift or purchase or by condemnation in the manner provided for the taking of property for public use by counties. [1963 c 4 § 36.75.230. Prior: 1937 c 187 § 25, part; RRS § 6450-25, part.]

36.75.240 Sidewalks and pedestrian paths or walks—Bicycle paths, lanes, routes, and roadways. The boards may expend funds credited to the county road fund from any county or road district tax levied for the construction of county roads for the construction of sidewalks, bicycle paths, lanes, routes, and roadways, and pedestrian allocated paths or walks. [1974 ex.s. c 141 § 7; 1963 c 4 § 36.75.240. Prior: 1937 c 187 § 25, part; RRS § 6450-25, part.]

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 such maintenance is not being performed to the satisfaction of the federal government or the highway commission, reasonably consistent with original construction, notice thereof may be given by the highway commission to the board of such county and if the board of such county does not within ten days provide for such maintenance, the highway commission may perform such maintenance and the state treasurer shall pay the cost thereof on vouchers submitted by the highway commission and deduct the cost thereof from any sums in the motor vehicle fund credited or to be credited to the county in which such county road is located. [1963 c 4 § 36.75.250. Prior: 1937 c 187 § 46; RRS § 6450-46.]

36.75.260 Annual report to director of highways. The board of each county shall on or before February 1st of each year submit such records and reports to the director, on forms furnished by the highway commission, as are necessary to enable the director to compile an annual report on county highway operations. [1963 c 4 § 36.75.260. Prior: 1943 c 82 § 8; 1937 c 187 § 58; Rem. Supp. 1943 § 6450-58.]

36.75.270 Limitation of type or weight of vehicles authorized—Penalty. The board of county commissioners of each county may by resolution limit or prohibit classes or types of vehicles on any county road or bridge and may limit the weight of vehicles which may travel thereon. Any such resolution shall be effective for a definite period of time which shall be stated in the resolution. If such resolution is published at least once in a newspaper of general circulation in the county and if signs indicating such closure or limitation of traffic have been posted on such road or bridge, any person violating such resolution shall be guilty of a misdemeanor. [1963 c 4 § 36.75.270. Prior: 1949 c 156 § 8; Rem. Supp. 1949 § 6450-8g.]

Local restrictions or limitations of weight: RCW 46.44.080.

36.75.280 Centralized repair and storage of machinery, equipment, supplies, etc. All county road machinery, equipment, stores, and supplies, excepting stockpiles and other road building material, shall while not in use be stored and repaired at one centralized point in each county: *Provided*, That if the geography, topography, distance, or other valid economic considerations require more than one place for storage or repairs, the county commissioners may, by unanimous vote, authorize the same. [1963 c 4 § 36.75.280. Prior: 1949 c 156 § 4; Rem. Supp. 1949 § 6450-8d.]

36.75.290 General penalty. It shall be a misdemeanor for any person to violate any of the provisions of this title relating to county roads and bridges unless such violation is by this title or other law of this state declared to be a felony or gross misdemeanor. [1963 c 4 § 36.75.290. Prior: 1943 c 82 § 13, part; 1937 c 187 § 66, part; Rem. Supp. 1943 § 6450-66, part.]

Chapter 36.76
ROADS AND BRIDGES—BONDS

Sections

	ACT OF 1890
36.76.010	Election to authorize issuance.
	ACT OF 1913
36.76.080	Bonds authorized—Election.
36.76.090	How to be held—Ballots—Issuance of bonds—Form.
36.76.100	Notice of election.
36.76.110	Disposition of proceeds—City assistance.
36.76.120	Payment of principal and interest.
36.76.130	Act cumulative.
36.76.140	Toll bridge bonds authorized—Adjoining counties.

ACT OF 1890

36.76.010 Election to authorize issuance. The board of any county may, whenever a majority thereof so decides, submit to the voters of their county the question whether the board shall be authorized to issue coupon bonds in an amount not exceeding one and one-fourth percent of the value of the taxable property in the county, as the term "value of the taxable property" is defined in RCW 39.36.015, bearing a rate or rates of interest as authorized by the board, and payable and redeemable at a time fixed by the board, for the purpose of making a new road or roads, or bridge or bridges, or improving established roads or bridges within the county. [1971 c 9 § 1. Prior: 1970 ex.s. c 56 § 52; 1970 ex.s. c 42 § 21; 1969 ex.s. c 232 § 72; 1963 c 4 § 36.76.010; prior: 1890 p 40 § 1; RRS § 5584.]

Reviser's note: The amendment of this section by 1971 c 9 does not take cognizance of the section's repeal by 1971 c 76 § 6.

36.76.010 Election to authorize issuance. [1970 ex.s. c 56 § 52; 1970 ex.s. c 42 § 21; 1969 ex.s. c 232 § 72; 1963 c 4 § 36.76.010. Prior: 1890 p 40 § 1; RRS § 5584.] Repealed by 1971 c 76 § 6.

Reviser's note: This section was also amended by 1971 c 9 § 1 without cognizance of the repeal thereof.

ACT OF 1913

36.76.080 Bonds authorized—Election. The board of any county may, whenever a majority thereof so decides, submit to the voters of their county the question whether the board shall be authorized to issue negotiable coupon road bonds of the county in an amount subject to the limitations on indebtedness provided for in RCW 39.36.020(2), for the purpose of constructing a new road or roads, or improving established roads within the county, or for aiding in so doing, as herein prescribed.

The word "improvement" wherever used in this act shall embrace any undertaking for any or all of such purposes. The word "road" shall embrace all highways, roads, streets, avenues, bridges, and other public ways.

The provisions of this act shall apply not only to roads which are or shall be under the general control of the county, but also to all parts of state roads in such county and to all roads which are situated or are to be constructed wholly or partly within the limits of any incorporated city or town therein, provided the board of county commissioners finds that they form or will become a part of the public highway system of the county, and will connect the existing roads therein. Such finding may be made by the board of county commissioners at any stage of the proceedings before the actual delivery of the bonds.

The constructing or improving of any and all such roads, or the aiding therein, is declared to be a county purpose.

The question of the issuance of bonds for any undertaking which relates to a number of different roads or parts thereof, whether intended to supply the whole expenditure or to aid therein, may be submitted to the voters as a single proposition in all cases where such course is consistent with the provisions of the state Constitution. If the county commissioners, in submitting a proposition relating to different roads or parts thereof, find that such proposition has for its object the furtherance and accomplishment of the construction of a system of public and county highways in such county, and constitutes and has for its object a single purpose, such finding shall be presumed to be correct, and upon the issuance of the bonds the presumption shall become conclusive.

No proposition for bonds shall be submitted which proposes that more than forty percent of the proceeds thereof shall be expended within any city or town or within any number of cities and towns. [1971 c 76 § 2; 1970 ex.s. c 42 § 22; 1963 c 4 § 36.76.080. Prior: 1913 c 25 § 1; RRS § 5592.]

36.76.090 How to be held—Ballots—Issuance of bonds—Form. The election may be held at such times and in the manner provided for holding general elections in this state, or it may be held as a special election at such time as the board may designate. The ballots used must contain the words, "Bonds, Yes," and "Bonds, No". 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 bonds, the board must issue negotiable bonds in due and legal form, and negotiate them in such manner as they may deem to the best advantage of the county, at not less than par value. The bonds authorized by this section shall be issued in the name of the county, in denominations of not less than one hundred nor more than one thousand dollars; they shall be payable either (1) to some person or corporation (named therein) or the bearer, or (2) simply to the bearer, at such time as shall be stated therein, not more than twenty years after the date of issue and bear interest at a rate or rates as authorized by the board of county commissioners, payable semiannually. They may be made payable in any city of the United States containing a national bank. They shall bear the signature of the chairman of the board, and be countersigned by the county auditor of the county with the seal of the county thereunto attached, and the interest coupons shall be signed by said chairman and said county auditor, and each bond so issued must be registered in the office of the county treasurer in a book provided for that purpose, which must show the date, number and amount of the bond, date of maturity, rate of interest, and the name and address of the person to whom issued. The county seal need not be affixed to the coupons. Each coupon must show the number of the bond to which it belongs. The bonds and coupons shall be printed, engraved or lithographed on good bond

paper. [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.]

Effective date—Purpose—1970 ex.s. c 56: See notes following RCW 39.44.030.

Validation—Saving—Severability—1969 ex.s. c 232: See notes following RCW 39.44.030.

36.76.100 Notice of election. The board must give notice in some newspaper having a general circulation in the county for a period of at least four weeks next preceding the date of the election, setting forth the proposition as to amount and duration of the bonds to be issued, and the rate of interest thereon which is not to be exceeded, and stating the road or roads 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 commissioners may, at their option, give such other or further notice as they may deem advisable. When the bonds are issued they may be made to bear the rate of interest stated in the notice or any less rate. [1963 c 4 § 36.76.100. Prior: 1913 c 25 § 4; RRS § 5595.]

36.76.110 Disposition of proceeds—City assistance. When the bonds are sold, the money arising therefrom shall be immediately paid into the treasury of the county, and shall be drawn only for the improvement for which they were issued, under the general direction of the board: *Provided*, That if the improvement includes in whole or in part the constructing or improving of one or more roads, or any part or parts thereof, within the limits of an incorporated city or town, and if the county commissioners find that the amount of the proceeds of the bonds intended to be expended for the improvements within such corporate limits will probably not be sufficient to defray the entire expense of the improvement therein, and if they further find it to be equitable that the city or town should bear the remainder of the expense, they may postpone any expenditure therefor from the proceeds of the bonds until the city or town makes provision by ordinance for proceeding with the improvement within its corporate limits at its own expense insofar as concerns the cost thereof over and above the amount of bond proceeds available therefor.

In such case it shall be lawful for the county commissioners to consent, under such general directions as they shall impose, that the proper authorities of the city or town shall have actual charge of making the proposed improvement within the corporate limits. The city or town shall acquire any needed property or rights and do the work by contract or otherwise in accordance with its charter or ordinances, but the same shall be subject to the approval of the county commissioners insofar as concerns any payment therefor from the proceeds of the bonds.

In such case, as the work progresses and money is needed to pay therefor, the county commissioners shall, from time to time, by proper order, specifying the amount and purpose, direct the county treasurer to turn

over to the city or town treasurer such part or parts of the proceeds of the bonds as may be justly applicable to such improvement or part thereof within such city or town, and any money so received by the city or town treasurer shall be inviolably applied to the purpose specified. When that portion of the entire improvement which lies within any such city or town can readily be separated into parts, the procedure authorized by this section may be pursued separately as to any one or more of such parts of the general improvement.

Nothing contained in this section shall be construed to render the county liable for any greater part of the expense of any improvement or part thereof within any city or town than the proper amount of the proceeds of such bonds, or to prevent the city or town from raising any part of the cost of any such improvement or part thereof, over and above the amount arising from the proceeds of the bonds, by assessment upon property benefited, or by contribution from any of its general or special funds in accordance with the provisions of the charter or laws governing such city or town. The provisions of this section, other than the direction for the payment into the county treasury of the money arising from the sale of the bonds, need not be complied with until after the issuance of the bonds and the validity of the bonds shall not be dependent upon such compliance. [1963 c 4 § 36.76.110. Prior: 1913 c 25 § 5; RRS § 5596.]

36.76.120 Payment of principal and interest. The county commissioners 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 as required by Title 39 RCW. All taxes levied either for interest or principal shall be a lien upon all property within the county and must be collected in the same manner as other taxes are collected. 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 upon presentation at the place of payment of the proper coupon. All coupons so paid must be reported to the county commissioners at their first meeting thereafter. Whenever the coupons are 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 coupons which are about to fall due. When any such bonds or coupons are paid, the county treasurer shall suitably and indelibly cancel them. [1963 c 4 § 36.76.120. Prior: 1913 c 25 § 3; RRS § 5594.]

36.76.130 Act cumulative. This act shall not be construed as repealing or affecting any other act relating to the issuance of bonds for road or other purposes, but shall be construed as conferring additional power and authority. [1963 c 4 § 36.76.130. Prior: 1913 c 25 § 7; RRS § 5598.]

36.76.140 Toll bridge bonds authorized—Adjoining counties. The board of a county 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 Washington toll bridge authority 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 board, directly or indirectly benefits the county. Such bonds may be transferred to the Washington toll bridge authority to be sold by the authority for the purposes outlined herein. Such bonds may bear interest at a rate or rates as authorized by the board of county commissioners: *Provided*, That such indebtedness is subject to the limitations on indebtedness provided for in RCW 39.36.020(2). [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.]

Effective date—Purpose—1970 ex.s. c 56: See notes following RCW 39.44.030.

Validation—Saving—Severability—1969 ex.s. c 232: See notes following RCW 39.44.030.

Chapter 36.77

ROADS AND BRIDGES—CONSTRUCTION

Sections

36.77.010	Maps, plans, and specifications.
36.77.020	Approval—Call for bids.
36.77.030	Opening of bids—Deposit.
36.77.040	Award of contract—Bond.
36.77.050	Limitation on award of contract.
36.77.060	Minor projects by day labor.
36.77.070	Publication of information on day labor projects— Penalty—Prosecution under RCW 36.77.060, 36.77.070.

36.77.010 Maps, plans, and specifications. Whenever it is ordered by resolution of the board that any county road shall be laid out and established and altered, widened, or otherwise constructed or improved, the county road engineer employed by the county shall prepare such maps, plans, and specifications as shall be necessary and sufficient. A copy of such maps, plans, and specifications shall be approved by the board of county commissioners with its approval endorsed thereon, and such copy shall be filed with the clerk of the board. [1963 c 4 § 36.77-.010. Prior: 1959 c 67 § 2; prior: 1937 c 187 § 32, part; RRS § 6450-32, part.]

36.77.020 Approval—Call for bids. Upon approval of such maps, plans, and specifications and the filing thereof the board shall, if it determines that the work shall be done by contract, advertise a call for bids upon such construction work by publication in the official county paper and also one trade paper of general circulation in the county, in one issue of each such paper at least once in each week for two consecutive weeks prior to the time set in the call for bids for the opening of bids. All bids shall be submitted under sealed cover before the time set for the opening of bids. [1963 c 4 § 36.77.020. Prior: 1959 c 67 § 3; prior: 1937 c 187 § 32, part; RRS § 6450-32, part.]

36.77.030 Opening of bids—Deposit. At the time fixed in the call for bids the board shall proceed to publicly open and read such bids as have been submitted, in the board room at the county seat. No bid shall be considered unless it is accompanied by a bid deposit in the form of a surety bond, cash, cashier's check, or certified check in an amount equal to five percent of the amount of the bid proposed. [1963 c 4 § 36.77.030. Prior: 1959 c 67 § 4; prior: 1937 c 187 § 32, part; RRS § 6450-32, part.]

36.77.040 Award of contract—Bond. The board shall proceed to award the contract to the lowest and best bidder but may reject any or all bids if in its opinion good cause exists therefor. The board shall require from the successful bidder a contractor's bond in the amount and with the conditions imposed by law. Should the bidder to whom the contract is awarded fail to enter into the contract and furnish the contractor's bond as required within ten days after notice of the award, exclusive of the day of notice, the amount of the bid deposit shall be forfeited to the county and placed in the county road fund and the contract awarded to the next lowest and best bidder. The bid deposit of all unsuccessful bidders shall be returned after the contract is awarded and the required contractor's bond given by the successful bidder is accepted by the board. [1963 c 4 § 36.77.040. Prior: 1959 c 67 § 5; prior: 1937 c 187 § 32, part; RRS § 6450-32, part.]

36.77.050 Limitation on award of contract. No contract shall be awarded for the construction or improvement of any county road, the total amount of the bid proposal for which or the contract for which exceeds the estimate of the engineer by more than ten percent thereof. [1963 c 4 § 36.77.050. Prior: 1937 c 187 § 33; RRS § 6450-33.]

36.77.060 Minor projects by day labor. The board may cause any county road to be constructed or improved by day labor in an amount not to exceed twenty-five thousand dollars on any one project. This section shall be construed to mean a complete project and shall not be construed to allow or permit the construction of any project by day labor by division thereof into units of work or classes of work. All construction work to be performed at a cost in excess of twenty-five thousand dollars shall be performed by contract as in this chapter provided. [1963 c 4 § 36.77.060. Prior: 1949 c 156 § 9, part; 1943 c 82 § 4, part; 1937 c 187 § 34, part; Rem. Supp. 1949 § 6450-34, part.]

36.77.070 Publication of information on day labor projects—Penalty—Prosecution under RCW 36.77-.060, 36.77.070. If the board determines that any construction should be performed by day labor, and the estimated cost of the work exceeds twenty-five hundred dollars, it shall cause to be published in one issue of a newspaper of general circulation in the county, a brief description of the work to be done and the county road engineer's estimate of the cost thereof. At the completion of such construction, the board shall cause to be

published in one issue of such a newspaper a similar brief description of the work together with an accurate statement of the true and complete cost of performing such construction by day labor.

Failure to make the required publication shall subject each county commissioner to a fine of one hundred dollars for which he shall be liable individually and upon his official bond and the prosecuting attorney shall prosecute for violation of the provisions of this section and RCW 36.77.060. [1963 c 4 § 36.77.070. Prior: 1949 c 156 § 9, part; 1943 c 82 § 4, part; 1937 c 187 § 34, part; Rem. Supp. 1949 § 6450-34, part.]

Chapter 36.78 ROADS AND BRIDGES—COUNTY ROAD ADMINISTRATION BOARD

Sections

36.78.010	Definitions— "Board".
36.78.020	Definitions— "Standards of good practice".
36.78.030	Board created—Number—Appointment— Terms—Vacancies.
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36.78.010 Definitions— "Board". "Board" shall mean the county road administration board created by this chapter. [1965 ex.s. c 120 § 1.]

36.78.020 Definitions— "Standards of good practice". "Standards of good practice" shall mean general and uniform practices formulated and adopted by the board relating to the administration of county roads for the several classes of counties which shall apply to engineering, maintenance, traffic control, safety, planning, programming, road classification, road inventories, budgeting and accounting procedures, equipment policies, and personnel policies. [1965 ex.s. c 120 § 2.]

36.78.030 Board created—Number—Appointment—Terms—Vacancies. There is created hereby a county road administration board consisting of nine members who shall be appointed by the executive committee of the Washington state association of counties. Prior to July 1, 1965 the executive committee of the Washington state association of counties shall appoint the first members of the county road administration board: Three members to serve one year; three members to serve two years; and three members to serve three years from July 1, 1965. Upon expiration of the original terms subsequent appointments shall be made by the same appointing authority for three year terms except in the case of a vacancy, in which event the appointment shall be only for the remainder of the unexpired term in which the vacancy has occurred. [1971 ex.s. c 85 § 5; 1965 ex.s. c 120 § 3.]

36.78.040 Composition of board—Qualifications of members. Six members of the county road administration board shall be county commissioners and three members shall be county engineers. If any member, during the term for which he is appointed ceases to be either a county commissioner or a county engineer, as the case may be, his membership on the county road administration board is likewise terminated. Three members of the board shall be from counties of the following classes: Class AA, class A, or first class. Four members shall be from counties of the following classes: Second class, third class, fourth class, or fifth class. Two members shall be from counties of the following classes: Sixth class, seventh class, eighth class, or ninth class. Not more than one member of the board shall be from any one county. [1965 ex.s. c 120 § 4.]

36.78.050 Meetings—Chairman—Rules and regulations. The annual meeting of the county road administration board shall be during the first week in July of each year at which time the board shall elect a chairman from its own membership who shall hold office for one year. Election as chairman shall not affect the member's right to vote on all matters before the board. The board shall meet at such other times as it deems advisable but at least once quarterly and shall from time to time adopt rules and regulations for its own government and as may be necessary for it to discharge its duties and exercise its powers under this chapter. [1965 ex.s. c 120 § 5.]

36.78.060 County road administration engineer. The county road administration board shall appoint the county road administration engineer who shall be the chief administrative officer of the board and shall be responsible for carrying out the policies adopted by the board. The county road administration engineer shall be a licensed professional engineer with experience as a county engineer or as a chief assistant to a county engineer in Washington. He shall serve at the pleasure of the county road administration board. [1965 ex.s. c 120 § 6.]

36.78.070 Duties of board. The county road administration board shall:

- (1) Establish by regulation, standards of good practice for county road administration.
- (2) Establish reporting requirements for counties with respect to the standards of good practice adopted by the board.
- (3) Receive and review reports from counties and reports of the county road administration engineer to determine compliance with legislative directives and the standards of good practice adopted by the board.
- (4) Report annually on the first day of July to the state highway commission and the joint committee on highways on the status of county road administration in each county. The annual report shall contain recommendations for improving administration of the county road programs. [1965 ex.s. c 120 § 7.]

36.78.080 Members to serve without compensation—Reimbursement for travel expenses. Members of the county road administration board shall receive no compensation for their service on the board, but shall be reimbursed for travel expenses incurred while attending meetings of the board or while engaged on other business of the board when authorized by the board in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended [1975-'76 2nd ex.s. c 34 § 80; 1975 1st ex.s. c 1 § 1; 1969 ex.s. c 182 § 5; 1965 ex.s. c 120 § 8.]

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

36.78.090 Certificates of good practice—Withholding of motor vehicle tax distribution. (1) The board prior to April 1st of each year 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 highway commission 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 April 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, shall, effective April 1st of such year, 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 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) 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 or a conditional certificate 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. [1965 ex.s. c 120 § 9.]

36.78.100 Conditional certificates. Whenever the board finds that a county has failed to submit the reports required by RCW 36.78.090, or has failed to comply with provisions of law relating to county road administration or has failed to meet the standards of good practice as formulated and adopted by the board, the board

may in lieu of withholding a certificate of good practice issue and transmit to the state treasurer on behalf of such county a conditional certificate which will authorize the continued distribution to such county of its share of motor vehicle fuel taxes. The issuance of such a conditional certificate shall be upon terms and conditions as shall be deemed by the board to be appropriate. In the event a county on whose behalf a conditional certificate is issued fails to comply with the terms and conditions of such certificate, the board may forthwith cancel such certificate notifying the state treasurer thereof. In such case the state treasurer shall thereafter withhold from such county its share of the motor vehicle fuel taxes as provided in RCW 36.78.090. [1965 ex.s. c 120 § 10.]

36.78.110 Expenses to be paid from motor vehicle fund—Disbursement procedure. All expenses incurred by the board including salaries of employees shall be paid upon voucher forms provided by the central budget agency or pursuant to a regular payroll signed by the chairman of the board and by the county road administration engineer. All expenses of the board shall be paid out of that portion of the motor vehicle fund allocated to the counties and withheld for use by the state highway commission and the county road administration board under the provisions of RCW 46.68.120(1), as now or hereafter amended. [1965 ex.s. c 120 § 11.]

Chapter 36.80 ROADS AND BRIDGES—ENGINEER

Sections

36.80.010	Employment of road engineer.
36.80.015	Office at county seat.
36.80.020	Qualifications—Bond.
36.80.030	Duties of engineer.
36.80.040	Records to be kept.
36.80.050	Highway plat book.
36.80.060	Engineer to maintain records of expenditures for equipment, etc.—Inventory.
36.80.070	Plans and specifications to be prepared.
36.80.080	Cost-audit examination by division of municipal corporations—Expense.

County engineer defined for diking, drainage, or sewerage improvement district purposes: RCW 85.08.010.

Diking or drainage improvement district, engineer as supervisor: RCW 85.20.050.

Duties relating to

agreements on planning, establishing, constructing, etc., of city streets: RCW 35.77.020, 35.77.030.

diking, drainage and sewerage improvement districts: Chapters 85.08, 85.16 RCW.

flood control zone districts: Chapter 86.15 RCW.

Ex officio local flood control engineer for soil conservation district, engineer as: RCW 86.26.030–86.26.040.

Township road alterations notices given by county engineer: RCW 45.24.010.

36.80.010 Employment of road engineer. The board shall employ a full time county road engineer residing in the county: *Provided*, That in eighth and ninth class counties it may employ a county engineer on a part time basis who need not be a resident of such county, or may contract with other counties for the engineering services of a county road engineer from such other counties. [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.]

36.80.015 Office at county seat. The county road engineer shall keep his office at the county seat in such room or rooms as are provided by the county, and he shall be furnished with all necessary cases and other suitable articles, and also with all blank books and blanks necessary to the proper discharge of his official duties. The records and books in the county road engineer's office shall be public records, and shall at all proper times be open to the inspection and examination of the public. [1963 c 4 § 36.80.015. Prior: 1955 c 9 § 1; prior: 1895 c 77 § 10; RRS § 4148.]

36.80.020 Qualifications—Bond. He shall be a registered and licensed professional civil engineer under the laws of this state, duly qualified and experienced in highway and road engineering and construction. He shall serve at the pleasure of the board.

Before entering upon his employment, every county road engineer shall give an official bond to the county in such amount as the board shall determine, conditioned upon the fact that he will faithfully perform all the duties of his employment and account for all property of the county entrusted to his care. [1969 ex.s. c 182 § 7; 1963 c 4 § 36.80.020. Prior: 1943 c 73 § 1, part; 1937 c 187 § 4, part; Rem. Supp. 1943 § 6450-4, part.]

36.80.030 Duties of engineer. The county road engineer shall examine and certify to the board all estimates and all bills for labor, materials, provisions, and supplies with respect to county roads, prepare standards of construction of roads and bridges, and perform such other duties as may be required by order of the board.

He shall have supervision, under the direction of the board, of establishing, laying out, constructing, altering, improving, repairing, [and] maintaining all county roads of the county. [1969 ex.s. c 182 § 8; 1963 c 4 § 36.80.030. Prior: 1943 c 73 § 1, part; 1937 c 187 § 4, part; Rem. Supp. 1943 § 6450-4, part.]

36.80.040 Records to be kept. The office of county engineer shall be an office of record; the county road engineer shall record and file in his office, all matters concerning the public roads, highways, bridges, ditches, or other surveys of his county, with the original papers, documents, petitions, surveys, repairs, and other papers, in order to have the complete history of any such road, highway, bridge, ditch, or other survey; and shall number each construction or improvement project. [1969 ex.s. c 182 § 9; 1963 c 4 § 36.80.040. Prior: 1907 c 160 § 4; RRS § 4147.]

36.80.050 Highway plat book. He shall keep a highway plat book in his office in which he shall have accurately platted all public roads and highways established by the board. [1963 c 4 § 36.80.050. Prior: 1907 c 160 § 2; RRS § 4149.]

36.80.060 Engineer to maintain records of expenditures for equipment, etc.—Inventory. The county road

engineer shall maintain in his office complete and accurate records of all expenditures for (1) administration, (2) bond and warrant retirement, (3) maintenance, (4) construction, (5) purchase and operation of road equipment, and (6) purchase or manufacture of materials and supplies, and shall maintain a true and complete inventory of all road equipment. The state auditor, with the advice and assistance of the county road administration board, shall prescribe forms and types of records to be maintained by the county road engineers. [1969 ex.s. c 182 § 10; 1963 c 4 § 36.80.060. Prior: 1949 c 156 § 2; Rem. Supp. 1949 § 6450-8b.]

36.80.070 Plans and specifications to be prepared. All road construction work, except minor construction work, which by its nature does not require plans and specifications, whether performed pursuant to contract or by day labor, shall be in accordance with plans and specifications prepared therefor by or under direct supervision of the county road engineer. [1969 ex.s. c 182 § 11; 1963 c 4 § 36.80.070. Prior: 1949 c 156 § 3; Rem. Supp. 1949 § 6450-8c.]

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 board of county commissioners. The expense of such examination shall be paid out of that portion of the motor vehicle fund allocated to the several counties and withheld for use of the director of highways under the terms of RCW 46.68.120(1). The state auditor shall certify the expense of such examination to the highway commission. [1963 c 4 § 36.80.080. Prior: 1957 c 146 § 1.]

Chapter 36.81

ROADS AND BRIDGES—ESTABLISHMENT

Sections

- 36.81.010 Resolution of intention and necessity.
- 36.81.020 Freeholders' petition—Bond.
- 36.81.030 Deeds and waivers.
- 36.81.040 Action on petition.
- 36.81.050 Engineer's report.
- 36.81.060 Survey map, field notes and profiles.
- 36.81.070 Notice of hearing on report.
- 36.81.080 Hearing—Road established by resolution.
- 36.81.090 Expense of proceedings.
- 36.81.100 County road on or over dikes.
- 36.81.110 County road on or over dikes—Condemnation for dike roads.
- 36.81.121 Perpetual advanced plans for coordinated road program—Six year program for arterial road construction, ferries, docks, etc. (as amended by 1975 1st ex.s. c 21).
- 36.81.121 Perpetual advanced plans for coordinated road program—Six year program for arterial road construction—Expenditures—Bicycle, pedestrian and equestrian funds, expenditures (as amended by 1975 1st ex.s. c 215).
- 36.81.122 Provisions for bicycle paths, lanes, routes, roadways and improvements to be included in annual revision or extension of comprehensive road programs—Exception.
- 36.81.130 Procedure specified for establishment, construction and maintenance.

36.81.140 Columbia Basin project road systems—Establishment by plat.

Alternate date for budget hearing: RCW 36.40.071.

State highways in urban areas, allocation of funds, planning, bond issue, etc.: Chapter 47.26 RCW.

Urban arterials, planning, construction by cities and towns, urban arterial board, funds bond issue, etc.: Chapter 47.26 RCW.

36.81.010 Resolution of intention and necessity. The board may by original resolution entered upon its minutes declare its intention to establish any county road in the county and declare that it is a public necessity and direct the county road engineer to report upon such project. [1963 c 4 § 36.81.010. Prior: 1937 c 187 § 19; RRS § 6450–19.]

36.81.020 Freeholders' petition—Bond. Ten or more freeholders of any county may petition the board for the establishment of a county road in the vicinity of their residence, setting forth and describing the general course and terminal points of the proposed improvement and stating that the same is a public necessity. The petition must be accompanied by a bond in the penal sum of three hundred dollars, payable to the county, executed by one or more persons as principal or principals, with two or more sufficient sureties, conditioned that the petitioners will pay into the county road fund of the county all costs and expenses incurred by the county in examining and surveying the proposed road and in the proceedings thereon in case the road is not established by reason of its being impracticable or there not being funds therefor. [1963 c 4 § 36.81.020. Prior: 1937 c 187 § 20, part; RRS § 6450–20, part.]

36.81.030 Deeds and waivers. The board may require the petitioners to secure deeds and waivers of damages for the right of way from the landowners, and, in such case, before an examination or survey by the county road engineer is ordered, such deeds and waivers shall be filed with the board. [1963 c 4 § 36.81.030. Prior: 1937 c 187 § 20, part; RRS § 6450–20, part.]

36.81.040 Action on petition. Upon the filing of the petition and bond and being satisfied that the petition has been signed by freeholders residing in the vicinity of the proposed road, the board shall direct the county road engineer to report upon the project. [1963 c 4 § 36.81.040. Prior: 1937 c 187 § 20, part; RRS § 6450–20, part.]

36.81.050 Engineer's report. Whenever directed by the board to report upon the establishment of a county road the engineer shall make an examination of the road and if necessary a survey thereof. After examination, if the engineer deems the road to be impracticable, he shall so report to the board without making any survey, or he may examine or examine and survey any other practicable route which would serve such purpose. Whenever he considers any road as proposed or modified as practicable, he shall report thereon in writing to the board giving his opinion: (1) As to the necessity of the road; (2) as to the proper terminal points, general course and length thereof; (3) as to the proper width of right of way

therefor; (4) as to the estimated cost of construction, including all necessary bridges, culverts, clearing, grubbing, drainage, and grading; (5) and such other facts as he may deem of importance to be considered by the board. [1963 c 4 § 36.81.050. Prior: 1937 c 187 § 21, part; RRS § 6450–21, part.]

36.81.060 Survey map, field notes and profiles. The county road engineer shall file with his report a correctly prepared map of the road as surveyed, which map must show the tracts of land over which the road passes, with the names, if known, of the several owners thereof, and he shall file therewith his field notes and profiles of such survey. [1963 c 4 § 36.81.060. Prior: 1937 c 187 § 21, part; RRS § 6450–21, part.]

36.81.070 Notice of hearing on report. The board shall fix a time and place for hearing the report of the engineer and cause notice thereof to be published once a week for two successive weeks in the county official newspaper and to be posted for at least twenty days at each termini of the proposed road.

The notice shall set forth the termini of the road as set out in the resolution of the board, or the freeholders' petition, as the case may be, and shall state that all persons interested may appear and be heard at such hearing upon the report and recommendation of the engineer either to proceed or not to proceed with establishing the road. [1963 c 4 § 36.81.070. Prior: 1937 c 187 § 22, part; RRS § 6450–22, part.]

36.81.080 Hearing—Road established by resolution. On the day fixed for the hearing or any day to which the hearing has been adjourned, upon proof to its satisfaction made by affidavit of due publication and posting of the notice of hearing, the board shall consider the report and any and all evidence relative thereto, and if the board finds that the proposed county road is a public necessity and practicable it may establish it by proper resolution. [1963 c 4 § 36.81.080. Prior: 1937 c 187 § 22, part; RRS § 6450–22, part.]

36.81.090 Expense of proceedings. The cost and expense of the road, together with cost of proceedings thereon and of right of way and any quarries or other land acquired therefor, and the maintenance of the road shall be paid out of the county road fund. When the costs are assessed against the principals on the bond given in connection with a petition for the improvement, the county auditor shall file a cost bill with the county treasurer who shall proceed to collect it. [1963 c 4 § 36.81.090. Prior: (i) 1937 c 187 § 22, part; RRS § 6450–22, part. (ii) 1937 c 187 § 20, part; RRS § 6450–20, part.]

36.81.100 County road on or over dikes. The board of any county may establish county roads over, across or along any dike maintained by any diking, or diking and drainage, district in the manner provided by law for establishing county roads over or across private property, and shall determine and offer the amount of damages, if any, to the district and to the owners of the land upon

which the dike is constructed and maintained: *Provided*, That every such county road must be so constructed, maintained, and used as not to impair the use of the dike. [1963 c 4 § 36.81.100. Prior: 1937 c 187 § 15; RRS § 6450-15.]

36.81.110 County road on or over dikes—Condemnation for dike roads. If any offer of damages to any diking, or diking and drainage, district is not accepted in the manner provided by law, it shall be deemed rejected, and the board by order, shall direct condemnation proceedings to procure the right of way to be instituted in the superior court of the county by the prosecuting attorney in the manner provided by law for the taking of private property for public use, and to that end the board may institute and maintain in the name of the county such proceedings against the diking, or diking and drainage, district and the owners of any land on which the dike is located and that have failed to accept the offer of damages made by the board: *Provided*, That no taxes or assessments shall be charged or collected by any diking, or diking and drainage, district for any county road as provided in this section. [1963 c 4 § 36.81.110. Prior: 1937 c 187 § 16; RRS § 6450-16.]

36.81.121 Perpetual advanced plans for coordinated road program—Six year program for arterial road construction, ferries, docks, etc. (as amended by 1975 1st ex.s. c 21). Prior to July 1, 1968, the legislative authority of each county with the advice and assistance of the county road engineer, and pursuant to one or more public hearings thereon, shall prepare and adopt a comprehensive road program for the ensuing six calendar years. Such program shall include proposed road and bridge construction work and for those counties operating ferries shall also include a separate section showing proposed capital expenditures for ferries, docks, and related facilities. Copies of the program shall be filed with the county administration board and with the director of highways not more than thirty days after its adoption by the board. Annually thereafter each board shall review the work accomplished under the program and determine current county road needs. Based on these findings each board shall prepare and after public hearing thereon adopt a revised and extended comprehensive road program, and each one year extension and revision shall be filed with the director of highways not more than thirty days after its adoption by the board. The purpose of this section shall be to assure that perpetually each county shall have available advanced plans, looking to the future for not less than six years as a guide in carrying out a coordinated road construction program. Such program may at any time be revised by a majority of the board but only after a public hearing thereon.

The six year program of each county having an urban area within its boundaries shall contain a separate section setting forth the six year program for arterial road construction based upon its long range construction plan and formulated in accordance with regulations of the urban arterial board. The six year program for arterial road construction shall be submitted to the urban arterial board forthwith after its annual revision and adoption by the board of county commissioners. The six year program for arterial road construction shall be based upon estimated revenues available for such construction together with such additional sums as the county commissioners may request for urban arterials only from the urban arterial trust account for the six year period. The arterial road construction program shall provide for a more rapid rate of completion of the long range construction needs of major arterial roads than for secondary and collector arterial roads, pursuant to regulations of the urban arterial board. [1975 1st ex.s. c 21 § 3; 1967 ex.s. c 83 § 26; 1963 c 4 § 36.81.121. Prior: 1961 c 195 § 1.]

36.81.121 Perpetual advanced plans for coordinated road program—Six year program for arterial road construction—Expenditures—Bicycle, pedestrian and equestrian funds, expenditures (as amended by 1975 1st ex.s. c 215). (1) Prior to July 1, 1968, the legislative authority of each county with the advice and assistance of the

county road engineer, and pursuant to one or more public hearings thereon, shall prepare and adopt a comprehensive road program for the ensuing six calendar years and shall file the same with the director of highways not more than thirty days after its adoption by the legislative authority. Annually thereafter each legislative authority shall review the work accomplished under the program and determine current county road needs. Based on these findings each legislative authority shall prepare and after public hearing thereon adopt a revised and extended comprehensive road program, and each one year extension and revision shall be filed with the director of highways not more than thirty days after its adoption by the legislative authority. The purpose of this section shall be to assure that perpetually each county shall have available advanced plans, looking to the future for not less than six years as a guide in carrying out a coordinated road construction program. Such program may at any time be revised by a majority of the legislative authority but only after a public hearing thereon.

The six year program of each county having an urban area within its boundaries shall contain a separate section setting forth the six year program for arterial road construction based upon its long range construction plan and formulated in accordance with regulations of the urban arterial board. The six year program for arterial road construction shall be submitted to the urban arterial board forthwith after its annual revision and adoption by the legislative authority of each county. The six year program for arterial road construction shall be based upon estimated revenues available for such construction together with such additional sums as the legislative authority of each county may request for urban arterials only from the urban arterial trust account for the six year period. The arterial road construction program shall provide for a more rapid rate of completion of the long range construction needs of major arterial roads than for secondary and collector arterial roads, pursuant to regulations of the urban arterial board.

(2) On and after July 1, 1976 each six year program forwarded to the director in compliance with subsection (1) of this section shall contain information as to how a county will expend its moneys, including funds made available pursuant to chapter 47.30 RCW, for bicycles, pedestrians, and equestrian purposes. [1975 1st ex.s. c 215 § 2; 1967 ex.s. c 83 § 26; 1963 c 4 § 36.81.121. Prior: 1961 c 195 § 1.]

Reviser's note: RCW 36.81.121 was amended twice by the 1975 first extraordinary session of the legislature, each without reference to the other.

For rule of construction for sections amended more than once during the same session, see RCW 1.12.025.

Severability—1967 ex.s. c 83: See RCW 47.26.900.

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.

Priority projects to be selected in preparation of six year program: RCW 47.26.220.

Urban arterial board: Chapter 47.26 RCW.

36.81.122 Provisions for bicycle paths, lanes, routes, roadways and improvements to be included in annual revision or extension of comprehensive road programs—Exception. The annual revision and extension of comprehensive road programs pursuant to RCW 36.81.121 shall include consideration of and, wherever reasonably practicable, provisions for bicycle paths, lanes, routes, and roadways: *Provided*, That no provision need be made for such a path, lane, route, or roadway where the cost of establishing it would be excessively disproportionate to the need or probable use. [1974 ex.s. c 141 § 9.]

36.81.130 Procedure specified for establishment, construction and maintenance. The laying out, construction, and maintenance of all county roads shall hereafter be in accordance with the following procedure:

On or before the first Monday in July of each year each county road engineer shall file with the county legislative authority a recommended plan for the laying out, construction, maintenance, and special maintenance of county roads for the ensuing fiscal year. Such recommended plan need not be limited to but shall include the following items: Recommended projects, including capital expenditures for ferries, docks, and related facilities, and their priority; the estimated cost of all work, including labor and materials for each project recommended; a statement as to whether such work is to be done by the county forces or by publicly advertised contract; a list of all recommended repairs to and purchases of road equipment, together with the estimated costs thereof. Amounts to be expended for maintenance and special maintenance shall be recommended, but details of these proposed expenditures shall not be made. The recommended plan shall conform as nearly as practicable to the county's long range road program.

Within two weeks after the filing of the road engineer's recommended plan, the county legislative authority shall consider the same. Revisions and changes may be made until a plan which is agreeable to a majority of the members of the county legislative authority has been adopted: *Provided*, That such revisions shall conform as nearly as practicable to the county's long range road program. Any appropriations contained in the county road budget shall be void unless the county's road plan was adopted prior to such appropriation.

The final road plan for the fiscal year shall not thereafter be changed except by unanimous vote of the county legislative authority. [1975 1st ex.s. c 21 § 4; 1963 c 4 § 36.81.130. Prior: 1949 c 156 § 7; Rem. Supp. 1949 § 6450-8f.]

36.81.140 Columbia Basin project road systems—
Establishment by plat. When plats or blocks of farm units have been or are filed under the provisions of chapter 89.12 RCW which contain a system of county roads, or when a supplemental plat of a system of county roads to serve such a plat is filed in connection therewith, the filing period and formal approval by the board of county commissioners shall constitute establishment as county roads: *Provided*, That the board of county commissioners have obtained the individual rights-of-way by deed or as otherwise provided by law. [1963 c 4 § 36.81.140. Prior: 1953 c 199 § 1.]

Chapter 36.82

ROADS AND BRIDGES—FUNDS—BUDGET

Sections

- 36.82.010 "County road fund" created.
- 36.82.020 County road fund—Limitation upon expenditure of road district levies.
- 36.82.030 County road fund—Separate account for each road district.
- 36.82.040 General tax levy for road fund—Exception.
- 36.82.050 Receipts from motor vehicle fund to road fund.
- 36.82.060 Federal reimbursement to road fund.
- 36.82.070 Purpose for which road fund can be used.
- 36.82.080 Purpose for which road fund can be used—Payment of bond or warrant interest and principal.
- 36.82.090 Anticipation warrants against road fund.

- 36.82.100 Purchases of road material extraction equipment—Sale of surplus materials.
- 36.82.110 Purchases of road material extraction equipment—Placing of materials at cost to abutters.
- 36.82.120 Purchases of road material extraction equipment—Proceeds to road fund.
- 36.82.130 Competitive bidding on purchase of equipment.
- 36.82.140 Forest roads may be maintained from road fund.
- 36.82.145 Bicycle paths, lanes, routes, etc., may be constructed, maintained or improved from county road fund.
- 36.82.150 County road budget—Highway commission estimate of available funds.
- 36.82.160 County road budget—Road budget to be prepared—Estimates of expenditures.
- 36.82.170 County road budget—Budget as adopted filed with highway commission.
- 36.82.180 County road budget—Preliminary supplemental budget.
- 36.82.190 County road budget—Notice of hearing on supplemental budget.
- 36.82.200 County road budget—Hearing on, adoption of, supplemental budget.
- 36.82.210 Disposition of fines and forfeitures for violations.
- 36.82.220 "Equipment rental and revolving fund" created.
- 36.82.230 County road fund, equipment rental and revolving fund—Payroll warrants—Transfers.

Employee safety award program, funds affected: RCW 36.32.460.

36.82.010 "County road fund" created. There is created in each county of the state a county fund to be known as the "county road fund." Any funds which accrue to any county for use upon county roads, shall be credited to and deposited in the county road fund. [1969 ex.s. c 182 § 12; 1963 c 4 § 36.82.010. Prior: 1943 c 82 § 2, part; 1937 c 187 § 6, part; Rem. Supp. 1943 § 6450-6, part.]

36.82.020 County road fund—
Limitation upon expenditure of road district levies. Any funds accruing to and to be deposited in the county road fund arising from any levy in any road district shall be expended for proper county road purposes entirely within the limits of the road district from which the same was or is collected: *Provided*, That nothing in this section shall prevent the loan or rental of equipment by one road district to another road district in the county. [1963 c 4 § 36.82.020. Prior: 1943 c 82 § 2, part; 1937 c 187 § 6, part; Rem. Supp. 1943 § 6450-6, part.]

36.82.030 County road fund—
Separate account for each road district. The county auditor of each county shall set up within the county road fund of such county, a separate fund for each road district and keep a separate and detailed accounting of all funds arising from any levy for proper county road purposes in each such road district and all expenditures made therefrom. [1963 c 4 § 36.82.030. Prior: 1943 c 82 § 2, part; 1937 c 187 § 6, part; Rem. Supp. 1943 § 6450-6, part.]

36.82.040 General tax levy for road fund—
Exception. For the purpose of raising revenue for establishing, laying out, constructing, altering, repairing, improving, and maintaining county roads, bridges, and wharves necessary for vehicle ferriage and for other proper county purposes, the board shall annually at the time of making the levy for general purposes make a uniform tax levy throughout the county, or any road

district thereof, of not to exceed two dollars and twenty-five cents per thousand dollars of assessed value of the last assessed valuation of the taxable property in the county, or road district thereof, unless other law of the state requires a lower maximum levy, in which event such lower maximum levy shall control. All funds accruing from such levy shall be credited to and deposited in the county road fund except that revenue diverted under RCW 36.33.220 shall be placed in a separate and identifiable account within the county current expense fund. [1973 1st ex.s. c 195 § 41; 1971 ex.s. c 25 § 2; 1963 c 4 § 36.82.040. Prior: 1937 c 187 § 7; RRS § 6450-7.]

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Severability—1971 ex.s. c 25: See note following RCW 36.33.220.

36.82.050 Receipts from motor vehicle fund to road fund. Any funds accruing to the credit of any county from the motor vehicle fund shall be paid monthly to the county treasurer and deposited in the county road fund. [1963 c 4 § 36.82.050. Prior: 1937 c 187 § 8, part; RRS § 6450-8, part.]

36.82.060 Federal reimbursement to road fund. Any funds accruing to any county by way of reimbursement by the federal government for expenditures made from the county road fund of such county for any proper county road purpose shall be credited to and deposited in the county road fund. [1963 c 4 § 36.82.060. Prior: 1937 c 187 § 8, part; RRS § 6450-8, part.]

36.82.070 Purpose for which road fund can be used. Any money paid to any county from the motor vehicle fund may be used for the construction, alteration, repair, improvement, or maintenance of county roads and bridges thereon and for wharves necessary for ferriage of motor vehicle traffic, and for ferries, and for the acquiring, operating, and maintaining of machinery, equipment, quarries, or pits for the extraction of materials, and for the cost of establishing county roads, acquiring rights of way therefor, and expenses for the operation of the county engineering office, and for any other proper county road purpose. Such expenditure may be made either independently or in conjunction with the state or any city, town, or tax district within the county. [1963 c 4 § 36.82.070. Prior: 1943 c 82 § 5, part; 1937 c 187 § 53, part; Rem. Supp. 1943 § 6450-53, part.]

36.82.080 Purpose for which road fund can be used—Payment of bond or warrant interest and principal. The payment of interest or principal on general obligation county road bonds, or independent highway district bonds, or retirement of registered warrants both as to principal and interest when such warrants have been issued for a proper county road purpose, are declared to be a proper county road purpose. [1963 c 4 § 36.82.080. Prior: 1943 c 82 § 5, part; 1937 c 187 § 53, part; Rem. Supp. 1943 § 6450-53, part.]

36.82.090 Anticipation warrants against road fund. The board may expend funds from the county road fund

or register warrants against the county road fund in anticipation of funds to be paid to the county from the motor vehicle fund. [1963 c 4 § 36.82.090. Prior: 1943 c 82 § 6; 1937 c 187 § 54; Rem. Supp. 1943 § 6450-54.]

36.82.100 Purchases of road material extraction equipment—Sale of surplus materials. The boards of the several counties may purchase and operate, out of the county road fund, rock crushing, gravel, or other road building material extraction equipment.

Any crushed rock, gravel, or other road building material extracted and not directly used or needed by the county in the construction, alteration, repair, improvement, or maintenance of its roads may be sold at actual cost of production by the board to the state or any other county, city, town, or other political subdivision to be used in the construction, alteration, repair, improvement, or maintenance of any state, county, city, town or other proper highway, road or street purpose: *Provided*, That in counties of less than twelve thousand five hundred population as determined by the 1950 federal census, the boards of commissioners, during such times as the crushing, loading or mixing equipment is actually in operation, or from stockpiles, may sell at actual cost of production such surplus crushed rock, gravel, or other road building material to any other person for private use where the place of contemplated use of such crushed rock, gravel or other road building material is more than fifteen miles distant from the nearest private source of such materials within the county, distance being computed by the closest traveled route: *And provided further*, That the purchaser presents, at or before the time of delivery to him, a treasurer's receipt for payment for such surplus crushed rock, gravel, or any other road building material. [1963 c 4 § 36.82.100. Prior: 1953 c 172 § 1; 1937 c 187 § 44, part; RRS § 6450-44, part.]

36.82.110 Purchases of road material extraction equipment—Placing of materials at cost to abutters. Upon voluntary contribution and payment by any person for the actual cost thereof, the board may place crushed rock, gravel, or other road building material upon any county road. [1963 c 4 § 36.82.110. Prior: 1937 c 187 § 44, part; RRS § 6450-44, part.]

36.82.120 Purchases of road material extraction equipment—Proceeds to road fund. All proceeds from the sale or placing of any crushed rock, gravel or other road building material shall be deposited in the county road fund to be expended under the same provisions as are by law imposed upon the funds used to produce the crushed rock, gravel, or other road building material extracted and sold. [1963 c 4 § 36.82.120. Prior: 1937 c 187 § 44, part; RRS § 6450-44, part.]

36.82.130 Competitive bidding on purchase of equipment. No items of equipment shall be purchased by any county and paid for from the county road fund or equipment rental and revolving fund where the sales price thereof is in excess of one thousand dollars, except upon a call for bids published at least once a week for

two consecutive weeks prior to the day of receiving and opening such bids. The call for bids shall specify the equipment to be purchased and the time and place when bids will be received and opened. Bids shall be publicly opened and read, and award shall be made to the lowest and best bidder: *Provided*, That in the event of any evidence of collusion as between bidders, or in the event that it is considered that an insufficient number of bids have been received, or for other good cause, the board may reject all bids and readvertise for bids. [1969 ex.s. c 182 § 13; 1963 c 4 § 36.82.130. Prior: 1937 c 187 § 47; RRS § 6450-47.]

36.82.140 Forest roads may be maintained from road fund. The board may maintain any forest roads within its county and expend for the maintenance thereof funds accruing to the county road fund. [1963 c 4 § 36.82.140. Prior: 1937 c 187 § 45; RRS § 6450-45.]

36.82.145 Bicycle paths, lanes, routes, etc., may be constructed, maintained or improved from county road fund. Any funds deposited in the county road fund may be used for the construction, maintenance, or improvement of bicycle paths, lanes, routes, and roadways, and for improvements to make existing streets and roads more suitable and safe for bicycle traffic. [1974 ex.s. c 141 § 8.]

36.82.150 County road budget—Highway commission estimate of available funds. On or before the eighth day of June of each year the highway commission shall prepare and file with the board 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. [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.]

36.82.160 County road budget—Road budget to be prepared—Estimates of expenditures. Each board of county commissioners, with the assistance of the county road engineer, shall prepare and file with the county auditor on or before the second Monday in August in each year, detailed and itemized estimates of all expenditures required in the county for the ensuing fiscal year. In the preparation and adoption of the county road budget the board shall determine and budget the respective percentages of the sum to become available for the following county road purposes: (1) Administration; (2) bond and warrant retirement; (3) maintenance; (4) construction; (5) operation of equipment rental and revolving fund; and (6) such other items relating to the county road budget as may be required by the county road administration board; and the respective amounts as adopted for these several items in the final budget for the ensuing calendar year shall not be altered or exceeded except as by law provided. [1969 ex.s. c 182 § 14; 1963 c 4 § 36.82.160. Prior: 1949 c 156 § 6, part; 1943 c 82 § 7, part; 1937 c 187 § 56, part; Rem. Supp. 1949 § 6450-56, part.]

36.82.170 County road budget—Budget as adopted filed with highway commission. Upon the final adoption of the county road budgets of the several counties, the boards shall file a copy thereof in the office of the highway commission. [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.]

36.82.180 County road budget—Preliminary supplemental budget. In the event that any funds should be paid to any county from the motor vehicle fund in excess of the amount estimated by the highway commission and such excess funds have not been included by the board in the then current county road budget or in the event that funds should 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 board may by unanimous consent, consider and adopt a preliminary supplemental budget covering such excess funds for the remainder of the current fiscal year. [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.]

36.82.190 County road budget—Notice of hearing on supplemental budget. The board shall then publish a notice setting day of hearing for the adoption of the final supplemental budget covering such excess funds, designating the time and place of hearing and that anyone may appear thereat and be heard for or against any part of said preliminary supplemental budget. The notice shall be published once a week for two consecutive weeks immediately following the adoption of the preliminary supplemental budget in the official newspaper of the county, or if there is none, in a newspaper of general circulation in the county. The board shall provide a sufficient number of copies of the preliminary supplemental budget to meet reasonable public demands and they shall be available not later than two weeks immediately preceding the hearing. [1963 c 4 § 36.82.190. Prior: 1949 c 156 § 6, part; 1943 c 82 § 7, part; 1937 c 187 § 56, part; Rem. Supp. 1949 § 6450-56, part.]

36.82.200 County road budget—Notice of hearing on supplemental budget. The board shall hold such hearing at the time and place designated in the notice, and it may be continued from day to day until concluded but not to exceed a total of five days. Upon the conclusion of the hearing the board shall fix and determine the supplemental budget and by resolution adopt it as finally determined and enter it in detail in the official minutes of the board, copies of which supplemental budget shall be forwarded, one to the director and one to the division of municipal corporations. [1963 c 4 § 36.82.200. Prior: 1949 c 156 § 6, part; 1943 c 82 § 7, part; 1937 c 187 § 56, part; Rem. Supp. 1949 § 6450-56, part.]

36.82.210 Disposition of fines and forfeitures for violations. All fines and forfeitures collected for violation of any of the provisions of chapters 36.75, and 36.77 to 36.87 RCW, inclusive, when the violation thereof occurred outside of any incorporated city or town shall

be distributed and paid into the proper funds for the following purposes: One-half shall be paid into the county road fund of the county in which the violation occurred; one-fourth into the state fund for the support of state parks and parkways; and one-fourth into the highway safety fund: *Provided*, That 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 fines and forfeitures collected for the violation of any of such provisions when the violation thereof occurred inside any incorporated city or town shall be distributed and paid into the proper funds for the following purposes: One-half shall be paid into the city street fund of such incorporated city or town for the construction and maintenance of city streets; one-fourth into the state fund for the support of state parks and parkways; and one-fourth into the highway safety fund: *Provided*, That 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. [1969 ex.s. c 199 § 21; 1963 c 4 § 36.82.210. Prior: 1949 c 75 § 2; 1937 c 187 § 67; Rem. Supp. 1949 § 6450-67.]

36.82.220 "Equipment rental and revolving fund" created. There is hereby created in each county of the state a fund to be known as the "equipment rental and revolving fund." This fund shall be used by the county commissioners as a revolving fund to be expended only for (1) purchase of new or additional road equipment, (2) repair and/or maintenance of road equipment, (3) purchase of necessary supplies for operating road equipment, and (4) purchase or manufacture of road or bridge material in advance of its use. There shall be transferred monthly to the equipment rental and revolving fund from the county road fund the rental value of each item of road equipment used during the preceding month. The rental value shall be determined and fixed by the board of county commissioners and shall be sufficient to include (1) depreciation, (2) maintenance and/or repair, and (3) supplies consumed in operating such road equipment. There shall also be transferred to the equipment rental and revolving fund from the county road fund an amount equivalent to the actual cost of road or bridge material previously purchased or manufactured by the equipment rental and revolving fund, as such material is actually used. Proceeds from the sale of road equipment shall be placed in the equipment rental and revolving fund.

County road equipment or materials owned by the equipment rental and revolving fund may be rented or sold to any agency of the United States of America, the state of Washington, and/or to any other county, city, town, or other municipal corporation. The proceeds of such rental or sale shall be placed in the equipment rental and revolving fund.

The board of county commissioners of any county may at any time alter or change the rental value of road equipment previously determined and fixed, or may

transfer any excess funds accumulated in the equipment rental and revolving fund to the county road fund.

It shall be unlawful for the county commissioners of any county to charge the cost of (1) any new or additional road equipment, (2) the repair and/or maintenance of any road equipment, (3) supplies for operating road equipment, or (4) road or bridge material purchased or manufactured in advance of its use to any fund except to the equipment rental and revolving fund. [1963 c 4 § 36.82.220. Prior: 1949 c 156 § 1; Rem. Supp. 1949 § 6450-8a.]

36.82.230 County road fund, equipment rental and revolving fund—Payroll warrants—Transfers. In lieu of issuing separate payroll warrants on the county road fund and the equipment rental and revolving fund the county commissioners may authorize the county treasurer to make appropriate transfers by approved voucher and the issuing of a warrant to cover expenditures between funds. [1965 ex.s. c 25 § 1.]

Chapter 36.85

ROADS AND BRIDGES—RIGHTS-OF-WAY

Sections

36.85.010	Acquisition—Condemnation.
36.85.020	Aviation site not exempt from condemnation.
36.85.030	Acceptance of federal grants over public lands.
36.85.040	Acceptance of federal grants over public lands—Prior acceptances ratified.

36.85.010 Acquisition—Condemnation. Whenever it is necessary to secure any lands for a right-of-way for any county road or for the drainage thereof or to afford unobstructed view toward any intersection or point of possible danger to public travel upon any county road or for any borrow pit, gravel pit, quarry, or other land for the extraction of material for county road purposes, or right-of-way for access thereto, the board may acquire such lands on behalf of the county by gift, purchase, or condemnation. When the board so directs, the prosecuting attorney of the county shall institute proceedings in condemnation to acquire such land for a county road in the manner provided by law for the condemnation of land for public use by counties. All cost of acquiring land for right-of-way or for other purposes by purchase or condemnation shall be paid out of the county road fund of the county and chargeable against the project for which acquired. [1963 c 4 § 36.85.010. Prior: 1937 c 187 § 9; RRS § 6450-9.]

36.85.020 Aviation site not exempt from condemnation. Whenever any county has established a public highway, which, in whole or in part, abuts upon and adjoins any aviation site in such county, no property shall be exempt from condemnation for such highway by reason of the same having been or being dedicated, appropriated, or otherwise reduced or held to public use. [1963 c 4 § 36.85.020. Prior: 1925 ex.s. c 41 § 1; RRS § 905-2.]

36.85.030 Acceptance of federal grants over public lands. The boards in their respective counties may accept

the grant of rights-of-way for the construction of public highways over public lands of the United States, not reserved for public uses, contained in section 2477 of the Revised Statutes of the United States. Such rights-of-way shall henceforward not be less than sixty feet in width unless a lesser width is specified by the United States. Acceptance shall be by resolution of the board spread upon the records of its proceedings: *Provided*, That nothing herein contained shall be construed to invalidate the acceptance of such grant by general public use and enjoyment, heretofore or hereafter had. [1963 c 4 § 36.85.030. Prior: 1937 c 187 § 17; RRS § 6450-17.]

36.85.040 Acceptance of federal grants over public lands—Prior acceptances ratified. Prior action of boards purporting to accept the grant of rights-of-way under section 2477 of the Revised Statutes of the United States for the construction of public highways over public lands of the United States, as provided in RCW 36.85.030, is hereby approved, ratified and confirmed and all such public highways shall be deemed duly laid out county roads and boards of county commissioners may at any time by recorded resolution cause any of such county roads to be opened and improved for public travel. [1963 c 4 § 36.85.040. Prior: 1937 c 187 § 18; RRS § 6450-18.]

Chapter 36.86

ROADS AND BRIDGES—STANDARDS

Sections

- 36.86.010 Standard width of right-of-way prescribed.
- 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.
- 36.86.050 Monuments at government survey corners.
- 36.86.060 Restrictions on use of oil at intersections or entrances to county roads.
- 36.86.070 Classification of roads in accordance with design standards.
- 36.86.080 Application of design standards to construction and reconstruction.
- 36.86.090 Logs dumped on right-of-way—Removal—Confiscation.
- 36.86.100 Railroad grade crossings—Obstructions.

36.86.010 Standard width of right-of-way prescribed. From and after April 1, 1937, the width of thirty feet on each side of the center line of county roads, exclusive of such additional width as may be required for cuts and fills, is the necessary and proper right-of-way width for county roads, unless the board of county commissioners, shall, in any instance, adopt and designate a different width. This shall not be construed to require the acquisition of increased right-of-way for any county road already established and the right-of-way for which has been secured. [1963 c 4 § 36.86.010. Prior: 1937 c 187 § 14; RRS § 6450-14.]

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 shall include all decked structures, the minimum standard shall be for H-10 loading

in accordance with the state highway commission standards. When such standards have been prepared by the county road engineer, they shall be submitted to the board for approval, and when approved shall be used for all road and bridge construction and improvement in the county. [1963 c 4 § 36.86.020. Prior: 1943 c 73 § 1, part; 1937 c 187 § 4, part; Rem. Supp. 1943 § 6450-4, part.]

36.86.030 Amendment of standards—Filing. Road and bridge standards may be amended from time to time by resolution of the board but no standard shall be approved by the board with any minimum requirement less than that specified in this chapter. Two copies of such approved standards shall be filed with the highway commission for its use in examinations of county road work. [1963 c 4 § 36.86.030. Prior: 1943 c 73 § 1, part; 1937 c 187 § 4, part; Rem. Supp. 1943 § 6450-4, part.]

36.86.040 Uniform standard for signs, signals, guideposts—Railroad grade crossings. The board 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 highway commission. In respect to existing and future railroad grade crossings over county roads the board shall be required to 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. [1963 c 4 § 36.86.040. Prior: 1955 c 310 § 1; 1937 c 187 § 37; RRS § 6450-37.]

36.86.050 Monuments at government survey corners. The board and the road engineer, at the time of establishing, constructing, improving, or paving any county road, 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 county road, and shall aid in the reestablishment of any such corners, monuments, or markers destroyed or obliterated by the construction of any county road heretofore established, by permitting inspection of the records in the office of the board and the county engineering office. [1963 c 4 § 36.86.050. Prior: 1937 c 187 § 36; RRS § 6450-36.]

36.86.060 Restrictions on use of oil at intersections or entrances to county roads. No oil or other material shall be used in the treatment of any county road or private road or driveway, of such consistency, viscosity or nature or in such quantities and in such proximity to the entrance to or intersection with any state highway or

county road, the roadway of which is surfaced with cement concrete or asphaltic concrete, that such oil or other material is or will be tracked by vehicles thereby causing a coating or discoloration of such cement concrete or asphaltic concrete roadway. Any person violating the provisions of this section shall be guilty of a misdemeanor. [1963 c 4 § 36.86.060. Prior: 1937 c 187 § 43; RRS § 6450-43.]

36.86.070 Classification of roads in accordance with design standards. From time to time the board of county commissioners of each county shall classify and designate as the county primary road system such trunk, connecting and feeder roads as, when integrated with state highways, city streets and adjoining county roads, will admit of the application of design standards and will best serve the major traffic needs of the county. [1963 c 4 § 36.86.070. Prior: 1949 c 165 § 1; Rem. Supp. 1949 § 6450-8h.]

36.86.080 Application of design standards to construction and reconstruction. Upon the adoption of uniform design standards the board of county commissioners of each county shall apply the same to all new construction within, and as far as practicable and feasible to reconstruction of old roads comprising, the county primary road system. No deviation from such design standards as to such primary system shall be made without the approval of the assistant state director of highways for state aid. [1963 c 4 § 36.86.080. Prior: 1949 c 165 § 4; Rem. Supp. 1949 § 6450-8k.]

36.86.090 Logs dumped on right-of-way—Removal—Confiscation. Logs dumped on any county road right-of-way or in any county road drainage ditch due to hauling equipment failure, or for any other reason, shall be removed within ten days. Logs remaining within any county road right-of-way for a period of thirty days shall be confiscated and removed or disposed of as directed by the boards of county commissioners in the respective counties. Confiscated logs may be sold by the county commissioners and the proceeds thereof shall be deposited in the county road fund. [1963 c 4 § 36.86.090. Prior: 1951 c 143 § 1.]

36.86.100 Railroad grade crossings—Obstructions. Each railroad company shall keep its right of way clear of all brush and timber in the vicinity of a railroad grade crossing with a county road for a distance of one hundred feet from the crossing in such a manner as to permit a person upon the road to obtain an unobstructed view in both directions of an approaching train. The board shall cause brush and timber to be cleared from the right of way of county roads in the proximity of a railroad grade crossing for a distance of one hundred feet from the crossing in such a manner as to permit a person traveling upon the road to obtain an unobstructed view in both directions of an approaching train. It shall be unlawful to erect or maintain a sign, signboard, or billboard at or near a county road or railroad and within a distance of five hundred feet from the point of intersection at grade of the road and railroad and in such a

way that it may obstruct the view or distract the attention of a person operating a vehicle or train and approaching the crossing.

When a person who has erected or who maintains such a sign, signboard, or billboard or when a railroad company permits such brush or timber in the vicinity of a railroad grade crossing with a county road or permits the surface of a grade crossing to become inconvenient or dangerous for passage and who has the duty to maintain it, fails, neglects, or refuses to remove or cause to be removed such brush, timber, sign, signboard, or billboard, or maintain the surface of the crossing, the utilities and transportation commission upon complaint of the board or upon complaint of any party interested, or upon its own motion, shall enter upon a hearing in the manner now provided for hearings with respect to railroad-highway grade crossings, and make and enforce proper orders for the removal of the brush, timber, sign, signboard or billboard, or maintenance of the crossing: *Provided*, That nothing in this section shall prevent the posting or maintaining thereon of highway or road signs or traffic devices giving directions or distances for the information of the public when the signs conform to the "Manual for Uniform Traffic Control Devices" issued by the state highway commission. The board shall inspect highway grade crossings and make complaint of the violation of any provisions of this section. [1963 c 4 § 36.86.100. Prior: 1955 c 310 § 6.]

Chapter 36.87 ROADS AND BRIDGES—VACATION

Sections	
36.87.010	Resolution of intention to vacate.
36.87.020	Freeholders' petition—Bond.
36.87.030	Freeholders' petition—Action on petition.
36.87.040	Engineer's report.
36.87.050	Notice of hearing on report.
36.87.060	Hearing.
36.87.070	Expense of proceeding.
36.87.080	Majority vote required.
36.87.090	Vacation of road unopened for five years—Exceptions.
36.87.100	Classification of roads for which public expenditures made—Compensation of county.
36.87.110	Classification of roads for which no public expenditures made—Compensation of county.
36.87.120	Appraised value as basis for compensation—Appraisal costs.
36.87.130	Vacation of roads abutting bodies of water prohibited unless for public purposes or industrial use.
36.87.140	Retention of easement for public utilities and services.
36.87.900	Severability—1969 ex.s. c 185.

36.87.010 Resolution of intention to vacate. When a county road or any part thereof is considered useless, the board by resolution entered upon its minutes, may declare its intention to vacate and abandon the same or any portion thereof and shall direct the county road engineer to report upon such vacation and abandonment. [1969 ex.s. c 185 § 1; 1963 c 4 § 36.87.010. Prior: 1937 c 187 § 48; RRS § 6450-48.]

36.87.020 Freeholders' petition—Bond. Ten freeholders residing in the vicinity of any county road or portion thereof may petition the board to vacate and abandon the same or any portion thereof. The petition

must show the land owned by each petitioner and set forth that such county road is useless as part of the county road system and that the public will be benefited by its vacation and abandonment. The petition must be accompanied by a bond in the penal sum of one hundred dollars, payable to the county, executed by one or more of such petitioners as principal or principals, and two or more satisfactory sureties, and conditioned that the petitioners will pay into the county road fund of the county the amount of all cost and expenses incurred in the examination, report, and all proceedings pertaining to such petition to vacate and abandon. [1963 c 4 § 36.87-.020. Prior: 1937 c 187 § 49, part; RRS § 6450-49, part.]

36.87.030 Freeholders' petition—Action on petition. On the filing of the petition and bond and on being satisfied that the petition has been signed by petitioners residing in the vicinity of the county road or portion thereof, the board shall direct the county road engineer to report upon such vacation and abandonment. [1963 c 4 § 36.87.030. Prior: 1937 c 187 § 49, part; RRS § 6450-49, part.]

36.87.040 Engineer's report. When directed by the board the county road engineer shall examine any county road or portion thereof proposed to be vacated and abandoned and report his opinion as to whether the county road should be vacated and abandoned, whether the same is in use or has been in use, the condition of the road, whether it will be advisable to preserve it for the county road system in the future, whether the public will be benefited by the vacation and abandonment, and all other facts, matters, and things which will be of importance to the board, and also file his cost bill. [1963 c 4 § 36.87.040. Prior: 1937 c 187 § 50; RRS § 6450-50.]

36.87.050 Notice of hearing on report. Notice of hearing upon the report for vacation and abandonment of a county road shall be published at least once a week for two consecutive weeks preceding the date fixed for the hearing, in the county official newspaper and a copy of the notice shall be posted for at least twenty days preceding the date fixed for hearing at each termini of the county road or portion thereof proposed to be vacated or abandoned. [1963 c 4 § 36.87.050. Prior: 1937 c 187 § 51, part; RRS § 6450-51, part.]

36.87.060 Hearing. On the day fixed for the hearing, the board shall proceed to consider the report of the engineer, together with any evidence for or objection against such vacation and abandonment. If the county road is found useful as a part of the county road system it shall not be vacated, but if it is not useful and the public will be benefited by the vacation, the board may vacate the road or any portion thereof. [1963 c 4 § 36.87.060. Prior: 1937 c 187 § 51, part; RRS § 6450-51, part.]

36.87.070 Expense of proceeding. If the board determines to vacate the road, it shall certify all costs and

expenses incurred in the proceedings to the county treasurer and upon payment of the certified costs and expenses by the principal or principals or sureties upon the bond the board shall declare the road, or portion thereof, vacated and enter its declaration in its minutes. [1963 c 4 § 36.87.070. Prior: 1937 c 187 § 51, part; RRS § 6450-51, part.]

36.87.080 Majority vote required. No county road shall be vacated and abandoned except by majority vote of the board properly entered, or by operation of law, or judgment of a court of competent jurisdiction. [1969 ex.s. c 185 § 2; 1963 c 4 § 36.87.080. Prior: 1937 c 187 § 51, part; RRS § 6450-51, part.]

36.87.090 Vacation of road unopened for five years—Exceptions. Any county road, or part thereof, which remains unopen for public use for a period of five years after the order is made or authority granted for opening it, shall be thereby vacated, and the authority for building it barred by lapse of time: *Provided*, That this section shall not apply to any highway, road, street, alley, or other public place dedicated as such in any plat, whether the land included in such plat is within or without the limits of an incorporated city or town, or to any land conveyed by deed to the state or to any county, city or town for highways, roads, streets, alleys, or other public places. [1963 c 4 § 36.87.090. Prior: 1937 c 187 § 52; RRS § 6450-52.]

36.87.100 Classification of roads for which public expenditures made—Compensation of county. Any board of county commissioners may, by ordinance, classify all county roads for which public expenditures were made in the acquisition, improvement or maintenance of the same, according to the type and amount of expenditures made and the nature of the county's property interest in the road; and may require persons benefiting from the vacation of county roads within some or all of the said classes to compensate the county as a condition precedent to the vacation thereof. [1969 ex.s. c 185 § 4.]

36.87.110 Classification of roads for which no public expenditures made—Compensation of county. Any board of county commissioners may, by ordinance, separately classify county roads for which no public expenditures have been made in the acquisition, improvement or maintenance of the same, according to the nature of the county's property interest in the road; and may require persons benefiting from the vacation of county roads within some or all of the said classes to compensate the county as a condition precedent to the vacation thereof. [1969 ex.s. c 185 § 5.]

36.87.120 Appraised value as basis for compensation—Appraisal costs. Any ordinance adopted pursuant to this chapter may require that compensation for the vacation of county roads within particular classes shall equal all or a percentage of the appraised value of the vacated road as of the effective date of the vacation. Costs of county appraisals of roads pursuant to such

ordinances shall be deemed expenses incurred in vacation proceedings, and shall be paid in the manner provided by RCW 36.87.070. [1969 ex.s. c 185 § 6.]

36.87.130 Vacation of roads abutting bodies of water prohibited unless for public purposes or industrial use. No county shall vacate a county road or part thereof which abuts on a body of salt or fresh water unless the purpose of the vacation is to enable any public authority to acquire the vacated property for port purposes, boat moorage or launching sites, or for park, viewpoint, recreational, educational or other public purposes, or unless the property is zoned for industrial uses. [1969 ex.s. c 185 § 7.]

36.87.140 Retention of easement for public utilities and services. Whenever a county road or any portion thereof is vacated the legislative body may include in the resolution authorizing the vacation a provision that the county retain an easement in respect to the vacated land for the construction, repair, and maintenance of public utilities and services which at the time the resolution is adopted are authorized or are physically located on a portion of the land being vacated: *Provided*, That the legislative body shall not convey such easement to any public utility or other entity or person but may convey a permit or franchise to a public utility to effectuate the intent of this section. The term "public utility" as used in this section shall include utilities owned, operated, or maintained by every gas company, electrical company, telephone company, telegraph company, and water company whether or not such company is privately owned or owned by a governmental entity. [1975 c 22 § 1.]

36.87.900 Severability—1969 ex.s. c 185. If any provision of *this act, or its application to any person, property or road is held invalid, the validity of the remainder of the act, or the application of the provision to other persons, property or roads shall not be affected. [1969 ex.s. c 185 § 8.]

*Reviser's note: "this act" [1969 ex.s. c 185] consists of RCW 36.87.100-36.87.130 and the 1969 amendments to RCW 36.87.010, 36.87.080 and 36.40.140.

Chapter 36.88

COUNTY ROAD IMPROVEMENT DISTRICTS

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36.88.010 Districts authorized—Purposes. All counties shall have the power to create county road improvement districts for the acquisition of rights of way and improvement of county roads; for the construction or improvement of necessary drainage facilities, bulkheads, retaining walls, and other appurtenances therefor, bridges, culverts, sidewalks, curbs and gutters, escalators or moving sidewalks; and for the draining or filling of drainage potholes or swamps, and said counties shall 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 such acquisition of rights of way, construction, or improvement. [1965 c 60 § 1; 1963 c 84 § 1; 1963 c 4 § 36.88.010. Prior: 1959 c 134 § 1; 1951 c 192 § 1.]

36.88.015 Additional purposes. All counties shall 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 highway commission, state highways, and for safeguards to protect the public from hazards of open canals, flumes, or ditches, and said counties shall 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 such construction, installation or improvement together with the expense of furnishing electric energy, maintenance and operation. [1965 c 60 § 2; 1963 c 84 § 2; 1963 c 4 § 36.88.015. Prior: 1959 c 75 § 4; 1953 c 152 § 1.]

36.88.020 Formation of district—How initiated. County road improvement districts may be initiated either by resolution of the board of county commissioners or by petition signed by the owners according to the records of the office of the county auditor of property to an aggregate amount of the majority of the lineal frontage upon the contemplated improvement and of the area within the limits of the county road improvement district to be created therefor. [1963 c 4 § 36.88.020. Prior: 1951 c 192 § 2.]

36.88.030 Formation of district—By resolution of intention—Procedure. In case the board of county commissioners shall desire to initiate the formation of a county road improvement district by resolution, it shall first pass a resolution declaring its intention to order such improvement, setting forth the nature and territorial extent of such proposed improvement, designating the number of the proposed road improvement district and describing the boundaries thereof, stating the estimated cost and expense of the improvement and the proportionate amount thereof which will be borne by the property within the proposed district, notifying the owners of property therein to appear at a meeting of the board at the time specified in such resolution, and directing the county road engineer to submit to the board at or prior to the date fixed for such hearing a diagram or print showing thereon the lots, tracts and

parcels of land and other property which will be specially benefited thereby and the estimated amount of the cost and expense of such improvement to be borne by each lot, tract or parcel of land or other property, and also designating thereon all property which is being purchased under contract from the county. The resolution of intention shall be published in at least two consecutive issues of a newspaper of general circulation in such county, the date of the first publication to be at least fifteen days prior to the date fixed by such resolution for hearing before the board of county commissioners.

Notice of the adoption of the resolution of intention shall be given each owner or reputed owner of any lot, tract or parcel of land or other property within the proposed improvement district by mailing said notice to the owner or reputed owner of the property as shown on the tax rolls of the county treasurer at the address shown thereon at least fifteen days before the date fixed for the public hearing. The notice shall refer to the resolution of intention and designate the proposed improvement district by number. Said notice shall also set forth the nature of the proposed improvement, the total estimated cost, the proportion of total cost to be borne by assessments, the estimated amount of the cost and expense of such improvement to be borne by the particular lot, tract or parcel, the date and place of the hearing before the board of county commissioners, and shall contain the directions hereinafter provided for voting upon the formation of the proposed improvement district.

The clerk of the board shall prepare and mail, together with the notice above referred to, a ballot for each owner or reputed owner of any lot, tract or parcel of land within the proposed improvement district. This ballot shall contain the following proposition:

"Shall _____ county road improvement district No. _____ be formed?
 Yes
 No

and, in addition, shall contain appropriate spaces for the signatures of the property owners, and a description of their property, and shall have printed thereon the direction that all ballots must be signed to be valid and must be returned to the clerk of the board of county commissioners not later than five o'clock p.m. of a day which shall be one week after the date of the public hearing.

The notice of adoption of the resolution of intention shall also contain the above directions, and, in addition thereto, shall state the rules by which the election shall be governed. [1970 ex.s. c 66 § 2; 1963 c 84 § 3; 1963 c 4 § 36.88.030. Prior: 1951 c 192 § 3.]

36.88.040 Formation of district—By resolution of intention—Election—Rules. The election provided herein for cases where the improvement is initiated by resolution shall be governed by the following rules: (1) All ballots must be signed by the owner or reputed owner of property within the proposed district according to the records of the county auditor; (2) each ballot must be returned to the clerk of the board not later than one week after the public hearing; (3) each property

owner shall have one vote for each full dollar of estimated assessment against his property as determined by the preliminary estimates and assessment roll; (4) the valid ballots shall be tabulated and a majority of the votes cast shall determine whether the formation of the district shall be approved or rejected. [1963 c 4 § 36.88-.040. Prior: 1951 c 192 § 4.]

36.88.050 Formation of district—By petition—Procedure. In case any such road improvement shall be initiated by petition, such petition shall set forth the nature and territorial extent of such proposed improvement, and the fact that the signers thereof are the owners, according to the records of the county auditor of property to an aggregate amount of a majority of the lineal frontage upon the improvement to be made and of the area within the limits of the assessment district to be created therefor.

Upon the filing of such petition the board shall determine whether the same shall be sufficient and whether the property within the proposed district shall be sufficiently developed and if the board shall find the district to be sufficiently developed and the petition to be sufficient, it shall proceed to adopt a resolution setting forth the nature and territorial extent of the improvement petitioned for, designating the number of the proposed improvement district and describing the boundaries thereof, stating the estimated cost and expense of the improvement and the proportionate amount thereof which will be borne by the property within the proposed district, notifying the owners of property therein to appear at a meeting of the board at the time specified in such resolution, and directing the county road engineer to submit to the board at or prior to the date fixed for such hearing a diagram or print showing thereon the lots, tracts and parcels of land and other property which will be specially benefited thereby and the estimated amount of the cost and expense of such improvement to be borne by each lot, tract or parcel of land or other property, and also designating thereon all property which is being purchased under contract from the county. The resolution of intention shall be published in at least two consecutive issues of a newspaper of general circulation in such county, the date of the first publication to be at least fifteen days prior to the date fixed by such resolution for hearing before the board of county commissioners.

Notice of the adoption of the resolution of intention shall be given each owner or reputed owner of any lot, tract or parcel of land or other property within the proposed improvement district by mailing said notice to the owner or reputed owner of the property as shown on the tax rolls of the county treasurer at the address shown thereon at least fifteen days before the date fixed for the public hearing. The notice shall refer to the resolution of intention and designate the proposed improvement district by number. Said notice shall also set forth the nature of the proposed improvement, the total estimated cost, the proportion of total cost to be borne by assessments, the estimated amount of the cost and expense of such improvement to be borne by the particular lot, tract or parcel, the date and place of the hearing before the

board of county commissioners, and the fact that property owners may withdraw their names from the petition or add their names thereto at any time prior to five o'clock p.m. of the day before the hearing. [1963 c 4 § 36.88.050. Prior: 1951 c 192 § 5.]

36.88.060 Formation of district—Hearing—Resolution creating district. Whether the improvement is initiated by petition or resolution the board shall conduct a public hearing at the time and place designated in the notice to property owners. At this hearing, the board may make such changes in the boundaries of the district or such modifications in the plans for the proposed improvement as shall be deemed necessary: *Provided*, That the board may neither so alter the improvement as to increase the estimated cost by an amount greater than ten percent above that stated in the notice, nor increase the proportionate share of the cost to be borne by assessments from the proportion stated in the notice, nor change the boundaries of the district to include property not previously included therein without first passing a new resolution of intention and giving a new notice to property owners, in the manner and form and within the time herein provided for the original notice.

At said hearing, the board shall select the method of assessment, ascertain whether the plan of improvement or construction is feasible and whether the benefits to be derived therefrom by the property within the proposed district, together with the amount of any county road fund participation, exceed the costs and expense of the formation of the proposed district and the contemplated construction or improvement and shall make a written finding thereon. In case the proceedings have been initiated by petition, the board shall find whether the petition including all additions thereto or withdrawals therefrom made prior to five o'clock p.m. of the day before the hearing is sufficient within the boundaries of the district so established at said hearing by the board. If said petition shall be found insufficient the board shall by resolution declare the proceedings terminated. In case the proceedings have been initiated by resolution if the board shall find the improvement to be feasible, it shall continue the hearing until a day not more than fifteen days after the date for returning ballots for the purpose of determining the results of said balloting.

After the hearing the board may proceed to adopt a resolution creating the district and ordering the improvement. Such resolution shall establish such district as the "----- county road improvement district No." Such resolution shall describe the nature and territorial extent of the improvement to be made and the boundaries of the improvement district, shall describe the method of assessment to be used, shall declare the estimated cost and the proportion thereof to be borne by assessments, and shall contain a finding as to the result of the balloting by property owners in case the improvement shall have been initiated by resolution.

Upon the adoption of the resolution establishing the district, the board shall have jurisdiction to proceed with the improvement. The board's findings on the sufficiency of petitions or on the results of the balloting shall be

conclusive upon all persons. [1963 c 84 § 4; 1963 c 4 § 36.88.060. Prior: 1951 c 192 § 6.]

36.88.070 Diagram only preliminary determination. The diagram or print herein directed to be submitted to the board shall be in the nature of a preliminary determination upon the method, and estimated amounts, of assessments to be levied upon the property specially benefited by such improvement and shall in no case be construed as being binding or conclusive as to the amount of any assessments which may ultimately be levied. [1963 c 4 § 36.88.070. Prior: 1951 c 192 § 7.]

36.88.080 Property included in district—Method of assessment—Assessment limited by benefit. Every resolution ordering any improvement mentioned in this chapter, payment for which shall be in whole or in part by special assessments shall establish a road improvement district which shall embrace as near as may be all the property specially benefited by such improvement and the board shall apply thereto such method of assessment as shall be deemed most practical and equitable under the conditions prevailing: *Provided*, That no assessment as determined by the board of commissioners shall be levied which shall be greater than the special benefits derived from the improvements. [1963 c 84 § 5; 1963 c 4 § 36.88.080. Prior: 1951 c 192 § 8.]

36.88.090 Assessment roll—Hearing—Notice—Objections—New hearing. Whenever the assessment roll for any county road improvement district shall have been prepared such roll shall be filed with the clerk of the board. The board shall thereupon by resolution set the date for hearing upon such roll before the board and direct the clerk to give notice of such hearing and the time and place thereof.

Such notice shall specify such time and place of hearing on such roll and shall notify all persons who may desire to object thereto to make such objection in writing and to file the same with such clerk at or prior to the date fixed for such hearing; and that at the time and place fixed and at such other times as the hearing may be continued to, the board will sit as a board of equalization for the purpose of considering such roll and at such hearing will consider such objections made thereto, or any part thereof, and will correct, revise, raise, lower, change or modify such roll or any part thereof, or set aside such roll in order that such assessment be made de novo as to such body shall appear just and equitable and then proceed to confirm the same by resolution.

Notice of the time and place of hearing under such assessment roll shall be given to the owner or reputed owner of the property whose name appears thereon, by mailing a notice thereof at least fifteen days before the date fixed for the hearing to such owner or reputed owner at the address of such owner as shown on the tax rolls of the county treasurer; and in addition thereto such notice shall be published at least two times in a newspaper of general circulation in the county if the newspaper is published weekly, but shall be published at least five times in such newspaper if said newspaper is published daily. At least fifteen days must elapse

between the date of last publication thereof and the date fixed for such hearing: *Provided*, That mosquito control districts shall only be required to give notice by publication. The time and place of hearing under such assessment roll shall be published in two consecutive issues of a newspaper of general circulation in the county if the newspaper is published weekly, but shall be published in at least five consecutive issues of such newspaper if said newspaper is published daily. At least fifteen days must elapse between the date of last publication thereof and the date fixed for such hearing.

The board, at the time fixed for hearing objections to the confirmation of said roll, or at such time or times as said hearing may be adjourned to, shall have power to correct, revise, raise, lower, change or modify such roll or any part thereof, and to set aside such roll in order that such assessment be made de novo as to the board shall appear equitable and just, and then shall confirm the same by resolution. All objections shall be in writing and filed with the board and shall state clearly the grounds objected to, and objections not made within the time and in the manner herein described shall be conclusively presumed to have been waived.

Whenever any such roll shall be amended so as to raise any assessments appearing thereon, or to include property subject to assessment which has been omitted from the assessment roll for any reason a new hearing, and a new notice of hearing upon such roll, as amended, shall be given as in the case of an original hearing and at the conclusion of such hearing the board may confirm the same or any portion thereof by resolution and certify the same to the treasurer for collection. Whenever any property shall have been entered originally on such roll, and the assessment upon such property shall not be raised, no objections thereto shall be considered by the board or by any court on appeal, unless such objections be made in writing at or prior to the date fixed for the original hearing upon such roll. [1972 ex.s. c 62 § 1; 1963 c 4 § 36.88.090. Prior: 1951 c 192 § 9.]

36.88.100 Appeal—Reassessment. The decision of the board upon any objections made within the time and in the manner herein prescribed may be reviewed by the superior court upon an appeal taken thereto in the manner provided for taking appeals from objections in local improvement districts of cities and towns.

The board shall have the same powers of reassessment and shall proceed to make such reassessments in the same manner and subject to the same limitations as are provided by law for the making of reassessments in local improvement districts of cities and towns. [1963 c 4 § 36.88.100. Prior: 1951 c 192 § 10.]

36.88.110 Assessment roll—Conclusive. Whenever any assessment roll for construction or improvements shall have been confirmed by the board, as provided in this chapter, the regularity, validity and correctness of the proceedings relating to such construction or improvement and to the assessment therefor, including the action of the board on such assessment roll and the confirmation thereof, shall be conclusive in all things upon all parties and cannot in any manner be contested

or questioned in any proceeding whatsoever by any person not filing written objection to such roll in the manner and within the time provided in this chapter, and not appealing from the action of the board in confirming such assessment roll in the manner and within the time provided in this chapter. No proceedings of any kind shall be commenced or prosecuted for the purpose of defeating or contesting any such assessment or for the sale of any property to pay such assessment or any certificate of delinquency issued therefor or the foreclosure of any lien issued therefor, but this section shall not be construed as prohibiting the bringing of injunction proceedings to prevent the sale of any real estate upon the grounds that the property about to be sold does not appear upon the assessment roll, or that the assessment has been paid. [1963 c 4 § 36.88.110. Prior: 1951 c 192 § 11.]

36.88.120 Assessment is lien on property—Superiority. The charge on the respective lots, tracts, parcels of land and other property for the purpose of special assessment to pay the cost and expense in whole or in part of any construction or improvement authorized in this chapter, when assessed, and the assessment roll confirmed by the board shall be a lien upon the property assessed from the time said assessment rolls shall be placed in the hands of the county treasurer for collection. Said liens shall be paramount and superior to any other lien or encumbrance whatsoever, theretofore or thereafter created, except a lien for general taxes. [1963 c 4 § 36.88.120. Prior: 1951 c 192 § 12.]

36.88.130 County treasurer—Duties. The county treasurer is hereby designated as the treasurer of all county road improvement districts created hereunder, and shall collect all road improvement district assessments, and the duties and responsibilities herein imposed upon him shall be among the duties and responsibilities of his office for which his bond is given as county treasurer. [1963 c 4 § 36.88.130. Prior: 1951 c 192 § 13.]

36.88.140 Payment of assessment—Delinquent assessments—Penalties—Lien foreclosure. The board shall prescribe by resolution within what time such assessment or installments thereof shall be paid, and shall provide for the payment and collection of interest at a rate not to exceed eight percent per annum on that portion of any assessment which remains unpaid over thirty days after such date. Assessments or installments thereof which are delinquent, shall bear, in addition to such interest, such penalty not less than five percent as shall be prescribed by resolution. Interest and penalty shall be included in and shall be a part of the assessment lien. All liens acquired by the county hereunder shall be foreclosed by the appropriate county officers in the same manner and subject to the same rights of redemption provided by law for the foreclosure of liens held by cities or towns against property in local improvement districts. [1970 ex.s. c 66 § 3; 1963 c 4 § 36.88.140. Prior: 1951 c 192 § 14.]

36.88.150 Payment of assessment—Record of. Whenever before the sale of any property the amount of any assessment thereon, with interest, penalty, costs and charges accrued thereon, shall be paid to the treasurer, he shall thereon mark the same paid with the date of payment thereof on the assessment roll. [1963 c 4 § 36.88.150. Prior: 1951 c 192 § 15.]

36.88.160 District fund—Purposes—Bond redemptions. All moneys collected by the treasurer upon any assessments under this chapter shall be kept as a separate fund to known as "-----, county road improvement district No. ----- fund." Such funds shall be used for no other purpose than the payment of costs and expense of construction and improvement in such district and the payment of interest or principal of warrants and bonds drawn or issued upon or against said fund for said purposes. Whenever after payment of the costs and expenses of the improvement there shall be available in the local improvement district fund a sum, over and above the amount necessary to meet the interest payments next accruing on outstanding bonds, sufficient to retire one or more outstanding bonds the treasurer shall forthwith call such bond or bonds for redemption. [1963 c 4 § 36.88.160. Prior: 1951 c 192 § 16.]

36.88.170 Foreclosed property—Held in trust for district. Whenever any property shall be bid in by any county or be stricken off to any county under and by virtue of any proceeding for enforcement of the assessment provided in this chapter said property shall be held in trust by said county for the fund of the improvement district for the creation of which fund said assessment was levied and for the collection of which assessment said property was sold: *Provided*, Such county may at any time after the procuring of a deed pay in to such fund the amount of the delinquent assessment for which said property was sold and all accrued interest and interest to the time of the next call for bonds or warrants issued against such assessment fund at the rate provided thereon, and thereupon shall take and hold said property discharged of such trust: *Provided further*, That property deeded to any county and which shall become a part of the trust being exercised by the said county for the benefit of any local improvement district fund of the said county, shall be exempt from taxation for general, state, county and municipal purposes during the period that it is so held. [1963 c 4 § 36.88.170. Prior: 1951 c 192 § 17.]

36.88.180 Foreclosed property—Sale or lease—Disposition of proceeds. Any county may at any time after a deed is issued to it under and by virtue of any proceeding mentioned in this chapter, lease or sell or convey any such property at public or private sale for such price and on such terms as may be determined by resolution of the board, and all proceeds resulting from such sale shall ratably belong to and be paid into the fund of the county road improvement district or districts

concerned after first reimbursing any fund or funds having advanced any money on account of said property. [1963 c 4 § 36.88.180. Prior: 1951 c 192 § 18.]

36.88.190 Improvement bonds, warrants authorized. The board may provide for the payment of the whole or any portion of the cost and expense of any duly authorized road improvement by bonds and/or warrants of the improvement district which bonds shall be issued and sold as herein provided, but no bonds shall be issued in excess of the cost and expense of the project nor shall they be issued prior to twenty days after the thirty days allowed for the payment of assessments without penalty or interest. [1963 c 4 § 36.88.190. Prior: 1951 c 192 § 19.]

36.88.200 Improvement bonds—Form, contents, execution. Such bonds shall be numbered from one upwards consecutively, shall be in such denominations as may be provided by the board of county commissioners in the resolution authorizing their issuance, shall mature on or before a date not to exceed twenty-two years from and after their date, shall bear interest at such rate or rates as authorized by the board payable annually or semiannually as may be provided by the board, shall be signed by the chairman of the board and attested by the county auditor, shall have the seal of the county affixed thereto, shall be payable at the office of the county treasurer or elsewhere as may be designated by the board, shall have attached thereto interest coupons for each interest payment which said coupons shall be signed by the chairman of the board and attested by the auditor or in lieu thereof may bear the printed or engraved facsimile signatures of said officials.

Such bonds shall refer to the improvement for which they are issued and to the resolution creating the road improvement district therefor. [1970 ex.s. c 56 § 55; 1969 ex.s. c 232 § 73; 1963 c 4 § 36.88.200. Prior: 1951 c 192 § 20.]

Effective date—Purpose—1970 ex.s. c 56: See notes following RCW 39.44.030.

Validation—Saving—Severability—1969 ex.s. c 232: See notes following RCW 39.44.030.

36.88.210 Improvement bonds—Issuance—Sale—Deposit of proceeds. The bonds issued under the provisions of this chapter may be issued to the contractor or sold by the board as authorized by the resolution directing their issuance at not less than their par value and accrued interest to the date of delivery. No bonds shall be sold except at public sale upon competitive bids and a notice calling for bids shall be published once a week for two consecutive weeks in the official newspaper of the county. Such notice shall specify a place and designate a day and hour subsequent to the date of last publication thereof when sealed bids will be received and publicly opened for the purchase of said bonds. The proceeds of all sales of bonds shall be deposited in the county road improvement district fund and applied to the cost and expense of the district. [1963 c 4 § 36.88.210. Prior: 1951 c 192 § 21.]

36.88.220 Improvement bonds—Guaranty fund. All counties may establish a fund for the purpose of guaranteeing to the extent of such fund and in the manner hereinafter provided, the payment of its road improvement district bonds and warrants issued to pay for any road improvement ordered under this chapter. If the board of county commissioners shall determine to establish such fund it shall be designated "----- county road improvement guaranty fund" and from moneys available for road purposes such county shall deposit annually in said guaranty fund such sums as may be necessary to establish and maintain a balance therein equal to at least five percent of the outstanding obligations guaranteed thereby and to make necessary provision in its annual budget therefor. The moneys held in the guaranty fund may be invested in obligations of the government of the United States or of this state. [1967 ex.s. c 145 § 63; 1963 c 4 § 36.88.220. Prior: 1959 c 134 § 2; 1951 c 192 § 22.]

Severability—1967 ex.s. c 145: See RCW 47.98.043.

36.88.230 Improvement bonds—Guaranty fund in certain counties—Operation. Whenever there shall be paid out of a guaranty fund any sum on account of principal or interest of a road improvement district bond or warrant, the county, as trustee for the fund, shall be subrogated to all the rights of the holder of the bond or interest coupon or warrant so paid, and the proceeds thereof, or of the assessment underlying the same, shall become part of the guaranty fund. There shall also be paid into each guaranty fund the interest received from bank deposits or government securities of the fund, as well as any surplus remaining in any local improvement fund guaranteed hereunder after the payment of all outstanding bonds or warrants payable primarily out of such road improvement fund. Warrants drawing interest at a rate not to exceed six percent shall be issued, as other warrants are issued by the county, against a guaranty fund to meet any liability accruing against it, and at the time of making its annual budget and tax levy the county shall provide from funds available for road purposes for the deposit in the guaranty fund of a sum sufficient with other resources of such fund to pay warrants so issued during the preceding fiscal year. As among the several issues of bonds or warrants guaranteed by the fund no preference shall exist, but defaulted interest coupons, bonds and warrants shall be purchased out of the fund in the order of their presentation.

Every county establishing a guaranty fund for road improvement district bonds or warrants shall prescribe by resolution appropriate rules and regulations for the maintenance and operation of the guaranty fund not inconsistent herewith. So much of the money of a guaranty fund as is necessary may be used to purchase underlying bonds or warrants guaranteed by the fund, or to purchase certificates of delinquency for general taxes on property subject to local improvement assessments, or to purchase such property at tax foreclosures, for the purpose of protecting the guaranty fund. Said fund shall be subrogated to the rights of the county, and the county, acting on behalf of said fund, may foreclose the

lien of general tax certificates of delinquency and purchase the property at the foreclosure sale for the account of said fund. Whenever the governing authority of any county shall so cause a lien of general tax certificates of delinquency to be foreclosed and the property to be so purchased at a foreclosure sale, the court costs and costs of publication and expenses for clerical work and/or other expense incidental thereto, shall be chargeable to and payable from the guaranty fund. After so acquiring title to real property, a county may lease or sell and convey the same at public or private sale for such price and on such terms as may be determined by resolution of the board of commissioners or other legislative body, and all proceeds resulting from such sales shall belong to and be paid into the guaranty fund. [1963 c 4 § 36.88-.230. Prior: 1951 c 192 § 23.]

36.88.240 Improvement bonds—Repayment restricted to special funds—Remedies of bondholder—Notice of restrictions. Neither the holder nor the owner of any bond or warrant issued under the provisions of this chapter shall have any claim therefor against the county by which the same is issued, except for payment from the special assessments made for the improvement for which said bond or warrant was issued and except as against the improvement guaranty fund of such county, and the county shall not be liable to any holder or owner of such bond or warrant for any loss to the guaranty fund occurring in the lawful operation thereof by the county. The remedy of the holder or owner of a bond, or warrant in case of nonpayment, shall be confined to the enforcement of any assessments made in such road improvement district and to the guaranty fund. In case the bonds are guaranteed in accordance herewith a copy of the foregoing part of this section shall be plainly written, printed or engraved on each bond issued and guaranteed hereunder. [1963 c 4 § 36.88.240. Prior: 1951 c 192 § 24.]

36.88.250 Improvement bonds—Remedies of bondholders—Enforcement. If the board fails to cause any bonds to be paid when due or to promptly collect any assessments when due, the owner of any of the bonds may proceed in his own name to collect the assessments and foreclose the lien thereof in any court of competent jurisdiction and shall recover in addition to the amount of the bonds outstanding in his name, interest thereon at five percent per annum, together with the costs of suit, including a reasonable attorney's fee to be fixed by the court. Any number of owners of bonds for any single project may join as plaintiffs and any number of the owners of property upon which the assessments are liens may be joined as defendants in the same suit. [1963 c 4 § 36.88.250. Prior: 1951 c 192 § 25.]

36.88.260 Assessment where bonds issued—Payment in installments. In all cases where the board shall issue bonds to pay the cost and expense of any county road improvement district and shall provide that the whole or any part of the cost and expense shall be assessed against the lots, tracts, parcels of land, and other property therein, the resolution levying such

assessment shall provide that the sum charged thereby against each lot, tract, or parcel of land or any portion of said sum may be paid during the thirty day period provided for in RCW 36.88.270 and that thereafter the sum remaining unpaid may be paid in equal annual installments, the number of which installments shall be less by two than the number of years which the bonds issued to pay for the improvement may run. Interest upon all unpaid installments shall be charged at a rate fixed by said resolution. Each year such installments together with interest due thereon shall be collected in the manner provided in the resolution for the collection of the assessments. [1963 c 4 § 36.88.260. Prior: 1951 c 192 § 26.]

36.88.270 Assessment where bonds issued—Payment in cash—Notice of assessment. The owner of any lot, tract, or parcel of land, or other property charged with any such assessments may redeem the same from all or any portion of the liability for the cost and expense of such improvement by paying the entire assessment or any portion thereof charged against such lot, tract, or parcel of land without interest within thirty days after notice to him of such assessment, which notice shall be given as follows: The county treasurer shall, as soon as the assessment roll has been placed in his hands for collection, publish a notice for two consecutive daily or weekly issues in the official newspaper of the county in which the district is located, which notice shall state that the assessment roll is in his hands for collection and that any assessment thereon or any portion of such assessment may be paid at any time within thirty days from the date of the first publication of said notice without penalty interest or costs. [1963 c 4 § 36.88.270. Prior: 1951 c 192 § 27.]

36.88.280 Assessment where bonds issued—Payment in cash during installment period—Duties of county treasurer—Use of funds. The owners of any lot, tract, or parcel of land may save the same from all liability for the unpaid amount of the assessment, at any time after the thirty-day period herein provided for their payment without interest, by paying the entire amount or all installments on said assessment together with all interest due to the date of maturity of any installment next falling due. All such payments shall be made to the county treasurer whose duty it shall be to collect all assessments under this chapter and all sums so paid or collected shall be applied solely to the payment of the cost and expense of the district and payment of principal and/or interest of any bonds issued. [1963 c 4 § 36.88-.280. Prior: 1951 c 192 § 28.]

36.88.290 Limitation of actions. An action to collect any special assessment or installment thereof for road improvements, or to enforce the lien of any such assessment or installment, whether such action be brought by the county or by the holder of any certificate of delinquency, or by any other person having the right to bring such action, shall be commenced within ten years after such assessment shall have become delinquent or within

ten years after the last installment of any such assessment shall have become delinquent, when said special assessment is payable in installments.

Actions to set aside or cancel any deed issued after midnight, June 6, 1951, upon the sale of property for road improvement assessments, or for the recovery of property sold for delinquent road improvement assessments must be brought within three years from and after date of the issuance of such deed. [1963 c 4 § 36.88.290. Prior: 1951 c 192 § 29.]

36.88.300 District costs and expenses—What to include. Whenever any district is organized hereunder, there shall be included in the cost and expense thereof: (1) The cost of all of the construction or improvement authorized in the district, including that portion of the construction or improvement within the limits of any street or road intersection, space or spaces; (2) the estimated costs and expenses of all engineering and surveying necessary to be done by the county engineer or under his direction or by such other engineer as may be employed by the county commissioners; (3) the cost of all advertising, mailing, and publishing of all notices; (4) the cost of legal services and any other expenses incurred by the county for the district or in the formation thereof, or by the district in connection with such construction or improvement and in the financing thereof, including the issuance of any bonds. [1963 c 4 § 36.88.300. Prior: 1951 c 192 § 30.]

36.88.310 Acquisition of property—Eminent domain. All land, premises or property necessary for right-of-way or other purposes in the construction or improvement of any county road, including bridges, sidewalks, curbs and gutters and the drainage facilities therefor, under this chapter may be acquired by the county acting through its board of county commissioners, either by gift, purchase or by condemnation. In the event of any exercise of the power of eminent domain, the procedure shall be the same as is provided by law for the securing of right-of-way for county roads. The title to all property acquired for any construction or improvement under this chapter shall be taken in the name of the county. The county commissioners in any eminent domain action brought to secure any property for construction or improvement under this chapter may pay any final judgment entered in such action with county road funds and take possession of the particular property condemned. In the event of any such payment the county commissioners may require that the county road fund be reimbursed out of the particular county road improvement fund of the district for which the property was acquired. [1963 c 4 § 36.88.310. Prior: 1951 c 192 § 31.]

36.88.320 Construction or improvement—Supervision—Contracts—Standards. All construction or improvement performed under this chapter shall be under the direction of the board of county commissioners, acting by and through the county road engineer, or such other engineer as the board of county commissioners shall designate. Contracts let and/or work performed

upon all construction or improvement hereunder shall be in accordance with the laws pertaining to work upon county roads. The construction and improvement standards of the respective counties for engineering and performance of work, shall apply to all construction or improvement under this chapter. [1963 c 4 § 36.88.320. Prior: 1951 c 192 § 32.]

36.88.330 Warrants—Issuance—Priority—Acceptance. The board may provide by resolution for the issuance of warrants in payment of the costs and expenses of any project, payable out of the county road improvement fund. The warrants shall bear interest at the rate of not to exceed six percent per annum and shall be redeemed either in cash or by bonds for the same project authorized by the resolution.

All warrants issued against any such improvement fund shall be claims and liens against said fund prior and superior to any right, lien or claim of any surety upon the bond given to the county by or for the contract to secure the performance of his contract or to secure the payment of persons who have performed work thereon, furnished materials therefor, or furnished provisions and supplies for the carrying on of the work.

The county treasurer may accept warrants against any county road improvement fund upon such conditions as the board may prescribe in payment of: (1) Assessments levied to supply that fund in due order of priority; (2) judgments rendered against property owners who have become delinquent in the payment of assessments to that fund; and (3) certificates of purchase in cases where property of delinquents has been sold under execution or at tax sale for failure to pay assessments levied to supply that fund. [1963 c 4 § 36.88.330. Prior: 1951 c 192 § 33.]

36.88.340 Participation of county road fund—Arrangements with other public agencies, private utilities. Except as they may establish continuing guaranty fund requirements, the board of county commissioners shall be the sole judges as to the extent of county road fund participation in any project under this chapter and the decisions of the board shall be final; the said board may receive grants from or contract with any other county, municipal corporation, public agency or the state or federal government in order to effect any construction or improvement hereunder, including the construction, installation, improvement, operation, maintenance of and furnishing electric energy for any street and road lighting system, and to effect the construction, installation, improvement, operation and maintenance of and furnishing electric energy for any such street and road lighting system, may contract with any private utility corporation. [1963 c 4 § 36.88.340. Prior: 1953 c 152 § 2; 1951 c 192 § 34.]

36.88.350 Maintenance—Expense. After the completion of any construction or improvement under this chapter, all maintenance thereof shall be performed by the county at the expense of the county road fund, excepting furnishing electric energy for and operating

and maintaining street and road lighting systems: *Provided*, That maintenance of canal protection improvements may, at the option of the board of commissioners of the county, be required of the irrigation, drainage, flood control, or other district, agency, person, corporation, or association maintaining the canal or ditch. If such option is exercised reimbursement must be made by the county for all actual costs of such maintenance. [1963 c 4 § 36.88.350. Prior: 1959 c 75 § 8; 1953 c 152 § 3; 1951 c 192 § 35.]

36.88.360 State, county, school, municipal corporation lands—Assessment—Recipients of notices, ballots. Lands owned by the state, county, school district or any municipal corporation may be assessed and charged for road improvements authorized under this chapter in the same manner and subject to the same conditions as provided by law for assessments against such property for local improvements in cities and towns.

All notices and ballots provided for herein affecting state lands shall be sent to the department of natural resources whose designated agent is hereby authorized to sign petitions or ballots on behalf of the state. In the case of counties or municipal or quasi municipal bodies notices and ballots shall be sent to the legislative authority of said counties or municipality and petitions or ballots shall be signed by the officer duly empowered to act by said legislative authority. [1963 c 4 § 36.88.360. Prior: 1951 c 192 § 36.]

36.88.370 Signatures on petitions, ballots, objections—Determining sufficiency. Wherever herein petitions, ballots or objections are required to be signed by the owners of property, the following rules shall govern the sufficiency thereof: (1) The signature of the record owner as determined by the records of the county auditor shall be sufficient without the signature of his or her spouse; (2) in the case of mortgaged property, the signature of the mortgagor shall be sufficient; (3) in the case of property purchased on contract the signature of the contract purchaser shall be deemed sufficient; (4) any officer of a corporation owning land in the district duly authorized to execute deeds or encumbrances on behalf of the corporation may sign on behalf of such corporation: *Provided*, That there shall be attached to the ballot or petition a certified excerpt from the bylaws showing such authority; (5) if any property in the district stands in the name of a deceased person or any person for whom a guardian has been appointed, the signature of the executor, administrator or guardian as the case may be shall be equivalent to the signature of the owner of the property. [1963 c 84 § 6; 1963 c 4 § 36.88.370. Prior: 1951 c 192 § 37.]

36.88.380 Safeguarding open canals or ditches—Assessments and benefits. Whenever a county road improvement district is established for the safeguarding of open canals or ditches as authorized by RCW 36.88.015 the rate of assessment per square foot in the district may be determined by any one of the methods provided in chapter 35.44 RCW for similar improvements in cities or towns, and the land specially benefited by such

improvements shall be the same as provided in chapter 35.43 RCW for similar improvements in cities or towns. [1963 c 4 § 36.88.380. Prior: 1959 c 75 § 5.]

36.88.390 Safeguarding open canals or ditches—Authority. Every county shall have the right of entry upon every irrigation, drainage, or flood control canal or ditch right of way within its boundaries for all purposes necessary to safeguard the public from the hazards of open canals or ditches, including the right to clean such canals or ditches to prevent their flooding adjacent lands, and the right to cause to be constructed and maintained on such rights of way or adjacent thereto safeguards as authorized by RCW 36.88.015: *Provided*, That such safeguards must not unreasonably interfere with maintenance of the canal or ditch or with the operation thereof. [1963 c 4 § 36.88.390. Prior: 1959 c 75 § 6.]

36.88.400 Safeguarding open canals or ditches—Installation and construction—Costs. Any county, establishing a road improvement district for canal protection, notwithstanding any laws to the contrary, may require the district, agency, person, corporation, or association, public or private, which operates and maintains the canal or ditch to supervise the installation and construction of safeguards, and must make reimbursement to said operator for all actual costs incurred and expended. [1963 c 4 § 36.88.400. Prior: 1959 c 75 § 7.]

36.88.410 Underground electric and communication facilities, installation or conversion to—Declaration of public interest and purpose. It is hereby found and declared that the conversion of overhead electric and communication facilities to underground facilities and the initial underground installation of such facilities is substantially beneficial to the public safety and welfare, is in the public interest and is a public purpose, notwithstanding any resulting incidental private benefit to any electric or communication utility affected by such conversion or installation. [1971 ex.s. c 103 § 1; 1967 c 194 § 1.]

Severability—1967 c 194: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1967 c 194 § 9.] This applies to RCW 36.88.410–36.88.480.

Cities and towns, conversion of overhead electric and communication facilities to underground facilities: Chapter 35.96 RCW.

36.88.420 Underground electric and communication facilities, installation or conversion to—Definitions. As used in RCW 36.88.410 through 36.88.480, unless specifically defined otherwise, or unless the context indicates otherwise:

"Conversion area" means that area in which existing overhead electric and communication facilities are to be converted to underground facilities pursuant to the provisions of RCW 36.88.410 through 36.88.480.

"Electric utility" means any publicly or privately owned utility engaged in the business of furnishing electric energy to the public in all or part of the conversion area and includes electrical companies as defined by RCW 80.04.010 and public utility districts.

"Communication utility" means any utility engaged in the business of affording telephonic, telegraphic, cable television or other communication service to the public in all or part of the conversion area and includes telephone companies and telegraph companies as defined by RCW 80.04.010. [1967 c 194 § 2.]

36.88.430 Underground electric and communication facilities, installation or conversion to—Powers of county relating to—Contracts—County road improvement districts—Special assessments. Every county shall have the power to contract with electric and communication utilities, as hereinafter provided, for any or all of the following purposes:

(1) The conversion of existing overhead electric facilities to underground facilities.

(2) The conversion of existing overhead communication facilities to underground facilities.

(3) The conversion of existing street and road lighting facilities to ornamental street and road lighting facilities to be served from underground electrical facilities.

(4) The initial installation, in accordance with the limitations set forth in RCW 36.88.015, or [of] ornamental street and road lighting facilities to be served from underground electrical facilities.

(5) The initial installation of underground electric and communication facilities.

(6) Any combination of the improvements provided for in this section.

To provide funds to pay the whole or any part of the cost of any such conversion or initial installation, together with the expense of furnishing electric energy, maintenance and operation to any ornamental street lighting facilities served from underground electrical facilities, every county shall have the power to create county road improvement districts and to levy and collect special assessments against the real property specially benefited by such conversion or initial installation. For the purpose of ascertaining the amount to be assessed against each lot or parcel of land within any county road improvement district established pursuant to RCW 36.88.410 through 36.88.480, in addition to other methods provided by law for apportioning special benefits, the county commissioners may apportion all or part of the special benefits accruing on a square footage basis or on a per lot basis.

That portion of the assessments levied in any county road improvement district to pay part of the cost of the initial installation of underground electric and communication facilities shall not exceed the cost of such installation, less the estimated cost of constructing overhead facilities providing equivalent service. [1971 ex.s. c 103 § 2; 1967 c 194 § 3.]

36.88.440 Underground electric and communication facilities, installation or conversion to—Contracts with electric and communication utilities—Authorized—Provisions. Every county shall have the power to contract with electric and communication utilities for the conversion of existing overhead electric and communication facilities to underground facilities, for the conversion of existing street and road lighting facilities to

ornamental street and road lighting facilities to be served from underground electrical facilities[,] for the initial installation of ornamental street and road lighting facilities to be served from underground electrical facilities and for the initial installation of underground electric and communication facilities. Such contracts may provide, among other provisions, any of the following:

(1) For the supplying and approval by the electric and communication utilities of plans and specifications for such conversion or installation;

(2) For the payment to the electric and communication utilities for any work performed or services rendered by it in connection with the conversion project or installation;

(3) For the payment to the electric and communication utilities for the value of the overhead facilities removed pursuant to the conversion;

(4) For ownership of the underground facilities and the ornamental street and road lighting facilities by the electric and communication utilities. [1971 ex.s. c 103 § 3; 1967 c 194 § 4.]

36.88.450 Underground electric and communication facilities, installation or conversion to—Notice to owners to convert service lines to underground—Objections—Hearing—Time limitation for conversion. When service from the underground electric and communication facilities is available in all or part of a conversion area, the county shall mail a notice to the owners of all structures or improvements served from the existing overhead facilities in the area, which notice shall state that:

(1) Service from the underground facilities is available;

(2) All electric and communication service lines from the existing overhead facilities within the area to any structure or improvement must be disconnected and removed within one hundred twenty days after the date of the mailing of the notice;

(3) Should such owner fail to convert such service lines from overhead to underground within one hundred twenty days after the date of the mailing of the notice, the county will order the electric and communication utilities to disconnect and remove the service lines;

(4) Should the owner object to the disconnection and removal of the service lines he may file his written objections thereto with the secretary of the board of county commissioners within one hundred twenty days after the date of the mailing of the notice and failure to so object within such time will constitute a waiver of his right thereafter to object to such disconnection and removal.

If the owner of any structure or improvement served from the existing overhead electric and communication facilities within a conversion area shall fail to convert to underground the service lines from such overhead facilities to such structure or improvement within one hundred twenty days after the mailing to him of the notice, the county shall order the electric and communication utilities to disconnect and remove all such service lines:

Provided, That if the owner has filed his written objections to such disconnection and removal with the secretary of the board of county commissioners within one hundred twenty days after the mailing of said notice then the county shall not order such disconnection and removal until after the hearing on such objections.

Upon the timely filing by the owner of objections to the disconnection and removal of the service lines, the board of county commissioners shall conduct a hearing to determine whether the removal of all or any part of the service lines is in the public benefit. The hearing shall be held at such time as the board of county commissioners may establish for hearings on such objections and shall be held in accordance with the regularly established procedure set by the board. The determination reached by the board of county commissioners shall be final in the absence of an abuse of discretion. [1967 c 194 § 5.]

36.88.460 Underground electric and communication facilities, installation or conversion to—Utility conversion guaranty fund—Establishment authorized—Purpose—Deposits—Investments. Every county may establish a fund for the purpose of guaranteeing to the extent of such fund and in the manner hereinafter provided, the payment of its county road improvement district bonds and warrants issued to pay for the underground conversion of electric and communication facilities and the underground conversion or installation of ornamental road and street lighting facilities ordered under this chapter. If the board of county commissioners shall determine to establish such fund it shall be designated "----- utility conversion guaranty fund" and from moneys available such county shall deposit annually in said guaranty fund such sums as may be necessary to establish and maintain a balance therein equal to at least five percent of the outstanding obligations guaranteed thereby and to make necessary provision in its annual budget therefor. The moneys held in the guaranty fund may be invested in certificates, notes, or bonds of the United States of America, or in state, county, municipal or school district bonds, or in warrants of taxing districts of the state; provided, only, that such bonds and warrants shall be general obligations. [1967 c 194 § 6.]

36.88.470 Underground electric and communication facilities, installation or conversion to—Utility conversion guaranty fund—Operation. Whenever there shall be paid out of the guaranty fund any sum on account of principal or interest of a county road improvement district bond or warrant, the county, as trustee for the fund, shall be subrogated to all the rights of the holder of the bond or interest coupon or warrant so paid, and the proceeds thereof, or of the assessment underlying the same, shall become part of the guaranty fund. There shall also be paid into each guaranty fund the interest received from investments of the fund, as well as any surplus remaining in any county road improvement fund guaranteed hereunder after the payment of all outstanding bonds or warrants payable primarily out of such utility conversion county road improvement district fund.

Warrants drawing interest at a rate not to exceed six percent shall be issued, as other warrants are issued by the county, against the guaranty fund to meet any liability accruing against it, and at the time of making its annual budget and tax levy the county shall provide from funds available for the deposit in the guaranty fund of a sum sufficient with other resources of such fund to pay warrants so issued during the preceding fiscal year. As among the several issues of bonds or warrants guaranteed by the fund no preference shall exist, but defaulted interest coupons, bonds and warrants shall be purchased out of the fund in the order of their presentation.

Every county establishing a guaranty fund for utility conversion road improvement district bonds or warrants shall prescribe by resolution appropriate rules and regulations for the maintenance and operation of such guaranty fund not inconsistent herewith. So much of the money of a guaranty fund as is necessary may be used to purchase underlying bonds or warrants guaranteed by the fund, or to purchase certificates of delinquency for general taxes on property subject to local improvement assessments, or to purchase such property at tax foreclosures, for the purpose of protecting the guaranty fund. The fund shall be subrogated to the rights of the county and the county, acting on behalf of the fund, may foreclose the lien of general tax certificates of delinquency and purchase the property at the foreclosure sale for the account of said fund. Whenever the governing authority of any county shall so cause a lien of general tax certificates of delinquency to be foreclosed and the property to be so purchased at a foreclosure sale, the court costs and costs of publication and expenses for clerical work and/or other expense incidental thereto, shall be chargeable to and payable from the guaranty fund. After so acquiring title to real property, a county may lease or sell and convey the same at public or private sale for such price and on such terms as may be determined by resolution of the board of county commissioners or other legislative body, and all proceeds resulting from such sales shall belong to and be paid into the guaranty fund. [1967 c 194 § 7.]

36.88.480 Underground electric and communication facilities, installation or conversion to—Applicability of general provisions relating to county road improvement districts. Unless otherwise provided in RCW 36.88.410 through 36.88.480, the general provisions relating to county road improvement districts shall apply to local improvements authorized by RCW 36.88.410 through 36.88.480. [1967 c 194 § 8.]

36.88.485 Underground electric and communication facilities, installation or conversion to—Recording of underground utility installations. All installations of underground utilities made on and after August 9, 1971 shall be recorded on an "as constructed" map and filed with the county engineer of the county in which the underground utilities are installed. [1971 ex.s. c 103 § 4.]

Chapter 36.89
HIGHWAYS—OPEN SPACES—PARKS—
RECREATION, COMMUNITY, HEALTH AND
SAFETY FACILITIES—STORM WATER
CONTROL

Sections

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36.89.010 Definitions. The words "governmental agency" as used in this chapter mean the United States of America, the state or any agency, subdivision, taxing district or municipal or quasi municipal corporation thereof.

The word "highways" as used in this chapter means all public roads, streets, expressways, parkways, scenic drives, bridges and other public ways, including without limitation, traffic control facilities, special lanes, turnouts or structures in, upon, over or under such public ways for exclusive or nonexclusive use by public transit vehicles, and landscaping, visual and sound buffers between such public ways and adjacent properties.

The words "open space, park, recreation and community facilities" as used in this chapter mean any public facility, improvement, development, property or right or interest therein for public park, recreational, green belt, arboretum, multi-purpose community center (as defined in RCW 35.59.010), museum, zoo, aquarium, auditorium, exhibition, athletic, historic, scenic, viewpoint, aesthetic, ornamental or natural resource preservation purposes.

The words "public health and safety facilities" as used in this chapter mean any public facility, improvement, development, property or right or interest therein, made, constructed or acquired for the purpose of protecting life from disease or injury, enforcing the criminal and civil laws or protecting property from damage caused by breach of law, including but not limited to public hospitals, health laboratories, public health clinics or service centers, custodial, correction or rehabilitation facilities, courtrooms, crime laboratories, law enforcement equipment and facilities, training facilities for specialized personnel, facilities for the collection, storage, retrieval or communication of information, and mobile, support or administrative facilities, all as necessary for the foregoing purpose, or any combination of the facilities herein described.

The words "storm water control facilities" as used in this chapter mean any facility, improvement, development, property or interest therein, made, constructed or acquired for the purpose of controlling, or protecting life or property from, any storm, waste, flood or surplus waters wherever located within the county, and shall include but not be limited to the improvements and authority described in RCW 86.12.020 and chapters 86.13 and 86.15 RCW.

The word "county" as used in this chapter shall mean any county of the state of Washington. [1970 ex.s. c 30 § 1; 1967 c 109 § 1.]

36.89.020 Purpose. The legislature finds that the open spaces, park, recreation and community facilities, public health and safety facilities, storm water control facilities and highways within any county of this state, whether located partly or wholly within or without the cities and towns of such county are of general benefit to all of the residents of such county. The open spaces, park, recreation and community facilities within such county provide public recreation, aesthetic, conservation and educational opportunities and other services and benefits accessible to all of the residents of such county. The public health and safety facilities within such county provide protection to life and property throughout the county, are functionally inter-related and affect the health, safety and welfare of all the residents of such county. The storm water control facilities within such county provide protection from storm water damage for life and property throughout the county, generally require planning and development over the entire drainage basins, and affect the prosperity, interests and welfare of all the residents of such county. The highways within such county, whether under the general control of the county or the state or within the limits of any incorporated city or town, provide an inter-connected system for the convenient and efficient movement of people and goods within such county. The use of general county funds for the purpose of acquisition, development, construction, or improvement of open space, park, recreation and community facilities, public health and safety facilities, storm water control facilities, or highways or to participate with any governmental agency to perform such purposes within such county pursuant to this chapter is hereby declared to be a strictly county purpose. [1970 ex.s. c 30 § 2; 1967 c 109 § 2.]

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 such county and for such purposes shall 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: *Provided*, That the approval of the state highway commission shall be first secured for such use and development of any state highway: *Provided further*, That 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 said owner objects to the taking of said lesser interest or right. [1970 ex.s. c 30 § 3; 1967 c 109 § 3.]

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 authorized, issued and made payable as provided in Title 39 RCW. The board of county commissioners shall determine the manner of execution of such bonds and may provide in the principal amount of such bond issue for costs of engineering, architectural, planning, financial, legal and other services incident to the purpose of such bonds.

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 board of county commissioners 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 board of county commissioners 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 board of county commissioners 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 board of county commissioners in submitting a proposition relating to different storm water control facilities declare 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. [1970 ex.s. c 30 § 4; 1967 c 109 § 4.]

36.89.042 Issuance of general obligation bonds—
Payment from revenue—Additional method. In issuing general obligation bonds at any time after February 20, 1970 for the purpose of providing all or part of the cost and expense of planning and design, establishing, acquiring, developing, constructing or improving the county capital purposes authorized by this chapter and RCW 86.12.020, the board of county commissioners 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 such properties or facilities. [1970 ex.s. c 30 § 6.]

36.89.050 Participation by other governmental agencies. A county may finance, acquire, construct, develop, improve, maintain and operate any open space, park, recreation and community facilities, public health and safety facilities, storm water control facilities and highways authorized by this chapter either solely or in conjunction with one or more governmental agencies. Any governmental agency is authorized to participate in such financing, acquisition, construction, development, improvement, use, maintenance and operation and to convey, dedicate or lease any lands, properties or facilities to any county for the purposes provided in this chapter and RCW 86.12.020, on such terms as may be fixed by agreement between the respective governing commissions or legislative bodies without submitting the matter to a vote of the electors unless the provisions of general law applicable to the incurring of public indebtedness shall require such submission.

No county shall proceed under the authority of this chapter to construct or improve any storm water control facility or highway or part thereof lying within the limits of a city or town except with the prior consent of such

city or town. By agreement between their respective legislative bodies, cities, towns and counties may provide that upon completion of any storm water control facility or highway or portion thereof constructed pursuant to this chapter within any city or town, the city or town shall accept the same for maintenance and operation and that such storm water control facility or highway or portion thereof shall thereupon become a part of the respective storm water control facility or highway system of the city or town.

A county may transfer to any other governmental agency the ownership, operation and maintenance of any open space, park, recreation and community facility acquired by the county pursuant to this chapter, which lies wholly or partly within such governmental agency, pursuant to an agreement entered into between the legislative bodies of the county and such governmental agency: *Provided*, That such transfer shall be subject to the condition that either such facility shall continue to be used for the same purposes or that other equivalent facilities within the county shall be conveyed to the county in exchange therefor. [1970 ex.s. c 30 § 5; 1967 c 109 § 5.]

36.89.060 Powers and authority are supplemental. The powers and authority conferred upon governmental agencies under the provisions of this chapter, shall be construed as in addition and supplemental to powers or authority conferred by any other law, and nothing contained herein shall be construed as limiting any other powers or authority of such governmental agencies. [1967 c 109 § 6.]

36.89.062 Power and authority of counties are supplemental. The power and authority conferred upon counties by this chapter and RCW 86.12.020 shall be in addition and supplemental to those already granted and shall not limit any other powers or authority of such counties. [1970 ex.s. c 30 § 13.]

36.89.080 Storm water control facilities—Rates and charges—Use. Any board of county commissioners may provide by resolution for revenues by fixing rates and charges for the furnishing of service to those served or receiving benefits or to be served or to receive benefits from any storm water control facility or contributing to an increase of surface water runoff. In fixing rates and charges, the board may in its discretion consider services furnished or to be furnished, benefits received or to be received, the character and use of land, or its water runoff characteristics or any other matters which present a reasonable difference as a ground for distinction. Such service charges collected shall be deposited in a special fund or funds in the county treasury to be used only for the purpose of paying all or any part of the cost and expense of maintaining and operating storm water control facilities, all or any part of the cost and expense of planning, designing, establishing, acquiring, developing, constructing and improving any of such facilities, or to pay or secure the payment of all or any portion of any issue of general obligation or revenue bonds issued for such purpose. [1970 ex.s. c 30 § 7.]

36.89.090 Storm water control facilities—Lien for delinquent charges. The county shall have a lien for delinquent service charges, including interest thereon, against any property against which they were levied for storm water control facilities, which lien shall be superior to all other liens and encumbrances except general taxes and local and special assessments. Such lien shall be effective and shall be enforced and foreclosed in the same manner as provided for sewerage liens of cities and towns by RCW 35.67.200 through 35.67.290. [1970 ex.s. c 30 § 8.]

36.89.100 Storm water control facilities—Revenue bonds. Any board of county commissioners may authorize the issuance of revenue bonds to finance any storm water control facility. Such bonds may be issued by the board in the same manner as prescribed in RCW 36.67.510 through 36.67.570.

Each revenue bond shall state on its face that it is payable from a special fund, naming such fund and the resolution creating the fund.

Revenue bond principal, interest, and all other related necessary expenses shall be payable only out of the appropriate special fund or funds. [1970 ex.s. c 30 § 9.]

36.89.900 Effective date—1967 c 109. This chapter shall take effect on June 9, 1967. [1967 c 109 § 9.]

36.89.910 Severability—1967 c 109. If any provision of this chapter, or its application to any person or circumstance is held invalid, the remainder of the chapter, or the application of the provision to other persons or circumstances is not affected. [1967 c 109 § 7.]

36.89.911 Severability—1970 ex.s. c 30. 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 shall not be affected. [1970 ex.s. c 30 § 12.]

*Reviser's note: "this 1970 amendatory act" is codified in this chapter and RCW 86.12.020.

Chapter 36.90 SOUTHWEST WASHINGTON FAIR

Sections

36.90.010	Control of property.
36.90.020	Fair commission abolished—Rights, duties, and obligations devolved upon Lewis county commissioners—Property vested in Lewis county.
36.90.030	Administrators—Organization of commission—Funds.
36.90.040	Fair deemed county and district fair and agricultural fair.
36.90.050	Acquisition, improvement, control of property.
36.90.070	Conveyance of property to Lewis county for fair purposes.

36.90.010 Control of property. The property of the Southwest Washington Fair Association including the buildings and structures thereon, as constructed or as may be built or constructed from time to time, or any

alterations or additions thereto, shall be under the jurisdiction and control of the board of county commissioners of Lewis county at all times. [1973 1st ex.s. c 97 § 1; 1963 c 4 § 36.90.010. Prior: 1913 c 47 § 2; RRS § 2746.]

Severability—1973 1st ex.s. 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." [1973 1st ex.s. c 97 § 8.]

36.90.020 Fair commission abolished—Rights, duties, and obligations devolved upon Lewis county commissioners—Property vested in Lewis county. The southwest Washington fair commission heretofore established and authorized under the provisions of this chapter is abolished and all rights, duties and obligations of such commission is devolved upon the board of county commissioners of Lewis county and title to or all interest in real estate, choses in action and all other assets, including but not limited to assignable contracts, cash, deposits in county funds (including any interest or premiums thereon), equipment, buildings, facilities, and appurtenances thereto held as of the date of passage of this 1973 amendatory act by or for the commission shall, on *the effective date of this 1973 amendatory act vest in Lewis county. [1973 1st ex.s. c 97 § 2; 1963 c 4 § 36.90.020. Prior: 1959 c 34 § 1; 1913 c 47 § 3; RRS § 2747; prior: 1909 c 237 § 4.]

*Reviser's note: "the effective date of this 1973 amendatory act" [1973 1st ex.s. c 97] was July 16, 1973.

Severability—1973 1st ex.s. c 97: See note following RCW 36.90.010.

36.90.030 Administrators—Organization of commission—Funds. The board of county commissioners in the county of Lewis as administrators of all property relating to the southwest Washington fair may elect to appoint a commission of citizens to advise and assist in carrying out such fair. The chairman of the board of county commissioners of Lewis county shall be chairman of any such commission. Such commission may elect a president and secretary and define their duties and fix their compensation, and provide for the keeping of its records. The commission may also designate the treasurer of Lewis county as fair treasurer. The funds relating to fair activities shall be kept separate and apart from the funds of Lewis county, but shall be deposited in the regular depositaries of Lewis county and all interest earned thereby shall be added to and become a part of the funds. Fair funds shall be audited as are other county funds. [1973 1st ex.s. c 97 § 3; 1963 c 4 § 36.90.030. Prior: 1913 c 47 § 4; RRS § 2748.]

Severability—1973 1st ex.s. c 97: See note following RCW 36.90.010.

36.90.040 Fair deemed county and district fair and agricultural fair. The southwest Washington fair shall be deemed a county and district fair for the purposes of chapter 15.76 RCW as well as an agricultural fair for the purpose of receiving allocations of funds under RCW 15.76.140 through 15.76.165. [1973 1st ex.s. c 97 § 4;

1963 c 4 § 36.90.040. Prior: 1913 c 47 § 5; RRS § 2749.]

Severability—1973 1st ex.s. c 97: See note following RCW 36.90.010.

36.90.050 Acquisition, improvement, control of property. The Lewis county board of county commissioners may acquire by gift, exchange, devise, lease, or purchase, real property for southwest Washington fair purposes and may construct and maintain temporary or permanent improvements suitable and necessary for the purpose of holding and maintaining the southwest Washington fair. Any such property deemed surplus by the board may be (1) sold at private sale after notice in a local publication of general circulation, or (2) exchanged for other property after notice in a local publication of general circulation. [1973 1st ex.s. c 97 § 5; 1963 c 4 § 36.90.050. Prior: 1959 c 34 § 2.]

Severability—1973 1st ex.s. c 97: See note following RCW 36.90.010.

36.90.070 Conveyance of property to Lewis county for fair purposes. Upon payment to the state of Washington by Lewis county of the sum of one dollar, which sum shall be deposited in the general fund when received by the treasurer of the state of Washington, such treasurer is authorized and directed to certify to the governor and secretary of state that such payment has been made on the following described property presently utilized for southwest Washington fair purposes situated in Lewis county, Washington: "Beginning at the intersection of the south line of section Seventeen (17) Township Fourteen (14) North of Range Two (2) West of W.M. with the West right-of-way line of the Somerville consent Road, and running thence North 15 degrees 20 feet East along the West line of said Road, Eleven Hundred Forty-four (1144) feet, thence North 2 degrees 33 feet West along the said west line Seventy-four and four-tenths (74.4) feet, thence west on a line parallel with the said south line of said Section Seventeen (17) Eleven Hundred Sixty-seven and two tenths (1167.2) feet to within one hundred fifty (150) feet to the Center line of the Northern Pacific Railroad, thence south 16 degrees 20 feet West on a line parallel with and one hundred fifty (150) feet distant Easterly from the Center line of the Northern Pacific Railroad Eleven Hundred and Thirty-five and seven-tenths (1135.7) feet, thence East on a line parallel with and Eighty-seven and three-tenths (87.3) feet north of the south line of said section seventeen (17) eight hundred fifty-seven (857) feet, thence south 74 degrees 40 feet East three hundred thirty (330) feet to the point of beginning, containing thirty (30) acres in Section Seventeen (17) Township Fourteen (14) North of Range Two (2) West of W.M." and the governor is thereby authorized and directed forthwith to execute and the secretary of state is authorized and directed to attest to a deed conveying said lands to Lewis county, Washington. The office of the attorney general and the commissioner of public lands shall offer any necessary assistance in carrying out such conveyance. [1973 1st ex.s. c 97 § 6.]

Severability—1973 1st ex.s. c 97: See note following RCW 36.90.010.

Chapter 36.92
COUNTY CENTRAL SERVICES DEPARTMENT

Sections

- 36.92.010 Purpose.
- 36.92.020 Definitions.
- 36.92.030 County central services department—Created—
Supervisor.
- 36.92.040 Central services fund.
- 36.92.050 Comprehensive data processing use plan—Utilization
of equipment.
- 36.92.060 Appointment of assistants.
- 36.92.070 Charges for services—Duties of county treasurer.
- 36.92.080 Services limited to department.
- 36.92.900 Severability—1967 ex.s. c 103.

36.92.010 Purpose. The purpose of this chapter is to provide county officials of each county with a modern approach to the common problems encountered by said officers in accounting, record keeping, and problem solving, thereby effectuating economies in county government.

It is further the intent of this chapter that the constitutional autonomy of the various county officers be preserved while providing such officials with a centralized department to perform ministerial functions for them on the most modern and efficient machines available. [1967 ex.s. c 103 § 2.]

36.92.020 Definitions. As used in this chapter, the following words shall have the meanings ascribed herein:

(1) "Services department" shall mean the county central services department, established in accordance with the provisions of this chapter.

(2) "Board" shall mean the board of county commissioners.

(3) "Automatic data processing" or "ADP" shall mean that method of processing information using mechanical or electronic machines, guided by predetermined instructions to produce information in usable form, and shall include but not be limited to electronic accounting machines, electronic data processing machines, and computers.

(4) "Electronic accounting machines" or "EAM" shall mean that method of ADP utilizing punch cards or unit record equipment.

(5) "Electronic data processing" or "EDP" shall include that system which comprises a combination of equipment or unites to provide input of source data, storage and processing of data and output in predetermined form, including a central processing unit (CPU) or main frame.

(6) "Computer" shall mean any device that is capable of solving problems and supplying results by accepting data and performing prescribed operations. It shall include analog or digital, general purpose or special purpose computers.

(7) "Copy" or "micro-copy" shall mean photographic, photostatic, photomechanical or other copy process.

It is the intent of this chapter that the definitions contained in subsections (3) through (7) of this section shall be construed in the broadest possible interpretation in

order that new and modern equipment and methods as they become available shall be included therein. [1967 ex.s. c 103 § 3.]

36.92.030 County central services department—Created—Supervisor. By resolution, the board of county commissioners may create a county central services department which shall be organized and function as any other department of the county. When a board creates a central services department, it shall also provide for the appointment of a supervisor to be the administrative head of such department, subject to the supervision and control of the board, and to serve at the pleasure of the board. The supervisor shall receive such salary as may be prescribed by the board. In addition, the supervisor shall be reimbursed for traveling and other actual and necessary expenses incurred by him in the performance of his official duties. [1967 ex.s. c 103 § 4.]

36.92.040 Central services fund. When a central services department is created, the board shall establish a central services fund for the payment of all costs of conducting those services for which such department was organized and annually budget therefor. It may make transfers into the central services fund from the current expense fund and receive funds for such purposes from other departments and recipients of such services. [1967 ex.s. c 103 § 5.]

36.92.050 Comprehensive data processing use plan—Utilization of equipment. Services departments created pursuant to this chapter shall initially draw a comprehensive data processing use plan. It shall establish levels of service to be performed by the department and shall establish levels of service required by using agencies. Before proceeding with purchase, lease or acquisition of the data processing equipment, the comprehensive data processing use plan shall be adopted by the board.

When established by the board, the services department may perform the service functions relating to accounting, record keeping, and micro-copy by the utilization of automatic data processing and micro-copy equipment.

In relation to said equipment the services department shall perform any ministerial services authorized by the board and requested by the various officers and departments of the county. In this connection, it is the intent of this chapter that the services department be authorized to utilize such equipment to the highest degree consistent with the purposes of this chapter and not inconsistent with constitutional powers and duties of such officers.

The services department is also authorized to utilize such equipment for the purpose of problem solving when such problem solving is of a ministerial rather than a discretionary nature. [1967 ex.s. c 103 § 6.]

36.92.060 Appointment of assistants. The supervisor shall have the authority to appoint, subject to the approval of the board, such clerical and other assistants

as may be required and authorized for the proper discharge of the functions of the services department. [1967 ex.s. c 103 § 7.]

36.92.070 Charges for services—Duties of county treasurer. The board of county commissioners shall fix the terms and charges for services rendered by the central services department pursuant to this chapter, which amounts shall be credited as income to the appropriate account within the central services fund and charged on a monthly basis against the account of the recipient for whom such services were performed. Moneys derived from the activities of the central services department shall be disbursed from the central services fund by the county treasurer by warrants on vouchers duly authorized by the board. [1967 ex.s. c 103 § 8.]

36.92.080 Services limited to department. When a board of county commissioners creates a central services department pursuant to RCW 36.92.030, the ministerial services to be performed by such department in connection with automatic data processing shall not thereafter be performed by any other officer or employee of said county. [1967 ex.s. c 103 § 9.]

36.92.900 Severability—1967 ex.s. c 103. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1967 ex.s. c 103 § 10.]

Chapter 36.93

LOCAL GOVERNMENTAL ORGANIZATION— BOUNDARIES—REVIEW BOARDS

Sections

36.93.010	Purpose.
36.93.020	Definitions.
36.93.030	Creation of boundary review boards in class AA, class A counties—Procedure for creation in other counties.
36.93.040	Dates upon which boards in counties other than class AA and class A deemed established.
36.93.050	Appointment of boards—Members—Qualifications—Terms—Vacancies.
36.93.060	Boards in other than class AA or certain class A counties—Members—Selection.
36.93.070	Chairman, vice chairman, chief clerk—Powers and duties of board and chief clerk—Meetings—Hearings—Counsel—Compensation.
36.93.080	Expenditures—Remittance of costs to counties.
36.93.090	Filing notice of proposed actions with board.
36.93.093	Copy of notice of intention by sewer or water district to be sent officials.
36.93.100	Review of proposed actions by board—Procedure.
36.93.110	When review not necessary.
36.93.120	Fees.
36.93.130	Notice of intention—Contents.
36.93.140	Pending actions not affected.
36.93.150	Review of proposed actions—Actions and determinations of board—Disapproval, effect.
36.93.160	Hearings—Notice—Record—Subpoenas—Decision of board—Appeals.
36.93.170	Factors to be considered by board.
36.93.180	Objectives of boundary review board.
36.93.190	Decision of board not to affect existing franchises, permits, codes, ordinances, etc., for ten years.
36.93.200	Rules and regulations—Adoption procedure.
36.93.210	Rules and regulations—Filing—Permanent register.
36.93.220	Provisions of prior laws superseded by chapter.

36.93.900 Effective date—1967 c 189.

36.93.910 Severability—1967 c 189.

36.93.920 Reduction of membership on eleven member boards.

Merger of sewer districts into water districts—Board review: RCW 57.40.120.

Merger of water districts into sewer districts—Board review of proposed merger: RCW 56.36.030.

36.93.010 Purpose. The legislature finds that in metropolitan areas of this state, experiencing heavy population growth, increased problems arise from rapid proliferation of municipalities and haphazard extension of and competition to extend municipal boundaries. These problems affect adversely the quality and quantity and cost of municipal services furnished, the financial integrity of certain municipalities, the consistency of local regulations, and many other incidents of local government. Further, the competition among municipalities for unincorporated territory and the disorganizing effect thereof on land use, the preservation of property values and the desired objective of a consistent comprehensive land use plan for populated areas, makes it appropriate that the legislature provide a method of guiding and controlling the creation and growth of municipalities in metropolitan areas so that such problems may be avoided and that residents and businesses in those areas may rely on the logical growth of local government affecting them. [1967 c 189 § 1.]

36.93.020 Definitions. As used herein:

(1) "Governmental unit" means any incorporated city or town, metropolitan municipal corporation, or any special purpose district as defined in this section.

(2) "Special purpose district" means any sanitary district, sewer district, water district, fire protection district, drainage improvement district, drainage and diking improvement district, flood control zone district, irrigation district, metropolitan park district, drainage district, public utility district engaged in water distribution, or water distribution district.

(3) "Board" means a boundary review board created by or pursuant to this chapter. [1967 c 189 § 2.]

36.93.030 Creation of boundary review boards in class AA, class A counties—Procedure for creation in other counties. (1) There is hereby created and established in each class AA and class A county a board to be known and designated as a "boundary review board".

(2) A boundary review board may be created and established in any other class county in the following manner:

(a) The board of county commissioners may, by majority vote, adopt a resolution establishing a boundary review board; or

(b) A petition seeking establishment of a boundary review board signed by qualified electors residing in the county equal in number to at least five percent of the votes cast in the county at the last county general election may be filed with the county auditor.

Upon the filing of such a petition, the county auditor shall examine the same and certify to the sufficiency of the signatures thereon. No person may withdraw his name from a petition after it has been filed with the

auditor. Within thirty days after the filing of such petition, the county auditor shall transmit the same to the board of county commissioners, together with his certificate of sufficiency.

After receipt of a valid petition for the establishment of a boundary review board, the board of county commissioners shall submit the question of whether a boundary review board should be established to the electorate at the next county primary or county general election which occurs more than thirty days from the date of receipt of the petition. Notice of the election shall be given as provided in RCW 29.27.080 and shall include a clear statement of the proposal to be submitted.

If a majority of the persons voting on the proposition shall vote in favor of the establishment of the boundary review board, such board shall thereupon be deemed established. [1969 ex.s. c 111 § 1; 1967 c 189 § 3.]

36.93.040 Dates upon which boards in counties other than class AA and class A deemed established. For the purposes of this chapter, counties other than class AA and class A shall be deemed to have established boundary review boards on and after the date a proposition for establishing the same has been approved at an election as provided for in RCW 36.93.030, or on and after the date of adoption of a resolution of the board of county commissioners establishing the same as provided for in RCW 36.93.030. [1967 c 189 § 4.]

36.93.050 Appointment of boards—Members—Qualifications—Terms—Vacancies. After *the effective date of this act, the governor shall within forty-five days appoint a board for each class AA county consisting of eleven members as provided for in this section. After a board has been established in a county other than class AA by resolution, by operation of law or by approval of the electors after an election initiated by petition, the governor shall appoint a board within forty-five days for each such county consisting of five members as provided for in this section.

Of the members of the first board to be appointed in class AA counties after the taking effect of this section, four members, consisting of one member appointed from each of the four classes of nominees, shall have terms expiring January 1, 1970; four members, consisting of one member appointed from each of the four classes of nominees, shall have terms expiring January 1, 1972; and three members consisting of one member from each of the three classes of nominees furnishing three members to the board, shall have terms expiring January 1, 1974. When any county establishes a board of five members, two members shall have a term of not less than two years, nor more than four years; two members shall have a term of not less than four years, and not more than six years; and one member shall have a term of not less than six years, nor more than eight years. Upon the expiration of the terms of the initial members first to be appointed, each succeeding member shall be appointed and hold office for a term of six years.

Any vacancy on an eleven member or five member board shall be filled by appointment by the governor

from the same source as the preceding member, which source shall have the opportunity to make new nominations for the vacated position, and such appointee shall serve only for the balance of the full term of his predecessor.

In each boundary review board which consists of eleven members, all members shall be residents of the county in which the review board is established. Three members shall be selected independently by the governor and the remaining eight members shall be selected by the governor from the following sources:

(1) Three members shall be selected from nominees of the individual mayors of the cities and towns within the county;

(2) Three members shall be selected from nominees of the individual members of the board of county commissioners; and

(3) Two members shall be selected from nominees of each special purpose district lying wholly or partly within the county. Selection shall be made so that the terms of not more than one appointee from each source expires in any one year.

Nominations shall be filed with the office of the governor within thirty days after the effective date of this act, within thirty days after the creation of a boundary review board by election, operation of law, or resolution as provided in RCW 36.93.030, or within thirty days of the creation of a vacancy on the board, as appropriate. Nominations to fill vacancies caused by expiration of terms shall be filed at least thirty days preceding the expiration of the terms. Each source shall nominate at least two persons for every available position. In the event there are less than two nominees for any position, the governor may appoint the member for that position independently.

No nominee for membership and no member shall be a consultant or adviser on a contractual or regular retaining basis of the state of Washington, or of any municipal corporation thereof within the county in which the board is established, or any agency or association thereof. [1969 ex.s. c 111 § 2; 1967 ex.s. c 98 § 1; 1967 c 189 § 5.]

***Reviser's note:** The language "the effective date of this act" first appeared in section 5, chapter 189, Laws of 1967. Section 5, chapter 189, Laws of 1967 was amended by section 1, chapter 98, Laws of 1967 ex.s. The effective date of chapter 189, Laws of 1967 was July 1, 1967, see RCW 36.93.900. The effective date of chapter 98, Laws of 1967 ex.s. was July 30, 1967, see preface to 1967 session laws.

36.93.060 Boards in other than class AA or certain class A counties—Members—Selection. In counties other than class AA or those class A counties covered under RCW 36.93.920 the board shall consist of five members, selected as follows:

(1) Two by the governor, independently;

(2) One from nominees of the individual mayors of the cities and towns within the county;

(3) One from nominees of the individual members of the board of county commissioners; and

(4) One from nominees of each special purpose district lying wholly or partly within the county.

Nominations shall be made and vacancies filled in the manner provided in RCW 36.93.050.

Boards established pursuant to this section shall not meet in panels. In all other respects, such boards shall organize and operate as generally provided in this chapter. [1969 ex.s. c 111 § 3; 1967 c 189 § 6.]

36.93.070 Chairman, vice chairman, chief clerk—Powers and duties of board and chief clerk—Meetings—Hearings—Counsel—Compensation. The members of each boundary review board shall elect from its members a chairman, vice chairman, and shall employ a nonmember as chief clerk, who shall be the secretary of the board. The board shall determine its own rules and order of business and shall provide by resolution for the time and manner of holding all regular or special meetings, and shall keep a journal of its proceedings which shall be a public record. A majority of all the members shall constitute a quorum for the transaction of business.

The chief clerk of the board shall have the power to administer oaths and affirmations, certify to all official acts, issue subpoenas to any public officer or employee ordering him to testify before the board and produce public records, papers, books or documents. The chief clerk may invoke the aid of any court of competent jurisdiction to carry out such powers.

The board by rule may provide for hearings by panels of members consisting of not less than five board members, the number of hearing panels and members thereof, and for the impartial selection of panel members. A majority of a panel shall constitute a quorum thereof.

At the request of the board, the state attorney general, or at the board's option, the county prosecuting attorney, shall provide counsel for the board.

The planning departments of the county, other counties, and any city, and any state or regional planning agency shall furnish such information to the board at its request as may be reasonably necessary for the performance of its duties.

Each member of the board shall be compensated from the county current expense fund at the rate of twenty-five dollars per day, or a major portion thereof, for time actually devoted to the work of the boundary review board. Each board of county commissioners shall provide such funds as shall be necessary to pay the salaries of the members and staff, and such other expenses as shall be reasonably necessary. [1967 c 189 § 7.]

36.93.080 Expenditures—Remittance of costs to counties. Expenditures by the board shall be subject to the provisions of chapter 36.40 RCW and other statutes relating to expenditures by counties. The planning and community affairs agency, or to whatever entity the local government functions of this agency shall be transferred, shall on a quarterly basis remit to each county one-half of the actual costs incurred by the county for the operation of the boundary review board within individual counties as provided for in this chapter. However, in the event no funds are appropriated to the said agency for this purpose, this shall not in any way affect the operation of the boundary review board. [1969 ex.s. c 111 § 4; 1967 c 189 § 8.]

36.93.090 Filing notice of proposed actions with board. Whenever any of the following described actions are proposed in a county in which a board has been established, the initiators of the action shall file a notice of intention with the board, which may review any such proposed actions pertaining to:

(1) The creation, dissolution, incorporation, disincorporation, consolidation, or change in the boundary of any city, town, or special purpose district; or

(2) The assumption by any city or town of all or part of the assets, facilities, or indebtedness of a special purpose district which lies partially within such city or town; or

(3) The establishment of or change in the boundaries of a mutual water and sewer system or separate sewer system by a water district pursuant to RCW 57.08.065; or

(4) The extension of permanent water or sewer service outside of its existing corporate boundaries by a city, town, or special purpose district. [1971 ex.s. c 127 § 1; 1969 ex.s. c 111 § 5; 1967 c 189 § 9.]

36.93.093 Copy of notice of intention by sewer or water district to be sent officials. Whenever a sewer or water district files with the board a notice of intention as required by RCW 36.93.090, the board shall send a copy of such notice of intention to the legislative authority of the county wherein such action is proposed to be taken and one copy to the state department of ecology. [1971 ex.s. c 127 § 2.]

36.93.100 Review of proposed actions by board—Procedure. The board shall review and approve, disapprove, or modify any of the actions set forth in RCW 36.93.090 when any of the following shall occur within sixty days of the filing of a notice of intention:

(1) The chairman or any three members of the boundary review board files a request for review;

(2) Any governmental unit affected files a request for review;

(3) A petition requesting review is filed and is signed by

(a) five percent of the registered voters residing within the area which is being considered for the proposed action (as determined by the boundary review board in its discretion subject to immediate review by writ of certiorari to the superior court); or

(b) an owner or owners of property consisting of five percent of the assessed valuation within such area.

If a period of sixty days shall elapse without the board's jurisdiction having been invoked as set forth in this section, the proposed action shall be deemed approved. [1967 c 189 § 10.]

36.93.110 When review not necessary. In case of annexation to a city or a town, where the area proposed for annexation is less than ten acres and less than eight hundred thousand dollars in assessed valuation, the chairman of the review board may by written statement declare that review by the board is not necessary for the protection of the interest of the various parties, in which

case the board shall not review such annexation. [1973 1st ex.s. c 195 § 42; 1967 c 189 § 11.]

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

36.93.120 Fees. A fee of twenty-five dollars shall be paid by all initiators and in addition if the jurisdiction of the review board is invoked pursuant to RCW 36.93.100, the person or entity seeking review, except for the boundary review board itself, shall pay to the county treasurer and place in the county current expense fund the sum of one hundred dollars. [1969 ex.s. c 111 § 6; 1967 c 189 § 12.]

36.93.130 Notice of intention—Contents. The notice of intention shall contain the following information:

- (1) The nature of the action sought;
- (2) A brief statement of the reasons for the proposed action;
- (3) The legal description of the boundaries proposed to be created, abolished or changed by such action;
- (4) A county assessor's map on which the boundaries proposed to be created, abolished or changed by such action are designated: *Provided*, That at the discretion of the boundary review board a map other than the county assessor's map may be accepted. [1969 ex.s. c 111 § 7; 1967 c 189 § 13.]

36.93.140 Pending actions not affected. Actions described in RCW 36.93.090 which are pending July 1, 1967, or actions in counties other than class AA or class A which are pending on the date of the creation of a boundary review board therein, shall not be affected by the provisions of this chapter. Actions shall be deemed pending on and after the filing of sufficient petitions initiating the same with the appropriate public officer, or the performance of an official act initiating the same. [1967 c 189 § 14.]

36.93.150 Review of proposed actions—Actions and determinations of board—Disapproval, effect. The board, upon review of any proposed action, shall take such of the following actions as it deems necessary to best carry out the intent of this chapter:

- (1) Approval of the proposal as submitted;
- (2) Subject to RCW 35.02.170, modification of the proposal by adjusting boundaries to add or delete territory: *Provided*, That any proposal for annexation by the board shall be subject to RCW 35.21.010 and shall not add additional territory, the amount of which is greater than that included in the original proposal;
- (3) Determination of a division of assets and liabilities between two or more governmental units where relevant;
- (4) Determination whether, or the extent to which, functions of a special purpose district are to be assumed by an incorporated city or town, metropolitan municipal corporation, or another existing special purpose district; or
- (5) Disapproval of the proposal except that the board shall not have jurisdiction to disapprove the dissolution or disincorporation of a special purpose district which is

not providing services but shall have jurisdiction over the determination of a division of the assets and liabilities of a dissolved or disincorporated special purpose district.

Unless the board shall disapprove a proposal, it shall be presented under the appropriate statute for approval of a public body and, if required, a vote of the people. A proposal that has been modified shall be presented under the appropriate statute for approval of a public body and if required, a vote of the people. If a proposal after modification does not contain enough signatures of persons within the modified area, as are required by law, then the initiating party, parties or governmental unit has thirty days after the modification decision to secure enough signatures to satisfy the legal requirement. If the signatures cannot be secured then the proposal may be submitted to a vote of the people, as required by law.

When the board, after due proceedings held, disapproves a proposed action, such proposed action shall be unavailable, the proposing agency shall be without power to initiate the same or substantially the same as determined by the board, and any succeeding acts intended to or tending to effectuate that action shall be void, but such action may be reinitiated after a period of twelve months from date of disapproval and shall again be subject to the same consideration. [1975 1st ex.s. c 220 § 10; 1969 ex.s. c 111 § 8; 1967 c 189 § 15.]

Legislative finding, intent—1975 1st ex.s. c 220: See note following RCW 35.02.170.

36.93.160 Hearings—Notice—Record—Subpoenas—Decision of board—Appeals. (1) When the jurisdiction of the boundary review board has been invoked, the board shall set the date, time and place for a public hearing on the proposal. The board shall give at least thirty days' advance written notice of the date, time and place of the hearing to the governing body of each governmental unit having jurisdiction within the boundaries of the territory proposed to be annexed, formed, incorporated, disincorporated, dissolved or consolidated, or within the boundaries of a special district whose assets and facilities are proposed to be assumed by a city or town, and to the governing body of each city within three miles of the exterior boundaries of such area and to the proponent of such change. Notice shall also be given by publication in any newspaper of general circulation in the area of the proposed boundary change at least three times, the last publication of which shall be not less than five days prior to the date set for the public hearing. Notice shall also be posted in ten public places in the area affected for five days when the area is ten acres or more. When the area affected is less than ten acres, five notices shall be posted in five public places for five days. If the board after such hearing shall determine to modify the proposal by adding territory, then the board shall set a date, time and place for an additional hearing on the modification, for which notice shall be given as provided in this subsection.

(2) A verbatim record shall be made of all testimony presented at the hearing and upon request and payment of the reasonable costs thereof, a copy of the transcript of such testimony shall be provided to any person or governmental unit.

(3) The chairman upon majority vote of the board or a panel may direct the chief clerk of the boundary review board to issue subpoenas to any public officer to testify, and to compel the production by him of any records, books, documents, public records or public papers.

(4) Within forty days after the conclusion of the final hearing on the proposal, the board shall file its written decision, setting forth the reasons therefor, with the board of county commissioners and the clerk of each governmental unit directly affected. The written decision shall indicate whether the proposed change is approved, rejected or modified and, if modified, the terms of such modification. The written decision need not include specific data on every factor required to be considered by the board, but shall indicate that all standards were given consideration. Dissenting members of the board shall have the right to have their written dissents included as part of the decision.

(5) Unanimous decisions of the hearing panel or a decision of a majority of the members of the board shall constitute the decision of the board and shall not be appealable to the whole board. Any other decision shall be appealable to the entire board within ten days. Appeals shall be on the record, which shall be furnished by the appellant, but the board may, in its sole discretion, permit the introduction of additional evidence and argument. Decisions shall be final and conclusive unless within ten days from the date of said action a governmental unit affected by the decision or any person owning real property or residing in the area affected by the decision files in the superior court a notice of appeal.

The filing of such notice of appeal within such time limit shall stay the effective date of the decision of the board until such time as the appeal shall have been adjudicated or withdrawn. On appeal the superior court shall not take any evidence other than that contained in the record of the hearing before the board.

(6) The superior court may affirm the decision of the board or remand the case for further proceedings; or it may reverse the decision if any substantial rights may have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

- (a) In violation of constitutional provisions, or
- (b) In excess of the statutory authority or jurisdiction of the board, or
- (c) Made upon unlawful procedure, or
- (d) Affected by other error of law, or
- (e) Unsupported by material and substantial evidence in view of the entire record as submitted, or
- (f) Arbitrary or capricious.

An aggrieved party may secure a review of any final judgment of the superior court by appeal to the supreme court or the court of appeals. Such appeal shall be taken in the manner provided by law for appeals from the superior court in other civil cases. [1971 c 81 § 97; 1969 ex.s. c 111 § 9; 1967 c 189 § 16.]

General corporate powers—Municipal corporations of the fourth class, restrictions as to area: RCW 35.21.010.

36.93.170 Factors to be considered by board. In reaching a decision on a proposal or an alternative, the

board shall consider the factors affecting such proposal, which shall include, but not be limited to the following:

(1) Population and territory; population density; land area and land uses; comprehensive use plans and zoning; per capita assessed valuation; topography, natural boundaries and drainage basins, proximity to other populated areas; the likelihood of significant growth in the area and in adjacent incorporated and unincorporated areas during the next ten years; location and most desirable future location of community facilities.

(2) Municipal services; need for municipal services; effect of ordinances, governmental codes, regulations and resolutions on existing uses; present cost and adequacy of governmental services and controls in area; prospects of governmental services from other sources; probable future needs for such services and controls; probable effect of proposal or alternative on cost and adequacy of services and controls in area and adjacent area; the effect on the finances, debt structure, and contractual obligations and rights of all affected governmental units.

(3) The effect of the proposal or alternative on adjacent areas, on mutual economic and social interests, and on the local governmental structure of the county. [1967 c 189 § 17.]

36.93.180 Objectives of boundary review board. The decisions of the boundary review board shall attempt to achieve the following objectives:

(1) Preservation of natural neighborhoods and communities;

(2) Use of physical boundaries, including but not limited to bodies of water, highways, and land contours;

(3) Creation and preservation of logical service areas;

(4) Prevention of abnormally irregular boundaries;

(5) Discouragement of multiple incorporations of small cities and encouragement of incorporation of cities in excess of ten thousand population in heavily populated urban areas;

(6) Dissolution of inactive special purpose districts;

(7) Adjustment of impractical boundaries; and

(8) Incorporation as cities or towns or annexation to cities or towns of unincorporated areas which are urban in character. [1967 c 189 § 18.]

36.93.190 Decision of board not to affect existing franchises, permits, codes, ordinances, etc., for ten years.

For a period of ten years from the date of the final decision, no proceeding, approval, action, or decision on a proposal or an alternative shall be deemed to cancel any franchise or permit theretofore granted by the authorities governing the territory to be annexed, nor shall it be deemed to supersede the application as to any territory to be annexed, of such construction codes and ordinances (including but not limited to fire, electrical, and plumbing codes and ordinances) as shall have been adopted by the authorities governing the territory to be annexed and in force at the time of the decision. [1967 c 189 § 19.]

36.93.200 Rules and regulations—Adoption procedure. Each review board shall adopt rules governing the formal and informal procedures prescribed or authorized by this chapter. Such rules may state the qualifications

of persons for practice before the board. Such rules shall also include rules of practice before the board, together with forms and instructions.

To assist interested persons dealing with it, each board shall so far as deemed practicable supplement its rules with descriptive statements of its procedures.

Prior to the adoption of any rule authorized by law, or the amendment or repeal thereof, the board shall file notice thereof with the clerk of the court of the county in which the board is located. So far as practicable, the board shall also publish or otherwise circulate notice of its intended action and afford interested persons opportunity to submit data or views either orally or in writing. Such notice shall include (1) a statement of the time, place, and nature of public rule-making proceedings, (2) reference to the authority under which the rule is proposed, and (3) either the terms or substance of the proposed rule or a description of the subjects and issues involved.

This paragraph shall not apply to interpretative rules, general statements of policy, or rules of internal board organization, procedure or practice. [1967 c 189 § 20.]

36.93.210 Rules and regulations—Filing—Permanent register. Each board shall file forthwith with the clerk of the court a certified copy of all rules and regulations adopted. The clerk shall keep a permanent register of such rules open to public inspection. [1967 c 189 § 21.]

36.93.220 Provisions of prior laws superseded by chapter. Whenever a review board has been created pursuant to the terms of this chapter, the provisions of law relating to city annexation review boards set forth in chapter 35.13 RCW and the powers granted to the boards of county commissioners to alter boundaries of proposed annexations or incorporations shall not be applicable. [1967 c 189 § 22.]

36.93.900 Effective date—1967 c 189. The effective date of this chapter is July 1, 1967. [1967 c 189 § 24.]

36.93.910 Severability—1967 c 189. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1967 c 189 § 23.]

36.93.920 Reduction of membership on eleven member boards. Eleven member boards created and established in class A counties by the 1967 legislature shall be reduced to five member boards as provided in this section. The governor shall not make any appointments, except for vacancies to fill unexpired terms, to the boards in these class A counties until 1972, at which time one appointment shall be made by the governor, independently, and one appointment from among the nominees of the special purpose districts as provided in RCW 36.93.060, whose terms shall expire on January 1, 1974. In 1974 the governor shall appoint five members

to the board as provided in RCW 36.93.060. The reduction in members by this section shall not affect the board's jurisdiction over cases pending at the time of reduction. [1969 ex.s. c 111 § 10.]

Chapter 36.94

SEWERAGE, WATER AND DRAINAGE SYSTEMS

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36.94.010 Definitions. As used in this chapter:

- (1) A "system of sewerage" means and includes:
- (a) Sanitary sewage disposal sewers;
 - (b) Combined sanitary sewage disposal and storm or surface water sewers;
 - (c) Storm or surface water sewers;
 - (d) Outfalls for storm or sanitary sewage and works, plants, and facilities for sanitary sewage treatment and disposal;
 - (e) Combined water and sewerage systems;
 - (f) Any combination of or part of any or all of such facilities.
- (2) A "system of water" means and includes:
- (a) A water distribution system, including dams, reservoirs, aqueducts, plants, pumping stations, transmission and lateral distribution lines and other facilities for distribution of water;
 - (b) A combined water and sewerage system;
 - (c) Any combination of or any part of any or all of such facilities.
- (3) A "sewerage and/or water general plan" means a general plan for a system of sewerage and/or water for the county which shall be an element of the comprehensive plan established by the county pursuant to RCW 36.70.350(5) and/or chapter 35.63 RCW.
- (a) A sewerage general plan shall include the general location and description of treatment and disposal facilities, trunk and interceptor sewers, pumping stations, monitoring and control facilities, local service areas and a general description of the collection system to serve those areas, and other facilities as may be required to provide a functional and implementable plan, including preliminary engineering to assure feasibility.
- (b) A water general plan shall include the general location and description of water resources to be utilized, wells, treatment facilities, transmission lines, storage reservoirs, pumping stations, monitoring and control facilities as may be required to provide a functional and implementable plan.
- (c) Water and/or sewerage general plans shall include preliminary engineering in adequate detail to assure technical feasibility and shall further provide for the methods of distributing the cost and expense of the system and shall indicate the economic and financing feasibility of plan implementation. The plans may also specify local or lateral facilities. The sewerage and/or water general plan shall not mean the final engineering construction plans for the system.
- (4) "Municipal corporation" means and includes any city, town, metropolitan municipal corporation, any public utility district which operates and maintains a water system, any sewer, water, diking or drainage district, any diking, drainage and sewerage improvement

district, any water distribution district, and any irrigation district.

(5) A "private utility" means and includes all utilities, both public and private, which provide sewerage and/or water service and which are not municipal corporations within the definition of this chapter. The ownership of a private utility may be in a corporation, nonprofit or for profit, in a cooperative association, in a mutual organization, or in individuals.

(6) "Board" means one or more boards of county commissioners. [1971 ex.s. c 96 § 1; 1967 c 72 § 1.]

Construction—1971 ex.s. c 96. "This 1971 amendatory act shall apply to any existing and future sewerage and/or water plans or amendments thereto and implementations thereof and shall not be deemed to be prospective only." [1971 ex.s. c 96 § 12.]

Severability—1971 ex.s. c 96: "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 96 § 13.]

The above annotations apply to RCW 36.94.010, 36.94.050, 36.94.060, 36.94.070, 36.94.100, 36.94.120, 36.94.170, 36.94.180, 36.94.220, 36.94.230 and 36.94.240.

36.94.020 Purpose—Powers. The construction, operation and maintenance of a system of sewerage and/or water is a county purpose. Subject to the provisions of this chapter, every county has the power, individually or in conjunction with another county or counties to adopt, provide for, accept, establish, condemn, purchase, construct, add to and maintain a system or systems of sanitary and storm sewers, including outfalls, interceptors, plants and facilities necessary for sewerage treatment and disposal, and/or system or systems of water supply within all or a portion of the county: *Provided*, That counties shall not have power to condemn sewerage and/or water systems of any municipal corporation or private utility.

Such county or counties shall have the authority to control, regulate and manage such system or systems and to provide funds therefor by general obligation bonds, revenue bonds, utility local improvement district assessments and in any lawful fiscal manner. [1967 c 72 § 2.]

36.94.030 Adoption of sewerage and/or water general plan as element of comprehensive plan. Whenever the board of county commissioners of a county deems it advisable and necessary for the public health and welfare of the inhabitants of the county to establish, purchase, acquire and construct a system of sewerage and/or water, or make any additions and betterments thereto, or extensions thereof, the board shall adopt as an element of the comprehensive plan for the physical development of the county pursuant to the provisions of RCW 36.70.350(5) and/or chapter 35.63 RCW, a sewerage and/or water general plan for a system of sewerage and/or water for all or a portion of the county as deemed necessary by the board. [1967 c 72 § 3.]

36.94.040 Incorporation of provisions of comprehensive plan in general plan—Approval of metropolitan municipal corporation, when required. The sewerage

and/or water general plan must incorporate the provisions of existing comprehensive plans relating to sewerage and water systems of cities, towns, municipalities, and private utilities, to the extent they have been implemented.

In any county in which a metropolitan municipal corporation is authorized to perform the sewerage disposal or water supply function, any sewerage and/or water general plan shall be approved by the metropolitan municipal corporation prior to adoption by the county. [1967 c 72 § 4.]

36.94.050 Review committee—Composition—Submission of plan or amendment to. Prior to the adoption of or amendment of the sewerage and/or water general plan, the board or boards of county commissioners shall submit the plan or amendment to a review committee. The review committee shall consist of:

(1) A representative of each first and second class city within or adjoining the area selected by the mayor thereof (if there are no first or second class cities within the plan area, then one representative chosen by the mayor of the city with the largest population within the plan area);

(2) One representative chosen at large by a majority vote of the executive officers of the other cities or towns within or adjoining the area;

(3) A representative chosen by the executive officer or the chairman of the board, as the case may be, of each of the other municipal corporations and private utilities serving one thousand or more sewer and/or water customers located within the area;

(4) One representative chosen at large by a majority vote of the executive officers and chairmen of the boards, as the case may be, of the other remaining municipal corporations within the area;

(5) The chairman or chairmen of the board or boards of county commissioners within the planned area; and

(6) In counties where there is a metropolitan municipal corporation operating a sewerage and/or water system in the area, the chairman of its council or such person as he designates.

If the board shall reject the plan pursuant to RCW 36.94.090, the review committee shall be deemed to be dissolved; otherwise the review committee shall continue in existence to review amendments to the plan. Vacancies on the committee shall be filled in the same manner as the original appointment to that position. [1971 ex.s. c 96 § 2; 1967 c 72 § 5.]

Construction—Severability—1971 ex.s. c 96: See notes following RCW 36.94.010.

36.94.060 Review committee—Chairman, secretary—Rules—Quorum—Compensation of members. The members of each review committee shall elect from its members a chairman and a secretary. The committee shall determine its own rules and order of business and shall provide by resolution for the time and manner of its proceedings which shall be a public record. A majority of all the members shall constitute a quorum for the transaction of business.

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Each member of the committee shall be compensated from the county current expense fund at the rate of twenty-five dollars per day, or a major portion thereof, for time actually devoted to the work of the committee in reviewing any proposed sewerage and/or water general plan or amendments to a plan. Each board of county commissioners shall provide such funds as shall be necessary to pay the compensation of the members and such other expenses as shall be reasonably necessary. Such payments shall be reimbursed to the counties advancing the funds from moneys acquired from the construction or operation of a sewerage and/or water system. [1971 ex.s. c 96 § 3; 1967 c 72 § 6.]

Construction—Severability—1971 ex.s. c 96: See notes following RCW 36.94.010.

36.94.070 Review committee—Review of plan or amendments thereto—Report. The committee shall review the sewerage and/or water general plan or amendments thereto and shall report to the board or boards of county commissioners within ninety days their approval or any suggested amendments, deletions, or additions. If the committee shall fail to report within the time, the plan or amendments thereto shall be deemed approved. If the committee submits a report, the board shall consider and review the committee's report and may adopt any recommendations suggested therein. [1971 ex.s. c 96 § 4; 1967 c 72 § 7.]

Construction—Severability—1971 ex.s. c 96: See notes following RCW 36.94.010.

36.94.080 Hearing by board—Notice—Filing general plan. Before final action thereon the board shall conduct a public hearing on the plan after ten days published notice of hearing is given pursuant to RCW 36.32.120(7). The notice must set out the full official title of the proposed resolution adopting the plan and a statement describing the general intent and purpose of the plan. The notice shall also include the day, hour and place of hearing and must be given by publication in the newspaper in which legal notices of the county are printed. Ten days prior to the hearing, three copies of the sewerage and/or water general plan shall be filed with the clerk of the board. The copies shall be open to public inspection. [1967 c 72 § 8.]

36.94.090 Adoption, amendment or rejection of plan. At the hearing, the board may adopt the plan, or amend and adopt the plan, or reject any part or all of the plan. [1967 c 72 § 9.]

36.94.100 Submission of plan or amendments thereto to certain state departments—Approval. Prior to the commencement of actual work on any plan or amendment thereto approved by the board, it must be submitted for written approval to the Washington department of social and health services and to the Washington department of ecology. [1971 ex.s. c 96 § 5; 1967 c 72 § 10.]

Construction—Severability—1971 ex.s. c 96: See notes following RCW 36.94.010.

36.94.110 Adherence to plan—Procedure for amendment. After adoption of the sewerage and/or water general plan, all municipal corporations and private utilities within the plan area shall abide by and adhere to the plan for the future development of their systems. Whenever the governing authority of any county or counties or any municipal corporation deems it to be for the public interest to amend the sewerage and/or water general plan for such county or counties, notice shall be filed with the board or boards of county commissioners. Upon such notice, the board or boards shall initiate consideration of any amendment requested relating to the plan and proceed as provided in this chapter for the adoption of an original plan. [1967 c 72 § 11.]

36.94.120 Establishment of department for administration of system—Personnel merit system. The board shall establish a department in county government for the purpose of establishing, operating and maintaining the system or systems of sewerage and/or water. In the department, the board shall establish and provide for the operation and maintenance of a personnel merit system for the employment, classification, promotion, demotion, suspension, transfer, layoff and discharge of its appointive officers and employees, solely on the basis of merit and fitness, without regard to political influence or affiliation. Such merit system shall not apply to the chief administrative officer of the department and, if the sewer and/or water utility is a division of a department having other functions, the chief administrative officer of such utility. [1971 ex.s. c 96 § 6; 1967 c 72 § 12.]

Construction—Severability—1971 ex.s. c 96: See notes following RCW 36.94.010.

36.94.130 Adoption of rules and regulations. The board of county commissioners may adopt by resolution reasonable rules and regulations governing the construction, maintenance, operation, use, connection and service of the system of sewerage and/or water. [1967 c 72 § 13.]

36.94.140 Authority of county to operate system—Rates and charges, fixing of—Factors to be considered. Every county, in the operation of a system of sewerage and/or water, shall have full jurisdiction and authority to manage, regulate and control it and to fix, alter, regulate and control the rates and charges for the service to those to whom such county service is available, and to levy charges for connection to such system. The rates for availability of service and connection charges so charged must be uniform for the same class of customers or service.

In classifying customers served, service furnished or made available by such system of sewerage and/or water, or the connection charges, the board may consider any or all of the following factors:

(1) The difference in cost of service to the various customers within or without the area;

(2) The difference in cost of maintenance, operation, repair and replacement of the various parts of the systems;

(3) The different character of the service furnished various customers;

(4) The quantity and quality of the sewage and/or water delivered and the time of its delivery;

(5) Capital contributions made to the system or systems, including, but not limited to, assessments; and

(6) Any other matters which present a reasonable difference as a ground for distinction.

Such rates shall produce revenues sufficient to take care of the costs of maintenance and operation, revenue bond and warrant interest and principal amortization requirements, and all other charges necessary for the efficient and proper operation of the system. [1975 1st ex.s. c 188 § 2; 1967 c 72 § 14.]

Severability—1975 1st ex.s. c 188: See RCW 36.94.921.

36.94.150 Lien for delinquent charges. All counties operating a system of sewerage and/or water shall have a lien for delinquent connection charges and charges for the availability of sewerage and/or water service, together with interest fixed by resolution at eight percent per annum from the date due until paid. Penalties of not more than ten percent of the amount due may be imposed in case of failure to pay the charges at times fixed by resolution. The lien shall be for all charges, interest, and penalties and shall attach to the premises to which the services were available. The lien shall be superior to all other liens and encumbrances, except general taxes and local and special assessments of the county.

The county department established in RCW 36.94.120 shall certify periodically the delinquencies to the treasurer of the county at which time the lien shall attach.

Upon the expiration of sixty days after the attachment of the lien, the county may bring suit in foreclosure by civil action in the superior court of the county where the property is located. In addition to the costs and disbursements provided by statute, the court may allow the county a reasonable attorney's fee. The lien shall be foreclosed in the same manner as the foreclosure of real property tax liens. [1975 1st ex.s. c 188 § 3; 1967 c 72 § 15.]

Severability—1975 1st ex.s. c 188: See RCW 36.94.921.

36.94.160 Tax on gross revenues authorized. The county shall have the power to levy a tax on the system of sewerage and/or water operated by the county or counties as authorized by this chapter, not to exceed eight percent per annum, on the gross revenues, to be paid to the county's general fund for payment of all costs of planning, financing, construction and operation of the system. [1967 c 72 § 16.]

36.94.170 Authority of municipal corporations—Relinquishment of. The primary authority to construct, operate and maintain a system of sewerage and/or water within the boundaries of a municipal corporation which lies within the area of the county's sewerage and/or water general plan shall remain with such municipal corporation. A county, after it has adopted and received

the necessary approvals of its sewer and/or water general plan under the provisions of chapter 36.94 RCW may construct, own, operate and maintain a system of sewerage and/or water within the boundaries of a city or town with the written consent of such city or town and within any other municipal corporation provided such municipal corporation (1) has the legislative authority to operate such a utility; and (2) (a) has given its written consent to the county to operate therein; or (b) after adoption of a comprehensive plan or an amendment thereto for the area involved, the municipal corporation has not within twelve months after receiving notice by the county of its intention to serve that area held a formation hearing for a utility local improvement district.

Prior to exercising any authority granted in this section, the county shall compensate such municipal corporation for its reasonable costs, expenses and obligations actually incurred or contracted which are directly related to and which benefit the area which the county proposes to serve. The county may contract with a municipal corporation to furnish such utility service within any municipal corporation.

Except in the case of annexations provided for in RCW 36.94.180, once a county qualifies under this section to serve within a municipal corporation, no municipal corporation may construct or operate a competing utility in the same territory to be served by the county if the county proceeds within a reasonable period of time with the construction of its proposed facilities including the sale of any bonds to finance the same.

As may be permitted by other statutes, a city or town may provide water or sewer service outside of its corporate limits, but such service may not conflict with the county plan or any county, sewer or water facilities installed or being installed.

A county proposing to exercise any authority granted in this section shall give written notice of such intention to the municipal corporation involved and to the boundary review board, if any, of such county. Within sixty days of the filing of such notice of intention, review by the boundary review board of the proposed action may be requested as provided by the provisions of RCW 36.93.100 through 36.93.180. In the event of such review, the board shall consider the factors set forth in this section in addition to the factors and objectives set forth in RCW 36.93.170 and 36.93.180. [1971 ex.s. c 96 § 7; 1967 c 72 § 17.]

Construction—Severability—1971 ex.s. c 96: See notes following RCW 36.94.010.

36.94.180 Transfer of system upon annexation of area. In the event of the annexation to a city or town of an area in which a county is operating a sewerage and/or water system, the property, facilities, and equipment of such sewerage and/or water system lying within the annexed area may be transferred to the city or town if such transfer will not materially affect the operation of any of the remaining county system, subject to the assumption by the city or town of the county's obligations relating to such property, facilities, and equipment, under the procedures specified in *RCW 35.13.220

through 35.13.246 inclusive, and pursuant to the authority contained in *RCW 35.13.250 as now existing or hereafter amended. [1971 ex.s. c 96 § 8; 1967 c 72 § 18.]

***Reviser's note:** "RCW 35.13.220 through 35.13.246" and "RCW 35.13.250" were repealed, see Table of Disposition of Former RCW Sections.

Construction—Severability—1971 ex.s. c 96: See notes following RCW 36.94.010.

36.94.190 Contracts with other entities. Every county in furtherance of the powers granted by this chapter shall be authorized to contract with the federal government, the state of Washington, or any city or town, within or without the county, and with any other county, and with any municipal corporation as defined herein or with any other municipal corporation created under the laws of the state of Washington and not limited as defined in RCW 36.94.010, or political subdivision, and with any person, firm or corporation in and for the establishment, maintenance and operation of all or a portion of a system or systems of sewerage and/or water supply.

The state and such city, town, person, firm, corporation, municipal corporation and any other municipal corporation created under the laws of the state of Washington and not limited as defined in RCW 36.94.010, and political subdivision, is authorized to contract with a county or counties for such purposes. [1967 c 72 § 19.]

36.94.200 Indebtedness—Bonds. The board of county commissioners 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 general obligation bonds pursuant to and in the manner provided for general county bonds in chapter 36.67 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. [1967 c 72 § 20.]

36.94.210 Pledge for payment of principal and interest on revenue or general obligation bonds. The board of county commissioners of any county in adopting and establishing a system of sewerage and/or water may set aside into a special fund and pledge to the payment of the principal and interest due on any county revenue bonds or general obligation bonds any sums or amounts which may accrue from the collection of rates and charges for the private and public use of the system or systems. [1975 1st ex.s. c 188 § 4; 1967 c 72 § 21.]

Severability—1975 1st ex.s. c 188: See RCW 36.94.921.

36.94.220 Utility local improvement districts—Establishment—Special assessments. A county shall have the power to establish utility local improvement districts within the area of a sewerage and/or water general plan and to 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 any improvements ordered in such county. Utility local improvement districts may include territory within a city or town only with the written consent of the city or town, but if the local district is formed before such area is included within the city or town, no such consent shall be necessary. The levying, collection and enforcement of all public assessments hereby authorized shall be in the manner now and hereafter provided by law for the levying, collection and enforcement of local improvement assessments by cities of the first class, insofar as the same shall not be inconsistent with the provisions of this chapter. The duties devolving upon the city treasurer under such laws are imposed upon the county treasurer for the purposes of this chapter. The mode of assessment shall be in the manner to be determined by the board of county commissioners by resolution. Assessments in any utility local improvement district may be made on the basis of special benefits up to but not in excess of the total cost of any sewerage and/or water improvement. In utility local improvement districts, assessments shall be deposited into the revenue bond fund or general obligation bond fund established for the payment of bonds issued to pay such costs which bond payments are secured in part by the pledge of assessments. [1975 1st ex.s. c 188 § 5; 1971 ex.s. c 96 § 9; 1967 c 72 § 22.]

Severability—1975 1st ex.s. c 188: See RCW 36.94.921.

Construction—**Severability**—1971 ex.s. c 96: See notes following RCW 36.94.010.

36.94.230 Utility local improvement districts—Initiation of district—Resolution method—Petition method—Resolution of intention—Publication—Notice to property owners—Contents. Utility local improvement districts to carry out all or any portion of the general plan, or additions and betterments thereof, may be initiated either by resolution of the board of county commissioners or by petition signed by the owners according to the records of the office of the county auditor of at least fifty-one percent of the area of land within the limits of the utility local improvement district to be created.

In case the board shall desire to initiate the formation of a utility local improvement district by resolution, it shall first pass a resolution declaring its intention to order such improvement, setting forth the nature and territorial extent of such proposed improvement, designating the number of the proposed utility local improvement district, describing the boundaries thereof, stating the estimated cost and expense of the improvement and the proportionate amount thereof which will be borne by the property within the proposed district, and fixing a date, time and place for a public hearing on the formation of the proposed local district.

In case any such utility local improvement district shall be initiated by petition, such petition shall set forth the nature and territorial extent of such proposed improvement and the fact that the signers thereof are

the owners according to the records of the county auditor of at least fifty-one percent of the area of land within the limits of the utility local improvement district to be created. Upon the filing of such petition with the clerk of the board of county commissioners, the board shall determine whether the same shall be sufficient, and the board's determination thereof shall be conclusive upon all persons. No person shall withdraw his name from said petition after the filing thereof with the clerk of the board of county commissioners. If the board shall find the petition to be sufficient, it shall proceed to adopt a resolution declaring its intention to order the improvement petitioned for, setting forth the nature and territorial extent of said improvement, designating the number of the proposed local district, describing the boundaries thereof, stating the estimated cost and expense of the improvement and the proportionate amount thereof which will be borne by the property within the proposed local district, and fixing a date, time and place for a public hearing on the formation of the proposed local district.

Notice of the adoption of the resolution of intention, whether adopted on the initiative of the board or pursuant to a petition of the property owners, shall be published in at least two consecutive issues of a newspaper of general circulation in the proposed local district, the date of the first publication to be at least fifteen days prior to the date fixed by such resolution for hearing before the board of county commissioners. Notice of the adoption of the resolution of intention shall also be given each owner or reputed owner of any lot, tract, parcel of land or other property within the proposed improvement district by mailing said notice at least fifteen days before the date fixed for the public hearing to the owner or reputed owner of the property as shown on the tax rolls of the county treasurer at the address shown thereon. The notice shall refer to the resolution of intention and designate the proposed improvement district by number. Said notice shall also set forth the nature of the proposed improvement, the total estimated cost, the proportion of total cost to be borne by assessments, the estimated amount of the cost and expense of such improvement to be borne by the particular lot, tract or parcel, the date, time and place of the hearing before the board of county commissioners; and in the case of improvements initiated by resolution, said notice shall also state that all persons desiring to object to the formation of the proposed district must file their written protests with the clerk of the board of county commissioners before the time fixed for said public hearing. [1971 ex.s. c 96 § 10; 1967 c 72 § 23.]

Construction—**Severability**—1971 ex.s. c 96: See notes following RCW 36.94.010.

36.94.240 Utility local improvement districts—Hearing—Improvement ordered—Divestment of power to order, time limitation—Assessment roll. Whether the improvement is initiated by petition or resolution, the board shall conduct a public hearing at the time and place designated in the notice to the property owners. At this hearing the board shall hear objections from any person affected by the formation of the local

district and may make such changes in the boundaries of the district or such modifications in plans for the proposed improvement as shall be deemed necessary: *Provided*, That the board may not change the boundaries of the district to include property not previously included therein without first passing a new resolution of intention and giving a new notice to property owners in the manner and form and within the time herein provided for the original notice.

After said hearing the commissioners shall have jurisdiction to overrule protests and proceed with any such improvement initiated by petition or resolution: *Provided*, That the jurisdiction of the commissioners to proceed with any improvement initiated by resolution shall be divested by protests filed with the clerk of the board prior to said public hearing signed by the owners, according to the records of the county auditor, of at least forty percent of the area of land within the proposed local district. No action whatsoever may be maintained challenging the jurisdiction or authority of the county to proceed with the improvement and creating the utility local improvement district or in any way challenging the validity thereof or any proceedings relating thereto unless that action is served and filed no later than thirty days after the date of passage of the resolution ordering the improvement and creating the local district.

If the commissioners find that the district should be formed, they shall by resolution order the improvement, adopt detailed plans of the utility local improvement district and declare the estimated cost thereof, acquire all necessary land therefor, pay all damages caused thereby, and commence in the name of the county such eminent domain proceedings and supplemental assessment or reassessment proceedings to pay all eminent domain awards as may be necessary to entitle the county to proceed with the work. The board of county commissioners shall proceed with the work and file with the county treasurer its roll levying special assessments in the amount to be paid by special assessment against the property situated within the local utility improvement district in proportion to the special benefits to be derived by the property therein from the improvement. [1971 ex.s. c 96 § 11; 1967 c 72 § 24.]

Construction—Severability—1971 ex.s. c 96: See notes following RCW 36.94.010.

36.94.250 Utility local improvement districts—
Notice of filing roll. Before the approval of the roll a notice shall be published once a week for two consecutive weeks in a newspaper of general circulation in the local district, stating that the roll is on file and open to inspection in the office of the board of county commissioners, and fixing the time, not less than fifteen or more than thirty days from the date of the first publication of the notice, within which protests must be filed with the clerk against any assessments shown thereon, and fixing a time when a hearing will be held by the board on the protests. The notice shall also be given by mailing at least fifteen days before the hearing, a similar notice to the owners or reputed owners of the land in the local

district as they appear on the books of the treasurer of the county. [1967 c 72 § 25.]

36.94.260 Utility local improvement districts—
Hearing on protests—**Order.** At such hearing on a protest to an assessment, or any adjournment thereof, the board of county commissioners shall have power to correct, revise, raise, lower, change or modify such roll, or any part thereof, and to set aside such roll, and order that such assessment be made de novo, as to such body shall appear equitable and just and may then by resolution approve the same. In the event of any assessment being raised a new notice similar to such first notice shall be given, after which final approval of such roll may be made by the board of county commissioners. Whenever any property shall have been entered originally upon such roll and the assessment upon any such property shall not be raised, no objection thereto shall be considered by the commissioners or by any court on appeal unless such objection be made in writing at, or prior, to the date fixed for the original hearing upon such roll. [1967 c 72 § 26.]

36.94.270 Utility local improvement districts—
Enlarged local district may be formed. In the event that any portion of the system after its installation in such utility local improvement district is not adequate for the purpose for which it was intended, or that for any reason changes, alterations or betterments are necessary in any portion of the system after its installation, then such district, with boundaries which may include one or more existing utility local improvement districts, may be created in the same manner as is provided herein for the creation of utility local improvement districts. Upon the organization of such utility local improvement district as provided for in this section the plan of the improvement and the payment of the cost of the improvement shall be carried out in the same manner as is provided herein for the carrying out of and the paying for the improvement in the utility local improvement districts previously provided for in this chapter. [1967 c 72 § 27.]

36.94.280 Utility local improvement districts—
Conclusiveness of roll when approved. Whenever any assessment roll for local improvements shall have been confirmed by the board of county commissioners as herein provided, the regularity, validity and correctness of the proceedings relating to such improvement and to the assessment therefor, including the action of the board upon such assessment roll and the confirmation thereof, shall be conclusive in all things upon all parties, and cannot in any manner be contested or questioned in any proceeding whatsoever by any person not filing written objections to such roll in the manner and within the time provided in this chapter, and not appealing from the action of the board of county commissioners in confirming such assessment roll in the manner and within the time in this chapter provided. No proceedings of any kind shall be commenced or prosecuted for the purpose of defeating or contesting any such assessment, or the sale of any property to pay such assessment, or any certificate of delinquency issued therefor, or the

foreclosure of any lien issued therefor: *Provided*, That this section shall not be construed as prohibiting the bringing of injunction proceedings to prevent the sale of any real estate upon the grounds:

(1) That the property about to be sold does not appear upon the assessment roll, or

(2) That said assessment has been paid. [1967 c 72 § 28.]

36.94.290 Utility local improvement districts—

Review. The decision of the board of county commissioners upon any objections made within the time and in the manner herein prescribed, may be reviewed by the superior court upon an appeal thereto taken in the following manner. Such appeal shall be made by filing written notice of appeal with the clerk of the board of county commissioners and with the clerk of the superior court within ten days after the resolution confirming such assessment roll shall have become published, and such notice shall describe the property and set forth the objections of such appellant to such assessment. Within the ten days from the filing of such notice of appeal with the clerk of the superior court, the appellant shall file with the clerk of said court, a transcript consisting of the assessment roll and his objections thereto, together with the resolution confirming such assessment roll and the record of the board of county commissioners with reference to said assessment, which transcript, upon payment of the necessary fees therefor, shall be furnished by such clerk of the board of county commissioners and by him certified to contain full, true and correct copies of all matters and proceedings required to be included in such transcript. Such fees shall be the same as the fees payable to the county clerk for the preparation and certification of transcripts on appeal to the supreme court or the court of appeals in civil actions. At the time of the filing of the notice of appeal with the clerk of the superior court a sufficient bond in the penal sum of two hundred dollars, with sureties thereon as provided by law for appeals in civil cases, shall be filed conditioned to prosecute such appeal without delay, and if unsuccessful, to pay all costs to which the county is put by reason of such appeal. The court may order the appellant upon application therefor, to execute and file such additional bond or bonds as the necessity of the case may require. Within three days after such transcript is filed in the superior court, as aforesaid, the appellant shall give written notice to the clerk of the board of county commissioners that such transcript is filed. Said notice shall state a time, not less than three days from the service thereof, when the appellant will call up the said cause for hearing. The superior court shall, at said time or at such further time as may be fixed by order of the court, hear and determine such appeal without a jury, and such cause shall have preference over all civil causes pending in said court, except proceedings under an act relating to eminent domain in such county and actions of forcible entry and detainer. The judgment of the court shall confirm, correct, modify or annul the assessment insofar as the same affects the property of the appellant. A certified copy of the decision of the court shall be filed with the officer who shall have the custody of the assessment

roll, and he shall modify and correct such assessment roll in accordance with such decision. An appeal shall lie to the supreme court or the court of appeals from the judgment of the superior court, as in other cases, however, such appeal must be taken within fifteen days after the date of the entry of the judgment of such superior court, and the record and opening brief of the appellant in said cause shall be filed in the supreme court or the court of appeals within sixty days after the appeal shall have been taken by notice as provided in this section. The time for filing such record and serving and filing of briefs in this section prescribed may be extended by order of the superior court, or by stipulation of the parties concerned. The supreme court or the court of appeals on such appeal may correct, change, modify, confirm or annul the assessment insofar as the same affects the property of the appellant. A certified copy of the order of the supreme court or the court of appeals upon such appeal shall be filed with the officer having custody of such assessment roll, who shall thereupon modify and correct such assessment roll in accordance with such decision. [1971 c 81 § 98; 1967 c 72 § 29.]

Rules of court: Cf. RAP 18.22.

36.94.300 Utility local improvement districts—

Segregation of special assessment—Fee—Costs. Whenever any land against which there has been levied any special assessment by a county shall have been sold in part or subdivided, the board of county commissioners of such county shall have the power to order a segregation of the assessment.

Any person desiring to have such a special assessment against a tract of land segregated to apply to smaller parts thereof shall apply to the board of county commissioners which levied the assessment. If the board determines that a segregation should be made, they shall by resolution order the county treasurer to make segregation on the original assessment roll as directed in the resolution. The segregation shall be made as nearly as possible on the same basis as the original assessment was levied, and the total of the segregated parts of the assessment shall equal the assessment before segregation. The resolution shall describe the original tract, the amount and date of the original assessment, and shall define the boundaries of the divided parts and the amount of the assessment chargeable to each part. A certified copy of the resolution shall be delivered to the county treasurer who shall proceed to make the segregation ordered upon being tendered a fee of three dollars for each tract of land for which a segregation is to be made. In addition to such charge the board of county commissioners may require as a condition to the order of segregation that the person seeking it pay the county the reasonable engineering and clerical costs incident to making the segregation. [1967 c 72 § 30.]

36.94.310 Transfer of system from municipal corporation to county—Authorized. Subject to the provisions of RCW 36.94.310 through 36.94.350 a municipal corporation may transfer to the county within which all of its territory lies, all or part of the property constituting its system of sewerage, system of water or combined

water and sewerage system, together with any of its other real or personal property used or useful in connection with the operation, maintenance, repair, replacement, extension, or financing of that system, and the county may acquire such property on such terms as may be mutually agreed upon by the governing body of the municipal corporation and the legislative authority of the county, and approved by the superior court for such county. [1975 1st ex.s. c 188 § 7.]

Severability—1975 1st ex.s. c 188: See RCW 36.94.921.

36.94.320 Transfer of system from municipal corporation to county—Assumption of indebtedness. In consideration of a transfer of property by a municipal corporation to a county in the manner provided in RCW 36.94.310 through 36.94.350, a county may assume and agree to pay or provide for the payment of all or part of the indebtedness of a municipal corporation including the payment and retirement of outstanding general obligation and revenue bonds issued by a municipal corporation. Until the indebtedness of a municipal corporation thus assumed by a county has been discharged, all property within the municipal corporation and the owners and occupants of that property, shall continue to be liable for taxes, special assessments, and other charges legally pledged to pay such indebtedness. The county may assume the obligation of causing the payment of such indebtedness, collecting such taxes, assessments, and charges and observing and performing the other contractual obligations of the municipal corporation. The legislative authority of the county may act in the same manner as the governing body of the municipal corporation for the purpose of certifying the amount of any property tax to be levied and collected therein, and may cause service and other charges and assessments to be collected from such property or owners or occupants thereof, enforce such collection and perform all other acts necessary to insure performance of the contractual obligations of the municipal corporation in the same manner and by the same means as if the property of the municipal corporation had not been acquired by the county.

When a county assumes the obligation of paying indebtedness of a municipal corporation and if property taxes or assessments have been levied and service and other charges have accrued for such purpose but have not been collected by the municipal corporation prior to such assumption, the same when collected shall belong and be paid to the county and be used by such county so far as necessary for payment of the indebtedness of the municipal corporation existing and unpaid on the date such county assumed that indebtedness. Any funds received by the county which have been collected for the purpose of paying any bonded or other indebtedness of the municipal corporation shall be used for the purpose for which they were collected and for no other purpose until such indebtedness has been paid and retired or adequate provision has been made for such payment and retirement. No transfer of property as provided in *this amendatory act shall derogate from the claims or rights of the creditors of the municipal corporation or impair

the ability of the municipal corporation to respond to its debts and obligations. [1975 1st ex.s. c 188 § 8.]

***Reviser's note:** "this amendatory act" [1975 1st ex.s. c 188] consists of RCW 36.94.310 through 36.94.360, 36.94.921, 57.06.140 through 57.06.170, and amendments to RCW 36.67.060, 36.94.140, 36.94.150, 36.94.210, 36.94.220, 39.44.020, and 57.12.020.

Severability—1975 1st ex.s. c 188: See RCW 36.94.921.

36.94.330 Transfer of system from municipal corporation to county—Transfer agreement. The governing body of a municipal corporation proposing to transfer all or part of its property to a county in the manner provided by RCW 36.94.310 through 36.94.350 and the legislative authority of a county proposing to accept such property, and to assume if it so agrees any indebtedness of the municipal corporation in consideration of such transfer, shall adopt resolutions or ordinances authorizing respectively the execution of a written agreement setting forth the terms and conditions upon which they have agreed and finding the transfer and acquisition of property pursuant to such agreement to be in the public interest and conducive to the public health, safety, welfare, or convenience. Such written agreement may include provisions, by way of description and not by way of limitation, for the rights, powers, duties, and obligations of such municipal corporation and county with regard to the use and ownership of property, the providing of services, the maintenance and operation of facilities, the allocation of costs, the financing and construction of new facilities, the application and use of assets, the disposition of liabilities and indebtedness, the performance of contractual obligations, and any other matters relating to the proposed transfer of property, which may be preceded by an interim period of operation by the county of the property and facilities subsequently to be transferred to that county. The agreement may provide for a period of time during which the municipal corporation may continue to exercise certain rights, privileges, powers, and functions authorized to it by law including the ability to promulgate rules and regulations, to levy and collect special assessments, rates, charges, service charges and connection fees, and to adopt and carry out the provisions of a comprehensive plan, and amendments thereto, for a system of improvements and to issue general obligation bonds or revenue bonds in the manner provided by law, or the agreement may provide for the exercise for a period of time of all or some of such rights, privileges, powers, and functions by the county. The agreement may provide that either party thereto may authorize, issue and sell, in the manner provided by law, revenue bonds to provide funds for new water or sewer improvements or to refund or advance refund any water revenue, sewer revenue or combined water and sewer revenue bonds outstanding of either or both such parties. The agreement may provide that either party thereto may authorize and issue, in the manner provided by law, general obligation or revenue bonds of like amounts, terms, conditions and covenants as the outstanding bonds of either or both such parties and such new bonds may be substituted or exchanged for such outstanding bonds to the extent permitted by law. [1975 1st ex.s. c 188 § 9.]

Severability—1975 1st ex.s. c 188: See RCW 36.94.921.

36.94.340 Transfer of system from municipal corporation to county—Petition for court approval of transfer—Hearing—Decree. When a municipal corporation and a county have entered into a written agreement providing for the transfer to such county of all or part of the property of such municipal corporation, proceedings may be initiated in the superior court for that county by the filing of a petition to which there shall be attached copies of the agreement of the parties and of the resolutions of the governing body of the municipal corporation and the legislative authority of the county authorizing its execution. Such petition shall ask that the court approve and direct the proposed transfer of property, and any assumption of indebtedness agreed to in consideration thereof by the county, after finding such transfer and acquisition of property to be in the public interest and conducive to the public health, safety, welfare, or convenience. Such petition shall be signed by the members of the legislative authority of the county or chief administrative officer of the municipal corporation and the chairman of the legislative authority of the county, respectively, upon authorization by the governing body of the municipal corporation and the legislative authority of the county.

Within thirty days after the filing of the petition of the parties with copies of their agreement and the resolutions authorizing its execution attached thereto, the court shall by order fix a date for a hearing on the petition not less than twenty nor more than ninety days after the entry of such order which also shall prescribe the form and manner of notice of such hearing to be given. After considering the petition and such evidence as may be presented at the hearing thereon, the court may determine by decree that the proposed transfer of property is in the public interest and conducive to the public health, safety, welfare, or convenience, approve the agreement of the parties and direct that such transfer be accomplished in accordance with that agreement at the time and in the manner prescribed by the court decree. [1975 1st ex.s. c 188 § 10.]

Severability—1975 1st ex.s. c 188: See RCW 36.94.921.

36.94.350 Transfer of system from municipal corporation to county—Dissolution of municipal corporation. In the event the agreement of the parties provides for the transfer to the county of all the property of the municipal corporation or all such property except bond redemption funds in the possession of the county treasurer from which outstanding bonds of the municipal corporation are payable, and the agreement also provides for the assumption and payment by the county of all the indebtedness of the municipal corporation including the payment and retirement of all its outstanding bonds, and if the petition of the parties so requests, the court in the decree approving and directing the transfer of property, or in a subsequent decree, may dissolve the municipal corporation effective as of the time of transfer of property or at such time thereafter as the court may determine and establish. [1975 1st ex.s. c 188 § 11.]

Severability—1975 1st ex.s. c 188: See RCW 36.94.921.

36.94.360 Transfer of system from municipal corporation to county—RCW 36.94.310 through 36.94.350 deemed alternative method. The provisions of RCW 36.94.310 through 36.94.350 shall be deemed to provide an alternative method for the doing of the things therein authorized and shall not be construed as imposing any additional conditions upon the exercise of any other powers vested in municipal corporations or counties. [1975 1st ex.s. c 188 § 12.]

Severability—1975 1st ex.s. c 188: See RCW 36.94.921.

36.94.900 Declaration of purpose. This chapter is hereby declared to be necessary for the public peace, health, safety and welfare and declared to be a county purpose and that the bonds and special assessments authorized hereby are found to be for a public purpose. [1967 c 72 § 33.]

36.94.910 Authority—Liberal construction of chapter—Modification of inconsistent acts. This chapter shall be complete authority for the establishment, construction and operation and maintenance of a system or systems of sewerage and/or water hereby authorized, and shall be liberally construed to accomplish its purpose. Any act inconsistent herewith shall be deemed modified to conform with the provisions of this chapter for the purpose of this chapter only. [1967 c 72 § 31.]

36.94.920 Severability—1967 c 72. If any portion of this chapter as now or hereafter amended, or its application to any person or circumstances, is held invalid or unconstitutional, such adjudication shall not affect the validity of the chapter as a whole, or any section, provision or part thereof not adjudged to be invalid or unconstitutional, and its application to other persons or circumstances shall not be affected. [1967 c 72 § 32.]

36.94.921 Severability—1975 1st ex.s. c 188. If any provision of this 1975 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances shall not be affected. [1975 1st ex.s. c 188 § 13.]

Chapter 36.95 TELEVISION RECEPTION IMPROVEMENT DISTRICTS

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- 36.95.200 Dissolution of district by resolution—Disposition of property.
- 36.95.210 District may not be formed to operate certain translator stations.
- 36.95.900 Severability—1971 ex.s. c 155.

36.95.010 Purpose. The purposes of a television reception improvement district, hereinafter referred to in this chapter as "district", shall be to serve the public interest, convenience, and necessity in the construction, maintenance, and operation of television translator stations, including appropriate electric or electronic devices for increasing television program distribution, but said purposes are not meant to include the construction or operation of television cable systems, commonly known and referred to as cable TV systems or CATV. [1971 ex.s. c 155 § 1.]

36.95.020 Boundaries—Territory excluded. A district's boundary may include any part or all of any class county and may include any part or all of any incorporated area located within the county. A district's boundary may not include any territory already being served by a cable TV system (CATV) unless on August 9, 1971 there is a translator station retransmitting television signals to such territory. [1971 ex.s. c 155 § 2.]

36.95.030 Petition to form—Contents. A petition to form a district may be presented to the board of county commissioners and such petition shall include: (1) A description of the purposes of the petition; (2) a description of the purposes and powers of the proposed district; (3) a description of the boundaries of the proposed district; and (4) the signatures of more than fifty percent of the registered voters residing within the boundaries of the proposed district. [1971 ex.s. c 155 § 3.]

36.95.040 Notice of text of petition, meeting where will be considered. If the board of county commissioners, with the assistance of other appropriate county officers, finds the petition filed under RCW 36.95.030 satisfies the requirements of that section, it shall cause the text of the petition to be published once a week for at least three consecutive weeks in a newspaper of general circulation within the county where the petition is presented. With the publication of the petition there shall be published a notice of the time, date, and place of the public meeting of the county commissioners when the petition will be considered, stating that persons interested may appear and be heard. [1971 ex.s. c 155 § 4.]

36.95.050 Resolution creating district. If after the public meeting or meetings on the petition, the board of county commissioners finds that creation of the proposed district would serve the public interest, the board shall adopt a resolution granting the petition and creating the district. Prior to adoption however, the board may

amend the petition in the interest of carrying out the purposes of this chapter. [1971 ex.s. c 155 § 5.]

36.95.060 District board—Duties—How constituted—Quorum—Officers—Filling vacancies. The business of the district shall be conducted by the board of the television reception improvement district, hereinafter referred to as the "board". The board shall be constituted as provided under either subsection (1) or (2) of this section.

(1) The board of a district having boundaries different from the county's shall have either three, five, seven, or nine members, as determined by the board of county commissioners at the time the district is created. Each member shall be appointed by the board of county commissioners, shall reside within the boundaries of the district and each shall serve a three-year term, or until their successors are qualified, except that the board of county commissioners shall appoint one of the members of the first board to a one year term and two to two year terms. A majority of the members of the board shall constitute a quorum for the transaction of business, but the majority vote of the board members shall be necessary for any action taken by the board. The board shall elect from among its members a chairman and such other officers as may be necessary. In the event a seat on the board is vacated prior to the expiration of the term of the member appointed to such seat, the board of county commissioners shall appoint a person to complete such unexpired term.

(2) Upon the creation of a district having boundaries identical to those of the county (a county-wide district), the county commissioners shall be the members of the board of the district and shall have all the powers and duties of such board as provided under the other sections of this chapter. The county commissioners shall be reimbursed pursuant to the provisions of RCW 36.95-.070, and shall conduct the business of the district according to the regular rules and procedures applicable to meetings of the board of county commissioners. [1971 ex.s. c 155 § 6.]

36.95.070 District board—Reimbursement of members for expenses. Members of the board shall receive no compensation for their services, but shall be reimbursed from district funds for any actual and necessary expenses incurred by them in the performance of their official duties. [1971 ex.s. c 155 § 7.]

36.95.080 List of television set owners. With the assistance of the board, the county assessor shall, on or before the first day of July of any given year, ascertain and prepare a list of all persons he believes own television sets within the district and deliver a copy of such list to the board. [1971 ex.s. c 155 § 8.]

36.95.090 County budget provisions applicable to district—Financing budget. The provisions of chapter 36.40 RCW, relating to budgets, shall apply to the district. The budget of the district shall be financed by an excise tax imposed by the board, and described in RCW 36.95.100. [1971 ex.s. c 155 § 9.]

36.95.100 Tax levied—Maximum—Exemptions. The tax provided for in RCW 36.95.090 and this section shall not exceed twenty-five dollars per year per television set, and no person shall be taxed for more than one television set, except that a motel or hotel or any person owning in excess of five television sets shall pay at a rate of one-fifth of the annual tax rate imposed for each of the first five television sets and one-tenth of such rate for each additional set thereafter. An owner of a television set within the district shall be exempt from paying any tax on such set under this chapter: (1) If either (a) his television set does not receive at least a class grade B contour signal retransmitted by the television translator station or other similar device operated by the district, as such class is defined under regulations of the Federal Communications Commission as of August 9, 1971, or (b) he is currently subscribing to and receiving the services of a community antenna system (CATV) to which his television set is connected; and (2) if he filed a statement with the board claiming his grounds for exemption. Space for such statement shall be provided for in the tax notice which the treasurer shall send to taxpayers in behalf of the district. [1975 c 11 § 1; 1971 ex.s. c 155 § 10.]

36.95.110 Liability for delinquent tax and costs. Any person owing the excise tax provided for under this chapter and who fails to pay the same within sixty days after the county treasurer has sent the tax bill to him, shall be deemed to be delinquent. Such person shall be liable for all costs to the county or district attributable to collecting the tax but no such excise tax or costs, nor any judgment based thereon, shall be deemed to create a lien against real property. [1971 ex.s. c 155 § 11.]

36.95.120 Prorating tax. The board may adopt rules providing for prorating of tax bills for persons who have not owned a television set within the district for a full tax year. [1971 ex.s. c 155 § 12.]

36.95.130 District board—Powers generally. In addition to other powers provided for under this chapter, the board shall have the following powers:

(1) To perform all acts necessary to assure that the purposes of this chapter will be carried out fairly and efficiently;

(2) To acquire, build, construct, repair, own, maintain, and operate any necessary stations retransmitting simultaneous visual and aural signals intended to be received by the general public, relay stations, pick-up stations, or any other electrical or electronic system necessary: *Provided*, That the board shall have no power to originate programs;

(3) To make contracts to compensate any owner of land or other property for the use of such property for the purposes of this chapter;

(4) To make contracts with the United States, or any state, municipality or any department or agency of those entities for carrying out the general purposes for which the district is formed;

(5) To acquire by gift, devise, bequest, lease, or purchase real and personal property, tangible or intangible,

including lands, rights of way and easements, necessary or convenient for its purposes;

(6) To make contracts of any lawful nature (including labor contracts or those for employees' benefits), employ engineers, laboratory personnel, attorneys, other technical or professional assistants, and any other assistants or employees necessary to carry out the provisions of this chapter;

(7) To contract indebtedness or borrow money and to issue warrants or bonds to be paid from district revenues, bearing interest at a rate not exceeding seven percent per annum;

(8) To prescribe tax rates for the providing of services throughout the area in accordance with the provisions of this chapter; and

(9) To apply for, accept, and be the holder of any permit or license issued by or required under federal or state law. [1971 ex.s. c 155 § 13.]

36.95.140 Signals district may utilize. A district may translate or retransmit only those signals which originate from commercial and educational television stations which directly provide, within some portion of the state of Washington, a class A grade or class B grade contour, as such classes are defined under regulations of the Federal Communications Commission as of August 9, 1971. [1971 ex.s. c 155 § 14.]

36.95.150 Claims against district board—Procedure upon allowance. Any claim against the district shall be presented to the board. Upon allowance of the claim, the board shall submit a voucher, signed by the chairman and one other member of the board, to the county auditor for the issuance of a warrant in payment of said claim. This procedure for payment of claims shall apply to the reimbursement of board members for their actual and necessary expenses incurred by them in the performance of their official duties. [1971 ex.s. c 155 § 15.]

36.95.160 District treasurer—Duties—District warrants. The treasurer of the county in which a district is located shall be ex officio treasurer of the district. He shall collect the excise tax provided for under this chapter and shall send notice of payment due to persons owing the tax. There shall be deposited with him all funds of the district. All district payments shall be made by him from such funds upon warrants issued by the county auditor, except the sums to be paid out of any bond fund upon coupons or bonds presented to the treasurer. All warrants shall be paid in the order of issuance. The treasurer shall report monthly to the board in writing, the amount in the district fund or funds. [1971 ex.s. c 155 § 16.]

36.95.180 Costs of county officers reimbursed. The board shall reimburse the county auditor, assessor, and treasurer for the actual costs of services performed by them in behalf of the district. [1971 ex.s. c 155 § 18.]

36.95.190 Penalty for false statement as to tax exemption. Any person who shall knowingly make a false statement for exemption from the tax provided

under this chapter shall be guilty of a misdemeanor. [1971 ex.s. c 155 § 19.]

36.95.200 Dissolution of district by resolution—Disposition of property. If the board of county commissioners finds, following a public hearing or hearings, that the continued existence of a district would no longer serve the purposes of this chapter, it may by resolution order the district dissolved. If there is any property owned by the district at the time of dissolution, the board of county commissioners shall have such property sold pursuant to the provisions of chapter 36.34 RCW, as now law or hereafter amended. The proceeds from such sale shall be applied to the county current expense fund. [1971 ex.s. c 155 § 20.]

36.95.210 District may not be formed to operate certain translator stations. No television reception improvement district may be formed to operate and maintain any translator station presently or previously owned, operated or maintained by a television broadcaster. [1971 ex.s. c 155 § 21.]

36.95.900 Severability—1971 ex.s. c 155. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances is not affected. [1971 ex.s. c 155 § 22.]

Chapter 36.98 CONSTRUCTION

Sections

- 36.98.010 Continuation of existing law.
- 36.98.020 Title, chapter, section headings not part of law.
- 36.98.030 Invalidity of part of title not to affect remainder.
- 36.98.040 Repeals and saving.
- 36.98.050 Emergency—1963 c 4.

Reviser's note: For the reasons set out in the second paragraph of the explanatory note appended to chapter 4, Laws of 1963, the session laws comprising chapter 36.04 RCW (County Boundaries) were neither repealed nor reenacted in the 1963 reenactment of Title 36 RCW. Pending the reenactment of such chapter, it is republished as chapter 36.04 RCW and as revised by the 1941 code committee; for rules of construction concerning such revision see RCW 1.04.020 and 1.04.021.

36.98.010 Continuation of existing law. The provisions of this title insofar as they are substantially the same as statutory provisions repealed by this chapter, and relating to the same subject matter, shall be construed as restatements and continuations, and not as new enactments. [1963 c 4 § 36.98.010.]

36.98.020 Title, chapter, section headings not part of law. Title headings, chapter headings, and section or subsection headings, as used in this title do not constitute any part of the law. [1963 c 4 § 36.98.020.]

36.98.030 Invalidity of part of title not to affect remainder. If any provision of this title, or its application to any person or circumstance is held invalid, the remainder of the title, or the application of the provision

to other persons or circumstances is not affected. [1963 c 4 § 36.98.030.]

Severability—1967 ex.s. c 144: "If any provision of this 1967 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances, shall not be affected." [1967 ex.s. c 144 § 21.] This applies to RCW 35.41.010, 35.63.100, 35.63.105, 35.86.010, 35.86.020, 35.86.070, 35.87.010–35.87.040, 36.32.240, 36.32.250, 36.32.272–36.32.278, 36.34.020, 36.68.090, and 87.03.135.

36.98.040 Repeals and saving. The following acts or parts of acts are repealed:

- (1) Sections 1 through 6, page 329, Laws of 1854;
- (2) Sections 1 through 4, page 330, Laws of 1854;
- (3) Sections 1 through 13, pages 354 through 357, Laws of 1854;
- (4) Sections 1 through 9, pages 366 and 367, Laws of 1854;
- (5) Sections 2, 4 and 6, pages 375 and 376, Laws of 1854;
- (6) Sections 1 through 13, pages 416 through 419, Laws of 1854;
- (7) Sections 1 through 24, pages 420 through 423, Laws of 1854;
- (8) Sections 1 through 12, pages 424 through 426, Laws of 1854;
- (9) Sections 1 through 14, pages 426 through 428, Laws of 1854;
- (10) Sections 1, 2, 4 and 6, pages 428 through 430, Laws of 1854;
- (11) Sections 1 through 9, pages 434 and 435, Laws of 1854;
- (12) Sections 1 through 20, pages 436 through 438, Laws of 1854;
- (13) Sections 1 through 14 and 16, pages 12 through 14, Laws of 1856;
- (14) Sections 4 and 5 and 9 through 12, pages 21 through 23, Laws of 1856;
- (15) Sections 1 through 14, pages 334 through 337, Laws of 1861;
- (16) Sections 2 through 7, pages 41 and 42, Laws of 1861;
- (17) Sections 2 through 8, pages 398 and 399, Laws of 1863;
- (18) Sections 1 through 12, and 14, pages 408 through 410, Laws of 1863;
- (19) Sections 4 and 5 and 9 through 12, pages 423 through 425, Laws of 1863;
- (20) Sections 1 through 13, pages 521 through 525, Laws of 1863;
- (21) Sections 1 through 7, pages 538 and 539, Laws of 1863;
- (22) Sections 1 through 31, pages 540 through 545, Laws of 1863;
- (23) Sections 1 through 19, pages 548 through 552, Laws of 1863;
- (24) Sections 1 through 14, pages 552 through 554, Laws of 1863;
- (25) Sections 1 through 10, pages 557 and 558, Laws of 1863;
- (26) Sections 1 through 22, pages 559 through 563, Laws of 1863;
- (27) Section 10, page 52, Laws of 1865;

- (28) Sections 4 and 10, pages 7 and 8, Laws of 1867;
- (29) Sections 1 through 29 and 31, pages 51 through 58, Laws of 1867;
- (30) Sections 1 through 4, pages 130 through 131, Laws of 1867 relating to the duties of county auditors;
- (31) Sections 40 through 53, pages 280 through 284, Laws of 1869;
- (32) Sections 1 through 29, pages 303 through 309, Laws of 1869;
- (33) Sections 1 through 17 and 22, pages 310 through 314, Laws of 1869;
- (34) Sections 1 through 25, pages 364 through 375, Laws of 1869;
- (35) Sections 1 through 6, pages 402 through 404, Laws of 1869 relating to county assessors;
- (36) Sections 5 through 6 and 9 through 11, pages 419 through 421, Laws of 1869;
- (37) Sections 1 through 3, pages 35 and 36, Laws of 1871;
- (38) Section 1, page 110, Laws of 1871 entitled "An act to amend an act entitled 'An act to create and regulate the office of sheriff', passed Jan. 19, 1863";
- (39) Sections 1 and 3, pages 437 and 438, Laws of 1873;
- (40) Sections 1 through 20 and 22, pages 245 through 249, Laws of 1877;
- (41) Sections 1 through 14, pages 302 through 305, Laws of 1877;
- (42) Sections 1 through 3 and 5 of "An act to prescribe the tenure of office in Washington territory", page 330, Laws of 1877;
- (43) Sections 38 through 51, pages 61 through 64, Laws of 1879;
- (44) Sections 1 through 20 and 22, pages 92 through 97, Laws of 1879;
- (45) Sections 1 and 2, pages 130 and 131, Laws of 1879;
- (46) Sections 1 through 4, pages 143 and 144, Laws of 1879;
- (47) Sections 1163 through 1165, chapter XCIII, Code of 1881;
- (48) Sections 2087, 2088, 2089 through 2091, 2094, 2096, 2098 and 2101 through 2102, chapter CLIII, Code of 1881;
- (49) Sections 2108 and 2110, chapter CLIV, Code of 1881;
- (50) Sections 2177, 2178, 2179, 2181 and 2185, chapter CLVII, Code of 1881;
- (51) Sections 2653 through 2662, chapter CCVIII, Code of 1881;
- (52) Sections 2663 and 2664, 2666 through 2669, 2671 through 2678, 2681, 2686 through 2687, 2692 through 2695, chapter CCIX, Code of 1881;
- (53) Section 2701, chapter CCX, Code of 1881;
- (54) Sections 2707 through 2725, chapter CCXI, Code of 1881;
- (55) Sections 2738 through 2751, chapter CCXII, Code of 1881;
- (56) Sections 2752 and 2753 and 2755 through 2757, chapter CCXIII, Code of 1881;
- (57) Sections 2766 through 2774, chapter CCXV, Code of 1881;
- (58) Sections 2775 through 2795, chapter CCXVI, Code of 1881;
- (59) Sections 3002 through 3015, chapter CCXXX, Code of 1881;
- (60) Sections 3150 and 3153, chapter CCXLIV, Code of 1881;
- (61) Sections 1 and 3, page 26, Code of 1881, Bagley's Supplement;
- (62) Sections 1 through 13, pages 33 through 36, Code of 1881, Bagley's Supplement relating to prison regulations;
- (63) Sections 1 and 3 of an act to amend section 2752 of the Code of Washington, page 39, Laws of 1883;
- (64) Sections 1 through 7 and sections 9 through 26, pages 72 through 76, Laws of 1883;
- (65) Section 21, page 52, Laws of 1885;
- (66) Sections 4, 5, 7 through 9, 12 through 14, 18, and 23, pages 61 through 64, Laws of 1885;
- (67) Sections 1, 2 and 3 of an act "To prescribe the tenure of office in the territory of Washington", pages 100 and 101, Laws of 1885;
- (68) Sections 1, 2 and 4 of an act "To amend sections twenty-six hundred and ninety-two and twenty-six hundred and ninety-three, of the Code of Washington territory, relating to county printing, pages 108 and 109, Laws of 1885;
- (69) Sections 1 and 3, of an act "Relating to the cancellation of county warrants", page 161, Laws of 1885;
- (70) Sections 1 and 2 of an act "To amend section 2747 of the Code of Washington territory", page 162, Laws of 1885;
- (71) Sections 1 and 2 of an act "To amend section 2752, of the Code of Washington territory", relating to county assessors, page 164, Laws of 1885;
- (72) Sections 1 and 3 of an act "To amend section 2768 of the Code of Washington territory", page 174, Laws of 1885;
- (73) Sections 1 and 3, chapter 103, Laws of 1887;
- (74) Section 5, page 35, Laws of 1889;
- (75) Sections 1 through 10, pages 37 through 40, Laws of 1889;
- (76) Sections 1 through 8, pages 40 through 42, Laws of 1889;
- (77) Sections 32 through 47, pages 312 through 316, Laws of 1889;
- (78) Sections 1 through 3, page 317, Laws of 1889;
- (79) Sections 1 through 9, pages 318 and 319, Laws of 1889;
- (80) Section 1 of an act to amend an act entitled "An act to amend section 2752 of the Code of Washington Territory, relating to assessors" appearing on page 478, Laws of 1889;
- (81) Chapter 5, Laws of 1891;
- (82) Sections 1 through 4, chapter 45, Laws of 1891;
- (83) Sections 3 through 7, chapter 55, Laws of 1891;
- (84) Section 1, chapter 57, Laws of 1891;
- (85) Sections 1 through 6, chapter 67, Laws of 1891;
- (86) Sections 1 and 9, chapter 76, Laws of 1891;
- (87) Chapter 90, Laws of 1891;
- (88) Chapter 144, Laws of 1891;
- (89) Chapter 14, Laws of 1893;
- (90) Section 1, chapter 16, Laws of 1893;

- (91) Sections 1 and 2, chapter 39, Laws of 1893;
 (92) Section 2, chapter 48, Laws of 1893;
 (93) Chapter 52, Laws of 1893;
 (94) Sections 1, 4, 5 and 10, chapter 71, Laws of 1893;
 (95) Sections 1, 2 and 7, chapter 75, Laws of 1893;
 (96) Chapter 81, Laws of 1893;
 (97) Section 1, chapter 82, Laws of 1893;
 (98) Sections 1 through 4, chapter 104, Laws of 1893;
 (99) Sections 1 and 2, chapter 105, Laws of 1893;
 (100) Sections 1 through 8, chapter 119, Laws of 1893;
 (101) Chapter 121, Laws of 1893;
 (102) Chapter 17, Laws of 1895;
 (103) Chapter 53, Laws of 1895;
 (104) Chapter 73, Laws of 1895;
 (105) Chapter 97, Laws of 1895;
 (106) Chapter 110, Laws of 1895;
 (107) Section 2, chapter 130, Laws of 1895;
 (108) Sections 1, 2 and 4, chapter 160, Laws of 1895;
 (109) Chapter 21, Laws of 1897;
 (110) Sections 1 and 2, chapter 35, Laws of 1897;
 (111) Chapter 62, Laws of 1897;
 (112) Chapter 76, Laws of 1897;
 (113) Chapter 29, Laws of 1899;
 (114) Chapter 87, Laws of 1901;
 (115) Chapter 131, Laws of 1901;
 (116) Chapter 7, Laws of 1903;
 (117) Chapter 15, Laws of 1903;
 (118) Chapter 57, Laws of 1903;
 (119) Chapter 89, Laws of 1903;
 (120) Chapter 25, Laws of 1905;
 (121) Section 2, chapter 34, Laws of 1905;
 (122) Chapter 60, Laws of 1905;
 (123) Chapter 157, Laws of 1905;
 (124) Chapter 51, Laws of 1907;
 (125) Sections 1 through 4, chapter 65, Laws of 1907;
 (126) Sections 1 and 2, chapter 158, Laws of 1907;
 (127) Sections 2 and 4 through 6, chapter 160, Laws of 1907;
 (128) Chapter 185, Laws of 1907;
 (129) Chapter 229, Laws of 1907;
 (130) Chapter 15, Laws of 1909;
 (131) Section 12, chapter 76, Laws of 1909;
 (132) Chapter 79, Laws of 1909;
 (133) Chapter 105, Laws of 1909;
 (134) Chapter 122, Laws of 1909;
 (135) Chapter 170, Laws of 1909;
 (136) Chapter 214, Laws of 1909;
 (137) Chapter 232, Laws of 1909;
 (138) Section 27, chapter 249, Laws of 1909;
 (139) Chapter 55, Laws of 1911;
 (140) Section 1, chapter 66, Laws of 1911;
 (141) Chapter 75, Laws of 1911;
 (142) Chapter 25, Laws of 1913;
 (143) Sections 1 through 5 and 7, chapter 47, Laws of 1913;
 (144) Chapter 90, Laws of 1913;
 (145) Chapter 91, Laws of 1913;
 (146) Chapter 93, Laws of 1913;
 (147) Chapter 150, Laws of 1913;
 (148) Chapter 162, Laws of 1913;
 (149) Chapter 26, Laws of 1915;
 (150) Chapter 74, Laws of 1915;
 (151) Sections 1, 2 and 4, chapter 32, Laws of 1917;
 (152) Chapter 45, Laws of 1917;
 (153) Chapter 69, Laws of 1917;
 (154) Sections 2, 3, 4, 5 and 6, chapter 103, Laws of 1917;
 (155) Chapter 114, Laws of 1917;
 (156) Sections 2, 57 and 72, chapter 156, Laws of 1917;
 (157) Chapter 158, Laws of 1917;
 (158) Chapter 87, Laws of 1919;
 (159) Chapter 115, Laws of 1919;
 (160) Chapter 149, Laws of 1919;
 (161) Section 4, chapter 168, Laws of 1919;
 (162) Sections 1 and 2, chapter 175, Laws of 1919;
 (163) Chapter 30, Laws of 1921;
 (164) Chapter 100, Laws of 1921;
 (165) Chapter 132, Laws of 1921;
 (166) Chapter 133, Laws of 1921;
 (167) Chapter 165, Laws of 1921;
 (168) Section 3, chapter 184, Laws of 1921;
 (169) Chapter 83, Laws of 1923;
 (170) Section 1, chapter 130, Laws of 1923;
 (171) Chapter 164, Laws of 1923;
 (172) Chapter 177, Laws of 1923;
 (173) Chapter 41, Laws of 1925 extraordinary session;
 (174) Section 55, chapter 130, Laws of 1925 extraordinary session;
 (175) Chapter 143, Laws of 1925 extraordinary session;
 (176) Chapter 148, Laws of 1925 extraordinary session;
 (177) Chapter 174, Laws of 1925 extraordinary session;
 (178) Section 1, chapter 37, Laws of 1927;
 (179) Chapter 89, Laws of 1927;
 (180) Section 1, chapter 163, Laws of 1927;
 (181) Chapter 220, Laws of 1927;
 (182) Section 1, chapter 266, Laws of 1927;
 (183) Chapter 274, Laws of 1927;
 (184) Chapter 301, Laws of 1927;
 (185) Sections 1, 2 and 5, 18 and 19, chapter 88, Laws of 1929;
 (186) Section 3, chapter 93, Laws of 1929;
 (187) Chapter 109, Laws of 1929;
 (188) Chapter 110, Laws of 1929;
 (189) Chapter 193, Laws of 1929;
 (190) Sections 1 through 10, chapter 198, Laws of 1929;
 (191) Chapter 69, Laws of 1931;
 (192) Section 1, chapter 87, Laws of 1931;
 (193) Chapter 95, Laws of 1931;
 (194) Sections 1, 2, 3, 4, 5, 7, 8, 9, 10 and 11, chapter 139, Laws of 1931;
 (195) Chapter 100, Laws of 1933;
 (196) Sections 1, 2, 3, 4, 6 and 7, chapter 136, Laws of 1933;
 (197) Chapter 174, Laws of 1933;
 (198) Chapter 14, Laws of 1933 extraordinary session;

- (199) Chapter 40, Laws of 1933 extraordinary session;
- (200) Chapter 45, Laws of 1933 extraordinary session;
- (201) Chapter 33, Laws of 1935;
- (202) Chapter 94, Laws of 1935;
- (203) Chapter 95, Laws of 1935;
- (204) Chapter 46, Laws of 1937;
- (205) Sections 1 through 58, 66, 67, 75, 76, and 77, chapter 187, Laws of 1937;
- (206) Chapter 197, Laws of 1937;
- (207) Chapter 209, Laws of 1937;
- (208) Section 11, chapter 181, Laws of 1939;
- (209) Sections 2 through 4, chapter 188, Laws of 1939;
- (210) Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 16, chapter 201, Laws of 1939;
- (211) Chapter 26 Laws of 1941;
- (212) Chapter 46, Laws of 1941;
- (213) Chapter 99, Laws of 1941;
- (214) Section 2, chapter 110, Laws of 1941;
- (215) Chapter 138, Laws of 1941;
- (216) Chapter 142, Laws of 1941;
- (217) Chapter 191, Laws of 1941;
- (218) Sections 1, 2, 3, and 5, chapter 227, Laws of 1941;
- (219) Chapter 237, Laws of 1941;
- (220) Chapter 19, Laws of 1943;
- (221) Chapter 35, Laws of 1943;
- (222) Chapter 61, Laws of 1943;
- (223) Chapter 66, Laws of 1943;
- (224) Chapter 73, Laws of 1943;
- (225) Sections 1, 2, 3, 4, 5, 6, 7 and 8, chapter 82, Laws of 1943;
- (226) Chapter 87, Laws of 1943;
- (227) Chapter 101, Laws of 1943;
- (228) Chapter 139, Laws of 1943;
- (229) Chapter 145, Laws of 1943;
- (230) Chapter 174, Laws of 1943;
- (231) Chapter 199, Laws of 1943;
- (232) Chapter 204, Laws of 1943;
- (233) Chapter 249, Laws of 1943;
- (234) Chapter 260, Laws of 1943;
- (235) Chapter 269, Laws of 1943;
- (236) Chapter 51, Laws of 1945;
- (237) Chapter 61, Laws of 1945;
- (238) Chapter 62, Laws of 1945;
- (239) Chapter 73, Laws of 1945;
- (240) Chapter 85, Laws of 1945;
- (241) Section 1, chapter 87, Laws of 1945;
- (242) Chapter 94, Laws of 1945;
- (243) Chapter 118, Laws of 1945;
- (244) Chapter 125, Laws of 1945;
- (245) Section 3, chapter 172, Laws of 1945;
- (246) Chapter 201, Laws of 1945;
- (247) Sections 1 through 12, chapter 254, Laws of 1945;
- (248) Chapter 49, Laws of 1947;
- (249) Chapter 58, Laws of 1947;
- (250) Chapter 61, Laws of 1947;
- (251) Chapter 141, Laws of 1947;
- (252) Chapter 184, Laws of 1947;
- (253) Chapter 228, Laws of 1947;
- (254) Chapter 272, Laws of 1947;
- (255) Chapter 277, Laws of 1947;
- (256) Chapter 33, Laws of 1949;
- (257) Section 2, chapter 75, Laws of 1949;
- (258) Chapter 85, Laws of 1949;
- (259) Chapter 92, Laws of 1949;
- (260) Sections 1 through 9, chapter 94, Laws of 1949;
- (261) Chapter 131, Laws of 1949;
- (262) Chapter 156, Laws of 1949;
- (263) Sections 1 and 4, chapter 165, Laws of 1949;
- (264) Section 1, chapter 181, Laws of 1949;
- (265) Chapter 200, Laws of 1949;
- (266) Chapter 9, Laws of 1950 first extraordinary session;
- (267) Chapter 18, Laws of 1950 first extraordinary session;
- (268) Chapter 34, Laws of 1951;
- (269) Chapter 41, Laws of 1951;
- (270) Sections 4, 5 and 6, chapter 51, Laws of 1951;
- (271) Chapter 89, Laws of 1951;
- (272) Section 1, chapter 100, Laws of 1951;
- (273) Chapter 108, Laws of 1951;
- (274) Chapter 143, Laws of 1951;
- (275) Chapter 161, Laws of 1951;
- (276) Chapter 187, Laws of 1951;
- (277) Chapter 192, Laws of 1951;
- (278) Sections 1, 2, 3 and 4, chapter 256, Laws of 1951;
- (279) Chapter 258, Laws of 1951;
- (280) Chapter 14, Laws of 1951 second extraordinary session;
- (281) Chapter 22, Laws of 1953;
- (282) Chapter 37, Laws of 1953;
- (283) Chapter 57, Laws of 1953;
- (284) Chapter 152, Laws of 1953;
- (285) Chapter 172, Laws of 1953;
- (286) Sections 3 and 4, chapter 188, Laws of 1953;
- (287) Chapter 199, Laws of 1953;
- (288) Chapter 210, Laws of 1953;
- (289) Section 2, chapter 214, Laws of 1953;
- (290) Chapter 215, Laws of 1953;
- (291) Section 1, chapter 224, Laws of 1953;
- (292) Chapter 264, Laws of 1953
- (293) Chapter 9, Laws of 1955;
- (294) Chapter 10, Laws of 1955;
- (295) Chapter 48, Laws of 1955;
- (296) Chapter 51, Laws of 1955;
- (297) Chapter 129, Laws of 1955;
- (298) Sections 5, 6, 7, 8 and 10, chapter 157, Laws of 1955;
- (299) Chapter 194, Laws of 1955;
- (300) Section 10, chapter 251, Laws of 1955;
- (301) Chapter 297, Laws of 1955;
- (302) Sections 1 and 6, chapter 310, Laws of 1955;
- (303) Chapter 312, Laws of 1955;
- (304) Chapter 361, Laws of 1955;
- (305) Section 2, chapter 9, Laws of 1955 first extraordinary session;
- (306) Sections 1 through 14 and 16 through 33, chapter 58, Laws of 1957;
- (307) Chapter 106, Laws of 1957;

- (308) Section 1, chapter 124, Laws of 1957;
- (309) Section 2, chapter 126, Laws of 1957;
- (310) Chapter 134, Laws of 1957;
- (311) Chapter 146, Laws of 1957;
- (312) Section 5, chapter 187, Laws of 1957;
- (313) Chapter 201, Laws of 1957;
- (314) Chapter 219, Laws of 1957;
- (315) Sections 5, 6, 7, 8 and 9, chapter 224, Laws of 1957;
- (316) Chapter 30, Laws of 1959;
- (317) Chapter 34, Laws of 1959;
- (318) Chapter 67, Laws of 1959;
- (319) Sections 4, 5, 6, 7 and 8, chapter 75, Laws of 1959;
- (320) Chapter 130, Laws of 1959;
- (321) Chapter 134, Laws of 1959;
- (322) Section 2, chapter 142, Laws of 1959;
- (323) Chapter 201, Laws of 1959;
- (324) Sections 2 and 3, chapter 216, Laws of 1959;
- (325) Sections 6, 7, 8 and 10, chapter 263, Laws of 1961;
- (326) Section 1, chapter 300, Laws of 1961;
- (327) Sections 1, 2, 3, 4, 5, 6, 7 and 9, chapter 304, Laws of 1959;
- (328) Chapter 27, Laws of 1961;
- (329) Sections 1 and 2, chapter 35, Laws of 1961;
- (330) Section 1, chapter 41, Laws of 1961;
- (331) Chapter 55, Laws of 1961;
- (332) Section 1, chapter 79, Laws of 1961;
- (333) Chapter 92, Laws of 1961;
- (334) Chapter 144, Laws of 1961;
- (335) Chapter 169, Laws of 1961;
- (336) Sections 6 through 31, chapter 171, Laws of 1961;
- (337) Chapter 172, Laws of 1961;
- (338) Section 1, chapter 195, Laws of 1961;
- (339) Chapter 232, Laws of 1961;
- (340) Chapter 254, Laws of 1961;
- (341) Section 1, chapter 270, Laws of 1961;
- (342) Chapter 272, Laws of 1961;
- (343) Section 1, chapter 273, Laws of 1961; and
- (344) Section 1, chapter 304, Laws of 1961.

Such repeals shall not be construed as affecting any existing right acquired under the provisions of the statutes repealed, nor as affecting any proceeding instituted thereunder, nor any rule, regulation or order promulgated thereunder, nor any administrative action taken thereunder, nor the term of office or appointment or employment of any person appointed or employed thereunder. [1963 c 4 § 36.98.040.]

36.98.050 Emergency—1963 c 4. 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. [1963 c 4 § 36.98.050.]

TITLE 37

FEDERAL AREAS—INDIANS

Chapters

- 37.04 General cession of jurisdiction.
- 37.08 Jurisdiction in special cases.
- 37.12 Indians and Indian lands—Jurisdiction.
- 37.14 Indian cultural and educational facility bond issue.
- 37.16 Acquisition of lands for permanent military installations.

Daylight saving time—Prohibition not applicable to federal areas: RCW 1.20.050.

Excise taxes—Extension of excises to federal areas: Chapter 82.52 RCW.

Federal employees classified as resident students: RCW 28B.15.014.

Inheritance, gift taxes—Adjustments with federal tax: Chapter 83.40 RCW.

San Juan Island national historical park, donation of state lands: Chapter 94, Laws of 1967 (uncodified).

School districts, intermediate school districts, agreements with other governmental entities for transportation of students, the public or other noncommon school purposes—Limitations: RCW 28A.24.180.

Chapter 37.04

GENERAL CESSION OF JURISDICTION

Sections

- 37.04.010 Consent given to acquisition of land by United States.
- 37.04.020 Concurrent jurisdiction ceded—Reverter.
- 37.04.030 Reserved jurisdiction of state.
- 37.04.040 Previous cessions of jurisdiction saved.

Authority of federal government over federal areas: State Constitution Art. 25.

Taxation of federal agencies and instrumentalities: State Constitution Art. 7 § 3 (Amendment 19).

37.04.010 Consent given to acquisition of land by United States. The consent of this state is hereby given to the acquisition by the United States, or under its authority, by purchase, lease, condemnation, or otherwise, of any land acquired, or to be acquired, in this state by the United States, from any individual, body politic or corporate, as sites for forts, magazines, arsenals, dockyards, and other needful buildings or for any other purpose whatsoever. The evidence of title to such land shall be recorded as in other cases. [1939 c 126 § 1; RRS § 8108-1.]

37.04.020 Concurrent jurisdiction ceded—Reverter. Concurrent jurisdiction with this state in and over any land so acquired by the United States shall be, and the same is hereby, ceded to the United States for all purposes for which the land was acquired; but the jurisdiction so ceded shall continue no longer than the

United States shall be the owner of such lands, and if the purposes of any grant to or acquisition by the United States shall cease, or the United States shall for five consecutive years fail to use any such land for the purposes of the grant or acquisition, the jurisdiction hereby ceded over the same shall cease and determine, and the right and title thereto shall revert in this state. The jurisdiction ceded shall not vest until the United States shall acquire title of record to such land. [1939 c 126 § 2; RRS § 8108-2.]

37.04.030 Reserved jurisdiction of state. The state of Washington hereby expressly reserves such jurisdiction and authority over land acquired or to be acquired by the United States as aforesaid as is not inconsistent with the jurisdiction ceded to the United States by virtue of such acquisition. [1939 c 126 § 3; RRS § 8108-3.]

37.04.040 Previous cessions of jurisdiction saved. Sections 8108 and 8109, Remington's Revised Statutes [1891 pp 31, 32 §§ 1, 2], and all other acts and parts of acts inconsistent with the provisions of this chapter are hereby repealed: *Provided*, That jurisdiction heretofore ceded to the United States over any land within this state by any previous act of the legislature shall continue according to the terms of the respective cessions: *Provided further*, That if jurisdiction so ceded by any previous act of the legislature has not been affirmatively accepted by the United States, or if the United States has failed or ceased to use any such land for the purposes for which acquired, jurisdiction thereover shall be governed by the provisions of this chapter. [1939 c 126 § 4; RRS § 8108-4.]

Chapter 37.08

JURISDICTION IN SPECIAL CASES

Sections

- 37.08.180 Jurisdiction ceded.
- 37.08.200 Rainier National Park.
- 37.08.210 Olympic National Park.
- 37.08.220 National forests, establishment, consolidation, extension of.
- 37.08.230 Migratory bird preserves.
- 37.08.240 Lake Washington ship canal.
- 37.08.250 Additional right-of-way.
- 37.08.260 Auburn general depot.
- 37.08.270 Cession of jurisdiction.
- 37.08.280 Veterans hospitals.

37.08.180 Jurisdiction ceded. Jurisdiction ceded when acquisition of land for permanent military installations, see RCW 37.16.180.

37.08.200 Rainier National Park. Exclusive jurisdiction shall be, and the same is hereby ceded to the United States over and within all the territory that is now or may hereafter be included in that tract of land in the state of Washington, set aside for the purposes of a national park, and known as the Rainier National Park; saving, however, to the said state, the right to serve civil or criminal process within the limits of the aforesaid park, in suits or prosecutions for or on account of rights acquired, obligations incurred or crimes committed in said state, but outside of said park; and saving further to the said state the right to tax persons and corporations, their franchises and property on the lands included in said park: *Provided, however,* This jurisdiction shall not vest until the United States through the proper officer, notifies the governor of this state that they assume police or military jurisdiction over said park. [1901 c 92 § 1; RRS § 8110.]

37.08.210 Olympic National Park. Exclusive jurisdiction shall be, and the same is hereby ceded to the United States over and within all the territory that is now or hereafter included in that tract of land in the state of Washington, set aside for the purposes of a national park, and known as the Olympic National Park; saving, however, to the said state, the right to serve civil and criminal process within the limits of the aforesaid park, in suits or prosecutions for or on account of rights acquired, obligations incurred or crimes committed in said state, but outside of said park; and saving further to the said state the right to tax persons and corporations, their franchises and property on the lands included in said park: *Provided, however,* This jurisdiction shall not vest until the United States, through the proper officer, notifies the governor of this state that they assume police or military jurisdiction over said park: *And provided further,* That full jurisdiction over a strip of land two hundred fifty feet wide, being one hundred twenty-five feet wide on each side of the now existing center line of primary state highway No. 9 together with existing pit sites and stockpile sites within said park shall be retained by the state of Washington. [1945 c 114 § 1; 1941 c 51 § 1; 1939 c 170 § 1; Rem. Supp. 1945 § 8110-1.]

37.08.220 National forests, establishment, consolidation, extension of. The legislature of the state of Washington hereby consents to the acquisition by the United States by purchase or gift of such lands in the state of Washington as in the opinion of the government of the United States may be needed for the establishment, consolidation and extension of national forests in this state under the provisions of the act of congress approved March 1, 1911, and entitled: "An act to enable any state to cooperate with any other state or states or with the United States for the protection of the watersheds of navigable streams and to appoint a commission for the acquisition of lands for the purpose of conserving the navigability of navigable rivers," as amended: *Provided,* The state of Washington shall retain a concurrent jurisdiction with the United States in and over lands so acquired so far that civil processes in all cases, and such

criminal processes as may issue under the authority of the state of Washington against any person charged with the commission of any crime without or within said jurisdiction, may be executed thereon in like manner as if this consent had not been granted: *Provided further,* That before any acquirement of lands be made under the provisions of this section, such acquisition shall be approved by the state forest board: *And further provided,* That the state of Washington shall retain concurrent jurisdiction to tax persons and corporations and their property and transaction on such lands so acquired. [1935 c 58 § 1; RRS § 9663-23.]

County may convey forest lands to United States: RCW 36.34.210.

37.08.230 Migratory bird preserves. Consent of the state of Washington is given to the acquisition by the United States by purchase, gift, devise, or lease of such areas of land or water, or of land and water, in the state of Washington, as the United States may deem necessary for the establishment of migratory-bird reservations in accordance with the act of congress approved February 18, 1929, entitled "An Act to more effectively meet the obligations of the United States under the migratory bird treaty with Great Britain by lessening the dangers threatening migratory game birds from drainage and other causes by the acquisition of areas of land and of water to furnish in perpetuity reservations for the adequate protection of such birds; and authorizing appropriations for the establishment of such areas, their maintenance and improvement and for other purposes," reserving, however, to the state of Washington full and complete jurisdiction and authority over all such areas not incompatible with the administration, maintenance, protection, and control thereof by the United States under the terms of said act of congress. [1933 c 159 § 1; no RRS.]

37.08.240 Lake Washington ship canal. That in aid of the construction, maintenance and operation of a ship canal, by the United States of America, to connect the waters of Lakes Union and Washington, in King county, with Puget Sound, together with all necessary and convenient locks, landways, spillways, buildings, power plant and other proper appurtenances, there be and hereby is granted by this state to said United States the right to place, construct, maintain, and operate, such ship canal, landways, spillways, buildings, power plant and other proper appurtenances, upon, along, through and over any and all lands belonging to and waters of this state in said King county, within such limits as shall be defined by the plans and specifications for such improvement as the same shall be approved by the United States secretary of war, and the right to raise the waters of Salmon Bay and the right to lower the waters of Lake Washington, in prosecution of such improvement, and this state hereby releases the United States from all liability to damages to this state, its successors or assigns, that shall or might arise from such lowering or raising of waters, or otherwise from such improvement. But nothing in this section contained shall operate as an assumption of nor create any liability on the part of the state,

for any damages which may result to any person, company or corporation. [1901 c 6 § 1; RRS § 8120.]

37.08.250 Additional right-of-way. That a right-of-way of not exceeding five hundred feet in width is hereby granted to the United States of America through any lands or shorelands belonging to the state of Washington, or to the University of Washington, and lying in King county between Lakes Union and Washington, or in or adjoining either of them, the southern boundary of such right-of-way on the upland to be coincident with the southern boundary of the lands now occupied by the University of Washington adjacent to the present right-of-way of said canal; the width and definite location of such right-of-way before the same is taken possession of by said United States shall be plainly and completely platted and a plat thereof approved by the secretary of war of the United States filed in the office of the state land commissioner: *Provided*, That nothing in this section contained shall be construed to repeal or impair any right, interest, privilege or grant expressed or intended in the act of the legislature of the state of Washington approved February 8, 1901, entitled, "An Act relative to and in aid of the construction, maintenance and operation by the United States of America of a ship canal with proper locks and appurtenances to connect the waters of Lakes Union and Washington in King county with Puget Sound and declaring an emergency." [1907 c 216 § 1; RRS § 8121.]

37.08.260 Auburn general depot. Concurrent jurisdiction shall be, and the same is hereby ceded to the United States over and within all the land comprising the Auburn General Depot area, being 570.08 acres, more or less, situate in King county, state of Washington; saving, however, to the state the right to serve civil and criminal process within the limits of the aforesaid area in suits or prosecutions for or on account of rights acquired, obligations incurred or crimes committed in said state, but outside of said area. The metes and bounds description of the land over which jurisdiction is ceded hereby is as follows:

A parcel of land in sections 24 and 25, Township 21 North, Range 4 East, Willamette Meridian, King County, as follows: Beginning at a point on the west line of the Northern Pacific Railway right-of-way which point is S 89°16'55" W, 423.65 feet and N 2°12'33" W, 20 feet from the southeast corner of section 25, thence S 89°16'55" W, 1548.93 feet along the north right-of-way line of Ellingson Road to a point, thence N 0°10'45" E, 1298.11 feet to a point, thence S 89°31'28" W, 638.25 feet to the east right-of-way line of Greenhalgh Road, thence N 0°08'47" E, 1351.31 feet along said east right-of-way line to its intersection with the north right-of-way line of Algona Road, thence S 89°46'07" W, 1724.35 feet along said north right-of-way line to a point on the easterly right-of-way line of the Chicago, Milwaukee, St. Paul and Pacific Railroad, thence N 0°04'38" W, 1223.74 feet along said right-of-way to a point of spiral curve, thence along a spiral curve whose central angle is 1°36'14" and whose long chord bears N

0°27'20" E, 158.51 feet, thence along a circular curve to the right, whose radius bears S 88°28'24" E, 2822.01 feet, through a central angle of 21°16'24" for a distance of 1047.78 feet to a point of spiral, thence along a spiral curve whose central angle is 1°36'14", and whose long chord bears N 23°51'42" E, 158.51 feet, thence N 24°24'15" E, 3088.12 feet to a point of spiral curve, thence along a spiral whose central angle is 1°35'51", and whose long chord bears N 23°51'55" E, 161.51 feet to point of circular curve, thence along a circular curve, to the left, whose radius bears N 67°11'36" W, 2908.01 feet, through a central angle of 20°58'46" for a distance of 1064.80 feet, thence along a spiral curve to the left, whose central angle is 1°35'51", and whose long chord bears N 0°45'10" E, 161.51 feet, thence N 0°13'47" E, 1148.81 feet to the centerline of the Chicago, Milwaukee, St. Paul and Pacific Railroad and Northern Pacific crossover track being a point in a curve, thence along centerline of said crossover track on a curve to the left in a southeasterly direction, from a radius which bears N 63°36'26" E, 351.28 feet, through a central angle of 26°50'13" for a distance of 164.54 feet, thence S 53°13'47" E, 1840.78 feet along said centerline, thence along a curve to the right in a southeasterly direction, from a radius which bears S 36°46'13" W, 386.60 feet, through a central angle of 10°26'06" for a distance of 70.41 feet to the intersection of the westerly right-of-way line of county road No. 76, thence *S 2°12'33" E, 6596.21 feet along the westerly right-of-way line of county road No. 76 to the East-West centerline of said section 25, thence N 89°46'02" E, 60.04 feet to the westerly right-of-way line of the Northern Pacific Railway Company, thence S 2°12'33" E, 2605.01 feet to point of beginning. The jurisdiction ceded hereby does not extend to any existing perimeter railroad or county road right-of-way. [1951 c 40 § 1.]

*Reviser's note: In the third from the last course, the "2" in the description "S 2°12'33" E" was by typographical error omitted from the session laws. The digit is inserted by the reviser after verification from original sources.

37.08.270 Cession of jurisdiction. Cession of jurisdiction, lease or conveyances to United States for flood control, navigation and allied purposes, see RCW 36.34-.220-36.34.240.

37.08.280 Veterans hospitals. Upon the filing of an appropriate notice thereof with the governor by the administrator of veterans affairs, an agency of the United States of America, pursuant to the provisions of section 302 of Public Law 93-82 (87 Stat. 195; 38 U.S.C. Sec. 5007), the governor is hereby authorized and directed to accept such legislative jurisdiction as is necessary to establish concurrent jurisdiction between the United States and the state of Washington to all land comprising the veterans hospital located at Vancouver in Clark county, Washington; the veterans administration hospital located at Walla Walla in Walla Walla county, Washington, and the veterans administration hospital located at American Lake in Pierce county, Washington. The acquisition of such concurrent

jurisdiction shall become effective upon filing the documents signifying such acceptance in the office of the secretary of state. [1975 1st ex.s. c 142 § 1.]

Chapter 37.12

INDIANS AND INDIAN LANDS—JURISDICTION

Sections

- 37.12.010 Assumption of criminal and civil jurisdiction by state.
 37.12.021 Assumption of criminal and civil jurisdiction by state—Resolution of request—Proclamation by governor, 1963 act.
 37.12.030 Effective date for assumption of jurisdiction—Criminal causes.
 37.12.040 Effective date for assumption of jurisdiction—Civil causes.
 37.12.050 State's jurisdiction limited by federal law.
 37.12.060 Chapter limited in application.
 37.12.070 Tribal ordinances, customs, not inconsistent with law applicable in civil causes.

Alienation of land by Indians: Chapter 64.20 RCW.

Annexation of federal areas by first class city: RCW 35.13.185.

Compact with the United States: State Constitution Art. 26 § 2.

Daylight saving time—Prohibition not applicable to federal areas: RCW 1.20.050.

Qualifications of voters: State Constitution Art. 6 § 1 (Amendment 63).

37.12.010 Assumption of criminal and civil jurisdiction by state. The state of Washington hereby obligates and binds itself to assume criminal and civil jurisdiction over Indians and Indian territory, reservations, country, and lands within this state in accordance with the consent of the United States given by the act of August 15, 1953 (Public Law 280, 83rd Congress, 1st Session), but such assumption of jurisdiction shall not apply to Indians when on their tribal lands or allotted lands within an established Indian reservation and held in trust by the United States or subject to a restriction against alienation imposed by the United States, unless the provisions of RCW 37.12.021 have been invoked, except for the following:

- (1) Compulsory school attendance;
- (2) Public assistance;
- (3) Domestic relations;
- (4) Mental illness;
- (5) Juvenile delinquency;
- (6) Adoption proceedings;
- (7) Dependent children; and
- (8) Operation of motor vehicles upon the public streets, alleys, roads and highways: *Provided further*, That Indian tribes that petitioned for, were granted and became subject to state jurisdiction pursuant to this chapter on or before March 13, 1963 shall remain subject to state civil and criminal jurisdiction as if *chapter 36, Laws of 1963 had not been enacted. [1963 c 36 § 1; 1957 c 240 § 1.]

***Reviser's note:** "chapter 36, Laws of 1963" which became effective on March 13, 1963, amended RCW 37.12.010, 37.12.030, 37.12.040 and 37.12.060, repealed RCW 37.12.020, and enacted a new section codified herein as RCW 37.12.021.

37.12.021 Assumption of criminal and civil jurisdiction by state—Resolution of request—Proclamation by governor, 1963 act. Whenever the governor of this

state shall receive from the majority of any tribe or the tribal council or other governing body, duly recognized by the Bureau of Indian Affairs, of any Indian tribe, community, band or group in this state a resolution expressing its desire that its people and lands be subject to the criminal or civil jurisdiction of the state of Washington to the full extent authorized by federal law, he shall issue within sixty days a proclamation to the effect that such jurisdiction shall apply to all Indians and all Indian territory, reservations, country, and lands of the Indian body involved to the same extent that this state exercises civil and criminal jurisdiction or both elsewhere within the state: *Provided*, That jurisdiction assumed pursuant to this section shall nevertheless be subject to the limitations set forth in RCW 37.12.060. [1963 c 36 § 5.]

37.12.030 Effective date for assumption of jurisdiction—Criminal causes. Upon March 13, 1963 the state of Washington shall assume jurisdiction over offenses as set forth in RCW 37.12.010 committed by or against Indians in the lands prescribed in RCW 37.12.010 to the same extent that this state has jurisdiction over offenses committed elsewhere within this state, and such criminal laws of this state shall have the same force and effect within such lands as they have elsewhere within this state. [1963 c 36 § 2; 1957 c 240 § 3.]

37.12.040 Effective date for assumption of jurisdiction—Civil causes. Upon March 13, 1963 the state of Washington shall assume jurisdiction over civil causes of action as set forth in RCW 37.12.010 between Indians or to which Indians are parties which arise in the lands prescribed in RCW 37.12.010 to the same extent that this state has jurisdiction over other civil causes of action and, except as otherwise provided in this chapter, those civil laws of this state that are of general application to private persons or private property shall have the same force and effect within such lands as they have elsewhere within this state. [1963 c 36 § 3; 1957 c 240 § 4.]

37.12.050 State's jurisdiction limited by federal law. The jurisdiction assumed pursuant to this chapter shall be subject to the limitations and provisions of the federal act of August 15, 1953 (Public Law 280, 83rd Congress, 1st Session). [1957 c 240 § 5.]

37.12.060 Chapter limited in application. Nothing in this chapter shall authorize the alienation, encumbrance, or taxation of any real or personal property, including water rights and tidelands, belonging to any Indian or any Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; or shall authorize regulation of the use of such property in a manner inconsistent with any federal treaty, agreement, or statute or with any regulation made pursuant thereto; or shall confer jurisdiction upon the state to adjudicate, in probate proceedings or otherwise, the ownership or right to possession of such property or any interest therein; or shall deprive any Indian or any Indian tribe,

band, or community of any right, privilege, or immunity afforded under federal treaty, agreement, statute, or executive order with respect to Indian land grants, hunting, trapping, or fishing or the control, licensing, or regulation thereof. [1963 c 36 § 4; 1957 c 240 § 6.]

37.12.070 Tribal ordinances, customs, not inconsistent with law applicable in civil causes. Any tribal ordinance or custom heretofore or hereafter adopted by an Indian tribe, band, or community in the exercise of any authority which it may possess shall, if not inconsistent with any applicable civil law of the state, be given full force and effect in the determination of civil causes of action pursuant to this section. [1957 c 240 § 7.]

**Chapter 37.14
INDIAN CULTURAL AND EDUCATIONAL
FACILITY BOND ISSUE**

Sections

- 37.14.010 General obligation bonds—Authorized—Issuance, sale, terms, etc.
- 37.14.020 Anticipation notes—Proceeds of bonds and notes.
- 37.14.030 Administration of proceeds.
- 37.14.040 Retirement of bonds from Indian cultural center construction bond redemption fund—Source—Remedies of bond holders.
- 37.14.050 Legal investment for public funds.
- 37.14.900 Severability—1975-'76 2nd ex.s. c 128.

37.14.010 General obligation bonds—Authorized—Issuance, sale, terms, etc. For the purpose of providing a matching grant for the planning, design, construction, furnishing and landscaping of a regional Indian cultural and educational facility designated as the "people's lodge" and located at Discovery Park, Seattle, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of one million dollars or so much thereof as shall be required to finance that portion of the grant by the state for said project as is set forth by appropriation from the Indian cultural center construction account in the general fund by chapter __, Laws of 1975-'76 2nd ex. sess. (SHB 1626) the supplemental appropriation act, for such purposes, to be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the Constitution of the state of Washington.

The state finance committee is authorized to prescribe the form of such bonds, the time of sale of all or any portion or portions of such bonds, and the conditions of sale and issuance thereof.

Each such bond and bond anticipation note shall pledge the full faith and credit of the state of Washington and contain an unconditional promise to pay the principal and interest when due. The committee may provide that the bonds, or any of them, may be called prior to the due date thereof under such terms and conditions as it may determine. The state finance committee may authorize the use of facsimile signatures in the issuance of the bonds. [1975-'76 2nd ex.s. c 128 § 1.]

37.14.020 Anticipation notes—Proceeds of bonds and notes. At the time the state finance committee determines to issue such bonds authorized in RCW 37.14.010 or a portion thereof, it may issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of the bonds, which notes shall be designated as "anticipation notes". The proceeds from the sale of bonds and notes authorized by this chapter shall be deposited in the Indian cultural center construction account of the general fund hereby created in the state treasury and shall be used exclusively for the purposes specified in this chapter and for the payment of expenses incurred in the issuance and sale of such bonds and notes: *Provided*, Such portion of the proceeds of the sale of such bonds as may be required for the payment of the principal and interest on such anticipation notes as have been issued, shall be deposited in the bond redemption fund created in RCW 37.14.040. [1975-'76 2nd ex.s. c 128 § 2.]

37.14.030 Administration of proceeds. The principal proceeds from the sale of the bonds authorized in this chapter and deposited in the Indian cultural center construction account in the general fund shall be administered by the executive director of the arts commission. [1975-'76 2nd ex.s. c 128 § 3.]

37.14.040 Retirement of bonds from Indian cultural center construction bond redemption fund—Source—Remedies of bond holders. The Indian cultural center construction bond redemption fund of 1976 is hereby created in the state treasury, which fund shall be exclusively devoted to the payment of interest on and retirement of the bonds and notes authorized by this chapter.

The state finance committee, on or before June 30th of each year, shall certify to the state treasury the amount needed in the ensuing twelve months to meet bond retirement and interest requirements, and on July 1st of each year the state treasurer shall deposit such amount in the Indian cultural center construction bond redemption fund of 1976 from any general state revenues received in the state treasury and certified by the state treasurer to be general state revenues.

The owner and holder of each of the bonds or the trustee for any of the bonds, by mandamus or other appropriate proceeding, may require and compel the transfer and payment of funds as directed herein. [1975-'76 2nd ex.s. c 128 § 4.]

37.14.050 Legal investment for public funds. The bonds authorized by this chapter shall be a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1975-'76 2nd ex.s. c 128 § 5.]

37.14.900 Severability—1975-'76 2nd ex.s. c 128. If any provision of this 1976 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1975-'76 2nd ex.s. c 128 § 6.]

Chapter 37.16
ACQUISITION OF LANDS FOR PERMANENT
MILITARY INSTALLATIONS

Sections

- 37.16.020 Bonds may be issued.
37.16.130 Eminent domain—Appeal—Payment of award into court—Immediate possession.
37.16.180 Jurisdiction ceded.

Reviser's note: Chapter 4, Laws of 1917, herein codified as chapter 37.16 RCW, is discussed in *State Ex Rel Board of Commissioners v. Clausen*, 95 Wash. 214, 163 Pac. 744, where it is considered in conjunction with 1917 c 3, a special act authorizing (and directing) Pierce county to condemn property and issue bonds in payment of awards therefor in order to secure the location of Camp (now Fort) Lewis in that county. In prior compilations, Remington omitted 1917 c 4, and Pierce omitted all but section 22, ceding the state's jurisdiction to the United States. 1917 c 4 appeared to have been a general act and for that reason was codified herein. Most of the sections in this chapter were subsequently repealed by 1971 c 76 § 6.

Appropriation authorized in aid of federal or state improvement: RCW 8.08.090.

Condemnation for military purposes: RCW 8.04.170, 8.04.180.

Eminent domain by counties: Chapter 8.08 RCW.

Joint armory sites: RCW 36.64.050.

Lease or conveyance to the state or to United States for military, housing and other purposes: RCW 36.34.250.

Leases to United States for national defense: RCW 79.08.120.

Long term leases to United States by counties: RCW 36.34.310.

Tide and shore land grants to United States: RCW 79.01.596 through 79.01.608.

Transfer of property to state or United States for military purposes or housing projects: RCW 36.34.260.

37.16.020 Bonds may be issued. Whenever the board of county commissioners of any county shall submit to the voters of such county at an election to be held under the provisions of RCW 37.16.010, the question of issuing bonds to procure money for such purposes and three-fifths of the voters of such county voting on the question have assented thereto, and the amount of such bonds, together with the already existing indebtedness will not exceed two and one-half percent of the value of the taxable property of such county, as the term "value of the taxable property" is defined in RCW 39.36.015, then the board of county commissioners of such county is authorized and empowered to issue its negotiable bonds in the name of the county for the purposes for which such election was held. It being hereby declared that such purposes are purposes for which, under legislative authority, the county availing itself of the provisions of this chapter may lawfully incur indebtedness. Such bonds to be negotiable bonds of such county, payable in not more than twenty years, with interest at such rate or rates as authorized by the board of county commissioners, payable annually. [1971 c 10 § 1. Prior: 1970 ex.s. c 56 § 56; 1970 ex.s. c 42 § 24; 1969 ex.s. c 232 § 74; 1917 c 4 § 3; no RRS. Formerly RCW 37.08.020.]

Reviser's note: The amendment of this section by 1971 c 10 § 1 does not take cognizance of the section's repeal by 1971 c 76 § 6.

Bonds—Form, terms of sale, payment, etc.: Chapter 39.44 RCW.

Limitation of indebtedness: Chapter 39.36 RCW.

Limitation of indebtedness—County bonds: Chapter 36.67 RCW.

Vote required at bond elections: Chapter 39.40 RCW.

37.16.130 Eminent domain—Appeal—Payment of award into court—Immediate possession. Any final

judgment or judgments rendered by said court upon any finding or findings of any jury or juries, or upon any finding or findings of the court in case a jury be waived, shall be lawful and sufficient condemnation of the land or property to be taken or of the right to damage the same in the manner proposed, upon the payment of the amount of such findings and all costs which shall be taxed as in other civil cases: *Provided*, That in case any respondent recovers no damages, no costs shall be taxed. Such judgment or judgments shall be final and conclusive unless appealed from, and no appeal from the same shall delay the proceedings nor deprive the county of the right to possession of the property condemned, if such county shall pay into court for the owners and parties interested, as directed by the court, the amount of the judgment and costs, and such county, after making such payment into court, shall be liable to such owner or owners or parties interested for the payment of any further compensation which may at any time be finally awarded to such parties so appealing in said proceeding, and his or her costs, and shall pay the same on the rendition of judgment therefor, and abide any rule or order of the court in relation to the matter in controversy. In case of an appeal to the supreme court or the court of appeals of the state by any party to the proceedings the money so paid into the superior court shall remain in the custody of said superior court until the final determination of the proceedings. If any party entitled to appeal accepts the sum awarded by the jury or by the court, he shall be deemed thereby to have waived an appeal to the supreme court or the court of appeals. [1971 c 81 § 99; 1917 c 4 § 16; no RRS. Formerly RCW 37.08.130.]

Reviser's note: The amendment to this section by 1971 c 81 § 99 does not take cognizance of the section's previous repeal by 1971 c 76 § 6.

37.16.180 Jurisdiction ceded. Pursuant to the Constitution and laws of the United States, and especially to paragraph seventeen of section eight of article one of such Constitution, the consent of the legislature of the state of Washington is hereby given to the United States to acquire by donation from any county acting under the provisions of this chapter, title to all the lands herein intended to be referred to, to be evidenced by the deed or deeds of such county, signed by the chairman of its board of county commissioners and attested by the clerk of such board under the seal of such board, and the consent of the state of Washington is hereby given to the exercise by the congress of the United States of exclusive legislation in all cases whatsoever, over such tracts or parcels of land so conveyed to it: *Provided*, Upon such conveyance being concluded, a sufficient description by metes and bounds and an accurate plat or map of each such tract or parcel of land be filed in the auditor's office of the county in which such lands are situated, together with copies of the orders, deeds, patents, or other evidences in writing of the title of the United States: *And provided*, That all civil process issued from the courts of this state, and such criminal process as may issue under the authority of this state against any person charged with crime in cases arising outside of such reservation, may be served and executed thereon in the same mode

and manner and by the same officers as if the consent herein given had not been made. [1917 c 4 § 22; no RRS. Formerly RCW 37.08.180.]

General cession of jurisdiction: Chapter 37.04 RCW.

Jurisdiction in special cases: Chapter 37.08 RCW.

TITLE 38

MILITIA AND MILITARY AFFAIRS

Chapters

- 38.04 General provisions.
- 38.08 Powers and duties of governor.
- 38.12 Militia officers and advisory council.
- 38.16 Enlistments and reserves.
- 38.20 Armories and rifle ranges.
- 38.24 Claims and compensation.
- 38.32 Offenses—Punishment.
- 38.36 Trial procedure.
- 38.38 Washington code of military justice.
- 38.40 Miscellaneous provisions.
- 38.44 Enrollment of persons.
- 38.48 State and national defense.
- 38.52 Emergency services.

Establishment of metropolitan target zone authorities, study by department of commerce and economic development: RCW 43.31.200.

Explosives, manufacture, sale or storage: Chapter 70.74 RCW.

Limitation on members of the legislature holding office in the state—Exception: State Constitution Art. 2 § 14.

Microfilming of records to provide continuity of civil government: Chapter 40.10 RCW.

Military subordinate to civil power: State Constitution Art. 1 § 18.

Quartering soldiers in residences: State Constitution Art. 1 § 31.

Right to bear arms: State Constitution Art. 1 § 24.

Special acts relating to armories: The following special or temporary acts relating to particular armories are not codified herein:

- (1) 1959 c 181; 1961 c 135; 1963 c 146, Seattle.
- (2) 1967 c 37, Prosser.
- (3) 1967 c 43, Centralia.
- (4) 1967 c 44, Chewelah.
- (5) 1967 c 214, Stevens County.
- (6) 1967 c 224, Tacoma and Pierce County.
- (7) 1967 c 226, Yakima.
- (8) 1969 ex.s. c 22, Kirkland.

Special act relating to aerospace science and modeling center at Camp Murray: 1969 ex.s. c 85.

Special legislation: State Constitution Art. 2 § 28(2).

Standing army in time of peace prohibited: State Constitution Art. 1 § 31.

State flag furnished to armed forces: RCW 1.20.010.

State militia: State Constitution Art. 10.

Veterans and veterans' affairs: Title 73 RCW.

Chapter 38.04 GENERAL PROVISIONS

Sections

- 38.04.010 General definitions.
- 38.04.020 "Officer" and "enlisted men" defined—Convictions and punishments.
- 38.04.030 Composition of the militia.
- 38.04.040 Composition of organized militia.

Acknowledgments and powers of attorney of military personnel: Chapter 73.20 RCW.

Military personnel classified as resident students: RCW 28B.15.014.

38.04.010 General definitions. When used in *this act, the following words, terms, phrases shall have the following meaning:

The word "militia" shall mean the military forces provided for in the Constitution and laws of the state of Washington.

The term "organized militia" shall be the general term to include both state and national guard and whenever used applies equally to all such organizations and shall be analogous to "state military forces" as defined in RCW 38.38.004.

The term "national guard" shall mean that part of the military force of the state that is organized, equipped and federally recognized under the provisions of the national defense act of the United States, and shall also include the "Washington state guard" or any temporary organization set up in times of emergency to replace either the "national guard" or "state guard" while in actual service.

The term "active service" shall be construed to be any service on behalf of the state, or at encampments whether ordered by state or federal authority or any other duty requiring the entire time of any organization or person except when called or drafted into the federal service by the president of the United States and shall be analogous to "active state duty" as defined in RCW 38.38.004.

The term "on active duty" shall include periods of drill and such other training and service not requiring the entire time of the organization or person, as may be required under state or federal laws, regulations, or orders, including travel to and from such duty and shall be analogous to "duty status other than active state duty" as defined in RCW 38.38.004.

The terms "in service of United States" and "not in service of United States" as used herein shall be understood to mean the same as such terms when used in the national defense act of congress and amendments thereto.

The term "military" refers to any or all of the armed forces. [1963 c 220 § 133; 1943 c 130 § 12; Rem. Supp. 1943 § 8603-12. Prior: 1917 c 107 §§ 1, part, 3, part; 1909 c 134 § 10, part; 1895 c 108 § 10, part.]

***Reviser's note:** "this act" (1943 c 130), is codified as chapter 38.04 RCW; RCW 38.08.010-38.08.090; chapters 38.12 and 38.16 RCW; RCW 38.20.010 and 38.20.050; chapters 38.24, 38.28, 38.32 and 38.36 RCW; RCW 38.40.010-38.40.050 and 38.40.080-38.40.160.

Short title: "This act shall be known as the Military Code of the state of Washington." [1943 c 130 § 1.]

Severability—1943 c 130: "If any provisions of this act or the application thereof to any person or circumstances is held invalid for any reason, such determination shall not affect other provisions or applications of the act which can be given effect without the invalid provisions, and to this end, the provisions of this act are declared to be severable." [1943 c 130 § 95.]

Repeal and saving—1943 c 130: "The following acts, sections and parts of laws are hereby expressly repealed, to-wit: Section 177, chapter 108, Laws of 1895 (section 8603, Remington's Revised Statutes); sections 1, 21, 22, 41, 52, 65, 86, 89, and 100 of chapter 139 [134], Laws of 1909 (sections 8455, 8472, 8473, 8493, 8499, 8510, 8528, 8531, and 8601, Remington's Revised Statutes); sections 294 and 374 of chapter 249, Laws of 1909 (sections 2546 and 2626, Remington's Revised Statutes); chapter 238, Laws of 1909 (sections 10749 to 10752, inclusive, Remington's Revised Statutes); sections 8 and 11, chapter 66, Laws of 1913 (sections 8501, 8505, Remington's Revised Statutes); sections 1 to 3, inclusive, 5 to 13, inclusive, 15 to 31, inclusive, 33 to 36 inclusive, 39 to 43, inclusive, 45 to 124, inclusive, of chapter 107, Laws of 1917 (sections 8462 to 8464, inclusive, 8466 to 8471, inclusive, 8474 to 8476, inclusive, 8478 to 8490, inclusive, 8492, 8494 to 8496, inclusive, 8498, 8500, 8502, 8503, 8509, 8511 to 8514, inclusive, 8516 to 8527, inclusive, 8529, 8530, 8532 to 8597, inclusive, Remington's Revised Statutes); chapter 75, Laws of 1921 (sections 8465 and 8477, Remington's Revised Statutes); sections 1, 3, 4, and 5 of chapter 49, Laws of 1923 (sections 8497, 8507, 8515 and 8598, Remington's Revised Statutes); chapter 28, Laws of 1925 (sections 8491 and 8504, Remington's Revised Statutes); chapter 51, Laws of 1937 (section 8508, Remington's Revised Statutes); and all other acts in conflict with provisions herein: *Provided, however*, That the repeal of the acts herein enumerated shall nowise extinguish any liability heretofore incurred or relieve any individual subject thereto from liability thereunder." [1943 c 130 § 96.]

Martial law: RCW 38.08.030.

38.04.020 "Officer" and "enlisted men" defined—**Convictions and punishments.** Whenever used in *this act, the word "officer" shall be understood to designate commissioned and warrant officers, and the words "enlisted men" shall be understood to designate members of the organized militia of Washington other than commissioned or warrant officers. The convictions and punishments mentioned unless otherwise specifically designated, shall be understood to be respectively convictions and punishments by military courts. [1943 c 130 § 80; Rem. Supp. 1943 § 8603–80. Prior: 1917 c 107 § 60.]

Reviser's note: *(1) "this act", see note following RCW 38.04.010.

(2) Caption for 1943 c 130 § 80 reads "Sec. 80. 'Officer' and 'Enlisted Man' defined."

38.04.030 Composition of the militia. The militia of the state of Washington shall consist of all able bodied citizens of the United States and all other able bodied persons who have or shall have declared their intention to become citizens of the United States, residing within this state, who shall be more than eighteen years of age, and shall include all persons who are members of the national guard, and said militia shall be divided into two classes, the organized militia and the unorganized militia. [1973 1st ex.s. c 154 § 55; 1963 c 74 § 1; 1943 c 130 § 2; Rem. Supp. 1943 § 8603–2. Prior: 1917 c 107 § 1; 1909 c 134 § 2; 1895 c 108 § 2.]

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

Militia—*Who liable to military duty: State Constitution Art. 10 § 1.*

38.04.040 Composition of organized militia. The organized militia of Washington shall consist of the

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commissioned officers, warrant officers, enlisted men, organizations, staffs, corps, and departments of the regularly commissioned, warranted and enlisted militia of the state, organized and maintained pursuant to law. Its numerical strength, composition, distribution, organization, arms, uniforms, equipment, training and discipline shall be prescribed by the governor in conformity with, and subject to the limitations imposed by the laws and regulations of the United States and the laws of this state: *Provided, however*, That the minimum enlisted strength of the organized militia of this state shall never be less than two thousand. [1943 c 130 § 4; Rem. Supp. 1943 § 8603–4. Prior: 1917 c 107 § 3. Cf. 1909 c 108 § 10, part; 1895 c 108 § 10, part.]

Chapter 38.08 POWERS AND DUTIES OF GOVERNOR

Sections

38.08.010	Conformance with federal laws.
38.08.020	Governor as commander-in-chief—Adjutant general executive head.
38.08.030	Proclamation of complete or limited martial law.
38.08.040	Governor may order out organized militia.
38.08.050	Governor may order out unorganized militia.
38.08.060	Governor's decision final.
38.08.070	Personal staff for governor.
38.08.080	Camp duty.
38.08.090	Governor to promulgate rules and regulations.
38.08.100	Compacts with other states for guarding boundaries.

Commander-in-chief: State Constitution Art. 3 § 8.

Commander-in-chief may order enrollment: RCW 38.44.010.

Militia—Organization—Discipline—Officers—Power to call out: State Constitution Art. 10 § 2.

38.08.010 Conformance with federal laws. The governor shall cause the organized militia of this state at all times to conform to all federal laws and regulations as are now or may hereafter from time to time become operative and applicable, notwithstanding anything in the laws of this state to the contrary. Except as and when otherwise specifically provided by federal laws, the organized militia of Washington, or any part thereof, shall be subject to call for United States service at such times, in such manner, and in such numbers as may from time to time be prescribed by the United States.

In conformity with the provisions of federal statutes, officers and enlisted men of the organized militia called or drafted into federal service by order or proclamation of the president of the United States, shall upon release from federal service revert to their former status, grade and rank, as members of the organized militia of Washington, and shall continue to serve in the organized militia of Washington until separated therefrom in the manner provided by law. [1943 c 130 § 5; Rem. Supp. 1943 § 8603–5. Prior: 1921 c 75 § 1; 1917 c 107 § 4; 1909 c 134 § 93; 1895 c 108 § 170.]

Reviser's note: Caption for 1943 c 130 § 5 reads: "Sec. 5. *Declaration of Policy.*"

38.08.020 Governor as commander-in-chief—**Adjutant general executive head.** The militia of the state not in the service of the United States shall be governed and its affairs administered pursuant to law, by the

governor, as commander-in-chief, through the adjutant general's department, of which the adjutant general shall be the executive head. [1961 c 210 § 1; 1943 c 130 § 3; Rem. Supp. 1943 § 8603-3. Prior: 1917 c 107 § 2; 1909 c 134 §§ 13, 14; 1895 c 108 § 13.]

Governor commander-in-chief: State Constitution Art. 3 § 8.

38.08.030 Proclamation of complete or limited martial law. The governor may by proclamation declare the county or city in which troops are serving, or any specific portion thereof, to be under either complete or limited martial law to the extent, in his opinion, that the reestablishment or maintenance of law and order may be promoted.

"Complete martial law" is the subordination of all civil authority to the military;

"Limited military law" is a partial subordination of civil authority by the setting up of an additional police power vested in the military force which shall have the right to try all persons apprehended by it in such area by a military tribunal or turn such offender over to civil authorities within five days for further action, during which time the writ of habeas corpus shall be suspended in behalf of such person. [1943 c 130 § 8; Rem. Supp. 1943 § 8603-8.]

38.08.040 Governor may order out organized militia. In event of war, insurrection, rebellion, invasion, tumult, riot, mob or body of men acting together by force with intent to commit a felony or to offer violence to persons or property, or by force and violence to break and resist the laws of this state, or the United States, or in case of the imminent danger of the occurrence of any of said events, or whenever responsible civil authorities shall, for any reason, fail to preserve law and order, or protect life or property, or the governor believes that such failure is imminent, or in event of public disaster, the governor shall have power to order the organized militia of Washington, or any part thereof, into active service of the state to execute the laws, and to perform such duty as he shall deem proper. [1943 c 130 § 6; Rem. Supp. 1943 § 8603-6. Prior: 1917 c 107 § 7; 1913 c 66 § 2; 1909 c 134 § 15.]

38.08.050 Governor may order out unorganized militia. In event of, or imminent danger of, war, insurrection, rebellion, invasion, tumult, riot, resistance to law or process or breach of the peace, if the governor shall have ordered into active service all of the available forces of the organized militia of Washington and shall consider them insufficient in number to properly accomplish the purpose, he may then in addition order out the unorganized militia or such portion thereof as he may deem necessary, and cause them to perform such military duty as the circumstances may require. [1943 c 130 § 9; Rem. Supp. 1943 § 8603-9. Prior: 1917 c 107 § 9; 1909 c 134 § 17; 1903 c 155 § 15; 1895 c 108 § 112.]

38.08.060 Governor's decision final. Whenever any portion of the militia is ordered to duty by the governor, the decision of the governor shall be final, incontrovertible, and unimpeachable.

Whenever any portion of the militia has been ordered out by the governor, it shall be deemed that local law and order and the enforcement thereof has failed, and that the militia shall become an additional police power, retaining its separate entity and operating at all times as a military organization under military command, to cooperate with existing peace forces wherever possible, for the reestablishment of law and order and for the protection of life and property. [1943 c 130 § 7; Rem. Supp. 1943 § 8603-7.]

38.08.070 Personal staff for governor. Whenever the governor shall desire the attendance of a personal staff upon any occasion, he shall detail therefor officers from the active list of the organized militia of Washington; the officers detailed shall attend in uniform and shall constitute the personal staff of the governor for that occasion, reverting upon completion of such duty to their regular assignments. [1943 c 130 § 15; Rem. Supp. 1943 § 8603-15. Prior: 1917 c 107 § 6; 1909 c 134 § 14. Cf. 1895 c 108 § 13, part.]

38.08.080 Camp duty. The governor shall cause the organized militia to perform each year, such camp duty, field maneuvers or other duty as in his judgment will best promote the discipline and efficiency of the force. [1943 c 130 § 44; Rem. Supp. 1943 § 8603-44. Prior: 1917 c 107 § 39; 1909 c 134 § 63; 1895 c 108 § 100.]

38.08.090 Governor to promulgate rules and regulations. The governor, through the adjutant general, shall promulgate in orders such rules and regulations and amendments thereto not inconsistent with law as he may deem necessary for the organization, maintenance and training of the militia, and the acquisition, use, issue or disposal of military property. The governor's regulatory powers herein with respect to military property shall include reasonable authority to make regulations controlling the use and temporary disposal of military property including real property for civic purposes where consistent with federal law and regulations, in a manner similar to the law pertaining to the use of armories. Such rules and regulations when so promulgated shall have the same force and effect as though herein enacted. [1969 ex.s. c 86 § 1; 1943 c 130 § 92; Rem. Supp. 1943 § 8603-92. Prior: 1917 c 107 § 123; 1909 c 134 § 94; 1895 c 108 § 171.]

Commander-in-chief authorized to make rules and regulations for specific armories (special or temporary acts not codified herein):

- (1) 1907 c 55 § 11, Armories at Seattle, Spokane and Tacoma;
- (2) 1909 c 68 § 10, Armory at Bellingham;
- (3) 1913 c 67 § 9, Armory at North Yakima;
- (4) 1917 c 108 § 9, Armory at Walla Walla;
- (5) 1917 c 109 § 9, Armory at Aberdeen;
- (6) 1917 c 166 § 9, Armory at Everett.

38.08.100 Compacts with other states for guarding boundaries. The governor, with consent of congress, is authorized to enter into compacts and agreements with governors of bordering states concerning guarding and patrol of bridges crossing the common boundaries of said states, and for the patrol of said common boundaries. In

any such compact or agreement the governor is authorized to permit militia of any bordering state to enter into areas of this state adjacent to said border, or to send militia of this state into areas of any bordering state adjacent to the common boundary as may be necessary to provide effective protection. [1951 c 253 § 1.]

Chapter 38.12

MILITIA OFFICERS AND ADVISORY COUNCIL

Sections

- 38.12.010 Adjutant general—Bond—Removal.
- 38.12.015 Department organized into separate divisions—Army national guard—Air national guard—Assistant adjutants general.
- 38.12.020 Powers and duties.
- 38.12.030 Adjutant general and assistant adjutants general—
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Militia—Organization—Discipline—Officers—Power to call out: State Constitution Art. 10 § 2.

38.12.010 Adjutant general—Bond—Removal.

The adjutant general shall be chief of staff to the governor, and may be removed by the governor at will. He shall appoint the civilian employees and other personnel of his department and may remove any of them in his discretion.

The expenses of the adjutant general's department, necessary to the military service, shall be audited, allowed, and paid as other military expenditures.

The adjutant general must execute an official bond running to the state in the penal sum of twenty thousand dollars conditioned for the faithful performance of his duties. The bond shall be submitted to the attorney general for approval, and when approved shall be filed in the office of the secretary of state. The cost of the bond shall be paid by the state.

The adjutant general may obtain and pay for, from funds appropriated for military purposes, a surety bond or bonds running to the state covering such officers of the organized militia responsible to the state for money or military property, as may be advisable to insure proper accountability. The bond or bonds shall be approved and filed in the same manner as the adjutant general's bond. [1957 c 250 § 2. Prior: 1943 c 130 § 16, part; 1917 c 107 § 11, part; 1913 c 66 § 4, part; 1909 c

134 § 27, part; 1901 c 78 § 4, part; 1895 c 108 § 38, part; Rem. Supp. 1943 § 8603-16, part.]

38.12.015 Department organized into separate divisions—Army national guard—Air national guard—Assistant adjutants general. The adjutant general's department shall be organized into separate divisions for the Washington army national guard and the Washington air national guard. Each division may have a general officer at its head who will be referred to as the assistant adjutant general for the Washington army national guard and the assistant adjutant general for the Washington air national guard. [1961 c 210 § 2.]

38.12.020 Powers and duties. (1) The adjutant general shall keep rosters of all active, reserve, and retired officers of the militia, and all other records, and papers required to be kept and filed therein, and shall submit to the governor during October of each even-numbered year a biennial report of the operations and conditions of the organized militia.

(2) He shall cause the military law, and such other military publications as may be necessary for the military service, to be prepared and distributed at the expense of the state, to the commissioned officers of the organized militia.

(3) He shall keep just and true accounts of all moneys received and disbursed by him.

(4) He shall attest all commissions issued to military officers of this state.

(5) He shall make out and transmit all militia reports, returns, and communications prescribed by acts of congress or by direction of the War Department.

(6) He shall have a seal, and all copies, orders, records, and papers in his office, duly certified and authenticated under the seal, shall be evidence in all cases in like manner as if the originals were produced. The seal now used in the office of the adjutant general shall be the seal of his office and shall be delivered by him to his successor. All orders issued from his office shall be authenticated with the seal.

(7) He shall make such regulations pertaining to the preparation of reports and returns and to the use, maintenance, care, and preservation of property in possession of the state for military purposes, whether belonging to the state or to the United States, as in his opinion the conditions demand.

(8) He shall attend to the care, preservation, safe-keeping, and repairing of the arms, ordinance, accoutrements, equipment, and all other military property belonging to the state, or issued to the state by the United States for military purposes, and keep accurate accounts thereof. Any property of the state military department which, after proper inspection, is found unsuitable or no longer needed for use of the state military forces, shall be disposed of in such manner as the governor shall direct and the proceeds thereof used for replacements in kind or by other needed authorized military supplies, and the adjutant general may execute the necessary instruments of conveyance to effect such sale or disposal.

(9) He shall issue the military property as the necessity of service requires and make purchases for that purpose. No military property shall be issued or loaned to persons or organizations other than those belonging to the militia, except in an emergency and then only with the approval of the adjutant general.

(10) He shall keep on file in his office the reports and returns of military units, and all other writings and papers required to be transmitted to and preserved at the general headquarters of the state militia.

(11) He shall keep all records of volunteers commissioned or enlisted for all wars or insurrections, and of individual claims of citizens for service rendered in these wars or insurrections, and he shall also be the custodian of all records, relics, trophies, colors, and histories relating to such wars now in possession of, or which may be acquired by the state.

(12) He shall establish and maintain as part of his office a bureau of records of the services of the organized militia of the state, and upon request furnish a copy thereof or extract therefrom, attested under seal of his office, and such attested copy shall be prima facie proof of service, birthplace, and citizenship.

(13) He shall keep a record of all real property owned or used by the state for military purposes, and in connection therewith he shall have sole power to execute all leases to acquire the use of real property by the state for military purposes, or lease it to other agencies for use for authorized activities. He shall also have full power to execute and grant easements for rights of way for construction, operation, and maintenance of utility service, water, sewage, and drainage for such realty. [1957 c 250 § 3. Prior: 1943 c 130 § 16, part; 1917 c 107 § 11, part; 1913 c 66 § 4, part; 1909 c 134 § 27, part; 1901 c 78 § 4, part; 1895 c 108 § 38, part; Rem. Supp. 1943 § 8603-16, part.]

Adjutant general may issue arms to Sons of Veterans: Chapter 73.28 RCW.

38.12.030 Adjutant general and assistant adjutants general—How chosen—Annual salaries: No member of judiciary of the state shall be an active member of guard. Whenever a vacancy has occurred, or is about to occur in the office of the adjutant general, the governor shall order to active service for that position from the active list of the Washington army national guard or Washington air national guard an officer not below the rank of a field officer who has had at least ten years service as an officer on the active list of the Washington army national guard or the Washington air national guard during the fifteen years next prior to such detail. The officer so detailed shall during the continuance of his service as the adjutant general hold the rank of a general officer.

Whenever a vacancy has occurred, or is about to occur, in the offices of assistant adjutants general for the Washington army national guard or the Washington air national guard, the adjutant general with the concurrence of the governor may appoint an officer of the army national guard or the air national guard, who has had at least ten years service in the active list of his respective branch during the fifteen years next prior to such detail.

The officer so detailed, may during the continuance of his service as assistant adjutant general hold the rank of a general officer.

If, by reason of the call, or draft of officers of the Washington army national guard and/or air national guard into federal service, there shall be no officer of the Washington national guard available for detail as the adjutant general or as an assistant adjutant general who possesses the requisite qualifications, then the governor may appoint any officer or former officer of the organized militia of Washington as acting adjutant general or as an acting assistant adjutant general: *Provided*, That in the event the officers on detail as the adjutant general or as assistant adjutants general should be appointed, called or drafted into the military service of the United States by order or proclamation of the president, then they shall be granted leaves of absence by the governor, and such officers shall be entitled, upon release from federal service, to return to their former status as adjutant general or as assistant adjutants general, of Washington, and during the period that they are in federal service, the duties of these offices shall be performed by an acting adjutant general and acting assistant adjutants general, appointed by the governor, as hereinbefore provided, and who shall receive the same pay provided for the adjutant general and/or assistant adjutants general respectively, during the period of such assignments.

The adjutant general shall receive an annual salary equal to the base pay of a major general in the United States army. The assistant adjutant general for the Washington army national guard, and the assistant adjutant general for the Washington air national guard shall each receive an annual salary equal to the base pay of an officer of equivalent grade in the United States army or United States air force but not to exceed that of a brigadier general: *Provided*, That no member of the judiciary of the state shall be an active member of the national guard or the air national guard. [1965 ex.s. c 100 § 1; 1961 c 210 § 3; 1943 c 130 § 21; Rem. Supp. 1943 § 8603-21. Prior: 1921 c 75 § 2; 1917 c 107 § 14; 1909 c 134 § 31, part; 1895 c 108 § 42, part.]

38.12.040 Advisory council. There is hereby created an advisory council to consist of the adjutant general, one member of his staff, to be designated by him and the five senior officers from the rest of the active officer personnel of the organized militia. This council shall meet annually during the first week in February of each year on a date to be fixed by the adjutant general, and may be called for special meeting by the adjutant general, the governor, or upon notice signed by at least four members thereof. All special meetings must state nature of business requiring such call. The attendance of five members shall be necessary for a quorum to transact business at any meeting. [1943 c 130 § 17; Rem. Supp. 1943 § 8603-17.]

38.12.050 Duties of advisory council. It shall be the duty of the advisory council to advise with the adjutant general on a program for training of the organized militia; the allocation of units; discipline of the commissioned and enlisted personnel; coordination with federal

requirements; determination of questions affecting seniority and promotion; use or rental of state owned armories for nonmilitary purposes; do and perform such other duties as may be required by the governor or adjutant general, and, in case of vacancy in office of the adjutant general, to certify a list of those eligible. [1943 c 130 § 18; Rem. Supp. 1943 § 8603-18.]

38.12.060 Officers to be commissioned by the governor. All commissioned and warrant officers of the organized militia of Washington shall be appointed and commissioned or warranted by the governor only as hereinafter provided. No person shall be so appointed and commissioned or warranted unless he shall be a citizen of the United States and of this state and more than eighteen years of age. Every commissioned and warranted officer shall hold office under his commission or warrant until he shall have been regularly appointed and commissioned or warranted to another rank or office, or until he shall have been regularly retired, discharged, dismissed or placed in the reserve. [1971 ex.s. c 292 § 41; 1943 c 130 § 19; Rem. Supp. 1943 § 8603-19. Prior: 1917 c 107 § 12, part; 1909 c 134 § 31, part; 1895 c 108 § 42, part.]

Severability—1971 ex.s. c 292: See note following RCW 26.28.010.

38.12.070 Examining board. No person shall be appointed and commissioned or warranted to any office in the organized militia of Washington unless he shall have been examined and adjudged qualified therefor by an examining board, appointed by the adjutant general, and whose report shall have been approved by the authority appointing the board. The composition, appointment and procedure of examining boards and the nature and scope of examinations shall be as prescribed by the laws or regulations of the United States or those of this state. Whenever a commissioned officer shall have been examined for promotion pursuant to this section and shall have been adjudged not qualified therefor, upon approval by the authority appointing the board of its report to that effect such officer shall be honorably discharged, retired or placed in the reserve as the governor shall direct. [1943 c 130 § 20; Rem. Supp. 1943 § 8603-20. Prior: 1917 c 107 § 13; 1909 c 134 § 32; 1895 c 108 § 53.]

Reviser's note: Caption for 1943 c 130 § 20 reads: "Sec. 20. *Commissioned and Warrant Officers.*"

38.12.090 Eligibility for staff assignment. Staff officers of the organized militia of Washington hereafter detailed shall have had previous military experience and shall hold their positions until they shall have reached the age of sixty-four years, unless retired prior to that time by reason of resignation, disability, or for cause to be determined by a court martial legally convened for that purpose, and vacancies among said officers shall be filled by detail from the qualified officers of the organized militia of this state. [1943 c 130 § 23; Rem. Supp. 1943 § 8603-23. Prior: 1917 c 107 § 16; 1909 c 134 § 31, part; 1895 c 108 § 42, part.]

38.12.095 Appointment or promotion of commissioned officers to be made by officer promotion board—Exceptions. Whenever a commissioned officer is to be appointed or promoted either to fill a vacancy in the organized militia (Washington army national guard, Washington air national guard and the Washington state guard) or for any other reason, the officer to be appointed or promoted shall be selected by the officer promotion board: *Provided, however,* That this in no way will change the powers of the governor under RCW 38.12.060: *And provided further, however,* That this section in no way applies to appointments or promotions to adjutant general or assistant adjutant general. [1974 ex.s. c 34 § 1.]

38.12.105 Criteria and guidelines for promotion of commissioned officers. All promotions of commissioned officers in the organized militia will be made on a best-qualified basis. The officer promotion board will select the best-qualified officer for each promotion from among those officers fully qualified for promotion. To be promoted, the selected officer must also meet the requirements of RCW 38.12.070. In no event will seniority be the sole guideline for selecting the officer to be promoted. The officer promotion board will, in determining the best qualified officer, consider the overall qualifications of an officer and not just the qualifications for one position. [1974 ex.s. c 34 § 2.]

38.12.115 Officer promotion board—Meetings—Powers and duties. The officer promotion board will meet from time to time as directed by the adjutant general. The board will select the best qualified officer for each promotion to be made in the organized militia, will approve or disapprove the appointment of all of the commissioned officers in the organized militia, and will do any other act pertaining thereto directed by the adjutant general or allowed or directed by statute. [1974 ex.s. c 34 § 3.]

38.12.125 Officer promotion board—Composition. The officer promotion board shall be composed as follows:

(1) For promotions or appointments of army national guard officers, the board will consist of the adjutant general, the assistant adjutant general army, and the five senior commanders in the Washington army national guard: *Provided, however,* That if the board is selecting an officer for promotion to the rank of colonel, any member of the board who is a lieutenant colonel will be automatically disqualified and will not be replaced: *Provided further, however,* That if the board is selecting an officer for promotion to the rank of brigadier general, any member of the board who is a lieutenant colonel or who is a colonel will be automatically disqualified and will not be replaced.

(2) For promotions or appointments of air national guard officers, the board will consist of the adjutant general, the assistant adjutant general air, and the five senior commanders in the Washington air national guard: *Provided, however,* That if the board is selecting an officer for promotion to the rank of colonel, any

member of the board who is a lieutenant colonel will be automatically disqualified and will not be replaced: *Provided further, however*, That if the board is selecting an officer for promotion to the rank of brigadier general, any member of the board who is a lieutenant colonel or who is a colonel will be automatically disqualified and will not be replaced.

(3) For promotions or appointments of state guard officers, the board will consist of the adjutant general, the assistant adjutant general army, and the five senior officers in the state guard: *Provided, however*, That if the board is selecting an officer for promotion to the rank of colonel, any member of the board who is a lieutenant colonel will be automatically disqualified and will not be replaced: *Provided further, however*, That if the board is selecting an officer for promotion to the rank of brigadier general, any member of the board who is a lieutenant colonel or who is a colonel will be automatically disqualified and will not be replaced. [1974 ex.s. c 34 § 4.]

38.12.135 Officer promotion board—Official acts—Approval requirements—Rules. To be an official act of the officer promotion board, an act of that board must be approved by not less than four of the members of the board: *Provided, however*, That if the board consists of less than four officers, the approval of the board shall be unanimous.

An action of an officer promotion board may be an official act of the board without a meeting if all members of the board approve in writing the act in question.

The adjutant general will from time to time fix the rules under which the board will operate. [1974 ex.s. c 34 § 5.]

38.12.150 Officer to take oath. Every officer, duly commissioned or warranted shall within such time as may be provided by law or by regulations, take the oath of office prescribed by law, and give bond, if required. In case of neglect or refusal so to do, he shall be considered to have resigned such office and a new appointment may be made as provided by law. [1943 c 130 § 29; Rem. Supp. 1943 § 8603-29. Prior: 1917 c 107 § 26; 1909 c 134 § 36, part; 1895 c 108 § 51.]

38.12.160 Oath, form of. The oath of office for commissioned and warrant officers in the organized militia of Washington shall be substantially as follows: "I, _____, do solemnly swear that I will support and defend the Constitution of the United States and the Constitution of the state of Washington, against all enemies, foreign or domestic; that I will bear true faith and allegiance to the same; that I will obey the orders of the president of the United States and of the governor of the state of Washington, that I make this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office of _____ in the organized militia of the state of Washington upon which I am about to enter, so help me God." [1943 c 130 § 30; Rem. Supp. 1943 § 8603-30. Prior: 1917 c 107 § 27; 1909 c 134 § 37.]

Subversive activities: Chapter 9.81 RCW.

38.12.170 Dismissal of officers. 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 such officer is then assigned.
- (5) Acceptance of resignation of such officer: *Provided*, That no officer shall be discharged or his resignation accepted while under arrest or against whom military charges have been preferred, or until he shall have turned over to his successor or satisfactorily accounted for all state and federal moneys, and military property for which he shall be 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. [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 organized militia of Washington shall upon reaching the age of sixty-four years be retired by order of the commander-in-chief in the next higher rank to that held at the time of such retirement.

Retired officers shall draw no pay or allowance except when on active duty.

They shall be 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. [1943 c 130 § 33; Rem. Supp. 1943 § 8603-33. Prior: 1909 c 134 § 40; 1895 c 108 § 66.]

38.12.200 Uniform allowance to officers. Every commissioned officer of the organized militia of Washington shall within sixty days from the date of the order whereby he shall have been appointed, provide himself at his own expense, with the uniform and equipment prescribed by the governor for his rank and assignment.

There shall be audited and paid to each properly uniformed and equipped officer of the active list of the organized militia of Washington, not in federal service

an initial uniform allowance of one hundred dollars and annually thereafter for each twelve months state service an additional uniform allowance of fifty dollars, subject to such regulations as the commander-in-chief may prescribe to be audited and paid upon presentation of proper voucher therefor: *Provided*, That all officers on the active list on March 31, 1943, and not in federal service, shall be paid the initial uniform allowance, and, thereafter the annual allowance as herein provided: [1943 c 130 § 37; Rem. Supp. 1943 § 8603-37. Prior: 1923 c 49 § 1; 1917 c 107 § 32; 1909 c 134 § 49; 1903 c 155 § 11; 1901 c 78 § 8; 1895 c 108 § 76.]

Chapter 38.16 ENLISTMENTS AND RESERVES

Sections

38.16.010	Period of enlistment.
38.16.020	Discharge of enlisted men.
38.16.030	Reserves.
38.16.040	State guard reserve.

38.16.010 Period of enlistment. The period of enlistment in the organized militia of Washington shall be for three years: *Provided*, That no original enlistment may be consummated unless the term thereof can be completed before the applicant attains the age of sixty-four. [1943 c 130 § 35; Rem. Supp. 1943 § 8603-35. Prior: 1917 c 107 § 30; 1909 c 134 § 41; 1895 c 108 § 57.]

38.16.020 Discharge of enlisted men. An enlisted man discharged from service in the organized militia of Washington shall receive a notice of discharge in writing in such form and classification as is or shall be prescribed by law or regulations, and in time of peace discharges may be given prior to the expiration of terms of enlistment under such regulations as may be prescribed by competent authority. [1943 c 130 § 36; Rem. Supp. 1943 § 8603-36. Prior: 1917 c 107 § 31; 1909 c 134 § 45, part; 1895 c 108 § 67, part.]

38.16.030 Reserves. The national guard reserve of this state shall respectively be organized by the governor in regulations conforming with the laws, rules and regulations of the United States. It shall consist of such organizations, officers and enlisted men as the governor shall prescribe. No commissioned officer shall be transferred or furloughed to the national guard reserve without his written consent, except as otherwise expressly provided by law. Any officer of the national guard reserve may be restored to the active list by order of the governor, subject to the same examination as in the case of an original appointment to his rank, and in such event his service in reserve shall not be counted in computing total length of service for relative seniority. [1943 c 130 § 34; Rem. Supp. 1943 § 8603-34. Prior: 1917 c 107 § 29.]

38.16.040 State guard reserve. In order to afford the utmost protection to the state of Washington and to the lives and property of citizens thereof, in times of emergency or anticipation thereof, the governor, through the

state military department may provide for the organization and training of state guard reserve companies in communities not allocated a federally recognized or authorized state guard unit. [1943 c 130 § 86; Rem. Supp. 1943 § 8603-86.]

Chapter 38.20 ARMORIES AND RIFLE RANGES

Sections

38.20.010	Regulations governing armories.
38.20.020	City may acquire armory site.
38.20.030	Counties may expend moneys for armory site.
38.20.040	Rental of property, armories and rifle ranges.
38.20.050	Rifle ranges.

Establishment of armories: The following special or temporary acts relating to the establishment of armories are not codified herein:

- (1) 1907 c 55, Armories at Seattle, Spokane and Tacoma;
- (2) 1909 c 68, Armory at Bellingham;
- (3) 1913 c 67, Armory at North Yakima;
- (4) 1917 c 108, 1919 c 19, Armory at Walla Walla;
- (5) 1917 c 109, 1919 c 20, Armory at Aberdeen;
- (6) 1917 c 166, 1919 c 21, Armory at Everett;
- (7) 1939 c 152, Armory at Olympia;
- (8) 1939 c 215, Naval and marine corps reserve armory at Seattle;
- (9) 1941 c 236, Naval and marine corps reserve armory at Tacoma;
- (10) 1953 c 277 §§ 1, 2 and 3, Armory at Spokane.

Explosives, manufacture, sale or storage: Chapter 70.74 RCW.

Joint armory sites: RCW 36.64.050.

Militia—Public arms: State Constitution Article 10 § 4.

State, county and municipal indebtedness—Powers extended in certain cases: State Constitution Article 8 § 2.

38.20.010 Regulations governing armories. State owned armories may be used for strictly military purposes: *Provided*, That one room may be set aside for the exclusive use of bona fide veteran organizations subject to the direction of the officer in charge thereof, together with necessary furniture, heat, light and janitor service, and the members of such veteran organizations and their auxiliaries shall have access to said room and the use thereof at all times: *Provided, further*, That any bona fide veterans' organization may be permitted the use of any state armory for athletic and social events at such times as any such armory shall not be required for the use of units of the organized militia, without the payment of rent, but the adjutant general may require such veterans' organization to pay the cost of heating, lighting or other miscellaneous expenses incidental to such use: *Provided, also*, The adjutant general may, during an emergency, permit transient lodging of service personnel in armories: *Provided further*, That any civilian rifle club affiliated with the National Rifle Association of America shall be permitted to use the rifle range in such armories at least one night each week under regulations prescribed by the adjutant general: *Provided, also*, That state owned armories shall be available, at the discretion of the adjutant general, for use for casual civic purposes, amateur and professional sports and theatricals upon payment of fixed rental charges and compliance with regulations of the state military department: *Provided, however*, That children attending primary and high schools shall have a preferential right to use said armories. The adjutant general shall cause to be prepared a schedule of rental charges for each state owned armory

which may not be waived except for activities of units of the organized militia, and no state owned armory shall be rented for a term longer than that which intervenes between regularly authorized formations of units of the organized militia using such armory. The revenue derived from armory rentals shall be paid into the state general fund. On and after July 1, 1977, the special fund known as the armory fund is abolished and all moneys remaining in such fund are hereby transferred to the state general fund. [1975 1st ex.s. c 121 § 1; 1973 1st ex.s. c 154 § 56; 1963 c 149 § 1; 1949 c 125 § 1; 1947 c 204 § 1; 1943 c 130 § 93; Rem. Supp. 1949 § 8603-93. Prior: 1923 c 49 § 5; 1917 c 8 § 1; 1909 c 134 § 97; 1907 c 55 § 11; 1903 c 115 §§ 19, 20.]

Effective date—1975 1st ex.s. c 121: "The effective date of this act shall be July 1, 1977." [1975 1st ex.s. c 121 § 2.]

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

Special acts relating to armories: The following special or temporary acts relating to particular armories are not codified herein:

- (1) 1959 c 181; 1961 c 135; 1963 c 146, Seattle
- (2) 1967 c 37, Prosser
- (3) 1967 c 43, Centralia
- (4) 1967 c 44, Chewelah
- (5) 1967 c 214, Stevens County
- (6) 1967 c 224, Tacoma and Pierce County
- (7) 1967 c 226, Yakima
- (8) 1969 ex.s. c 22, Kirkland.

38.20.020 City may acquire armory site. Any city in the state of Washington in which a unit of the national guard is stationed, or is to be stationed, is hereby authorized and empowered to acquire a site for an armory by gift or purchase, and to construct an armory thereon, and to issue and sell its general obligation bonds for said purposes, within the debt limits prescribed by the Constitution, with full power to sell or lease the same to the state of Washington or to the United States. [1933 ex.s. c 16 § 1; RRS § 8598-1.]

38.20.030 Counties may expend moneys for armory site. Any county of the state of Washington is hereby authorized and empowered to appropriate money for the purchase of an armory site whenever the legislature of this state shall appropriate money for or authorize the construction of an armory therein. [1907 c 55 § 3 1/2; No RRS.]

38.20.040 Rental of property, armories and rifle ranges. All armories and rifle ranges and all property, real or personal, used by the national guard and not owned by the state of Washington or the United States, shall be leased or rented to the state upon such terms and conditions as shall be approved by the commander-in-chief. [1909 c 134 § 98; RRS § 8599.]

Reviser's note: Caption for 1909 c 134 § 98 reads: "Sec. 98. *Lease of Property by the National Guard.*"

38.20.050 Rifle ranges. Under the direction of the governor, the adjutant general shall, at the expense and in the name of the state, buy or lease, establish, equip, maintain and control such rifle ranges and issue such ammunition, transportation and supplies as may be necessary to provide each unit of the organized militia of

Washington with adequate means and opportunity for thorough instruction in rifle practice. [1943 c 130 § 91; Rem. Supp. 1943 § 8603-91. Prior: 1917 c 107 § 120; 1909 c 134 § 92; 1895 c 108 § 168.]

Chapter 38.24 CLAIMS AND COMPENSATION

Sections

38.24.010	Payment of military claims.
38.24.020	Audit and payment of awards.
38.24.030	Transportation and subsistence.
38.24.040	Allowances for incidental expenses.
38.24.050	Pay of officers and enlisted men.
38.24.060	Employment and reemployment rights upon return from active duty.

38.24.010 Payment of military claims. All bills, claims and demands for military purposes shall be certified or verified and audited in the manner prescribed by regulations promulgated by the governor and shall be paid by the state treasurer from funds available for that purpose: *Provided, however,* That in all cases where the organized militia, or any part thereof, is called into the service of the state in case of war, riot, insurrection, invasion, breach of the peace, or to execute or enforce the laws, warrants for allowed pay and expenses for such services or compensation for injuries or death shall be drawn upon the general fund of the state treasury and paid out of any moneys in said fund not otherwise appropriated. All such warrants shall be the obligation of the state and shall bear interest at the legal rate from the date of their presentation for payment. [1973 c 106 § 14; 1943 c 130 § 42; Rem. Supp. 1943 § 8603-42. Prior: 1917 c 107 § 36; 1909 c 134 § 56, part; 1895 c 108 § 91, part.]

38.24.020 Audit and payment of awards. All compensation shall be payable in monthly installments and shall be audited and paid as any other claim against the military department and shall be payable from the general fund out of any moneys not otherwise appropriated. [1943 c 130 § 41; Rem. Supp. 1943 § 8603-41. Prior: 1917 c 107 § 35; 1909 c 134 § 56, part; 1895 c 108 § 41, part.]

38.24.030 Transportation and subsistence. There shall be provided by the state, transportation for all officers, and transportation and subsistence for all enlisted men who shall be ordered out for encampment, field duty, or assembled for duty in case of riot, tumult, breach of the peace, war, insurrection, invasion or imminent danger thereof. Necessary transportation, quartermasters' stores and subsistence for troops when ordered on duty shall be contracted for by the proper officers and paid for as other military bills. [1943 c 130 § 51; Rem. Supp. 1943 § 8603-51. Prior: 1913 c 66 § 11; 1909 c 134 § 58; 1895 c 108 § 89, part.]

38.24.040 Allowances for incidental expenses. Each commanding officer of the organized militia, not in federal service, shall be entitled to receive an allowance for the incidental expenses of his command payable quarterly in advance according to the following schedule:

Companies, batteries and like units, not to exceed twenty-five dollars per month; bands not to exceed fifteen dollars per month; regiments and like units not to exceed twenty-five dollars per month.

Each officer entitled to a quarterly allowance under this section shall receive in advance the maximum quarterly allowance, but with his claim for subsequent allowance, he shall report any balance remaining unexpended from the last previous quarter, and for each succeeding quarter such officer shall be reimbursed for the expenditures thus made but not to exceed the maximum allowance above prescribed. Each claim for quarterly allowance shall include an account current showing the items of expenditure and shall be accompanied by subvouchers for all items, each voucher stating definitely the nature and amount of the expenditure evidenced thereby. Said accounts shall be audited at least annually by an officer senior in rank to the accountable officer. [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.]

38.24.050 Pay of officers and enlisted men. Commissioned officers, warrant officers, and enlisted men of the organized militia of Washington, while in active service, during encampment or other periods of field training, or on any ordered state duty, or on any active duty, shall be entitled to and shall receive the pay and allowances provided by federal laws and regulations for commissioned officers, warrant officers and enlisted men of the United States army: *Provided*, That officers shall receive travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended: *Provided, further*, That for periods of active state service other than for annual field training, commissioned officers, warrant officers and enlisted men of the organized militia of Washington shall receive either such pay and allowances or twenty-five dollars per day, whichever is greater.

Extra duty pay or allowances to enlisted men rated as cooks, may be authorized by the commander-in-chief during periods of field service or any other duty for which pay is authorized, but in no case shall such additional extra duty pay or allowances exceed two dollars per day.

The value of articles issued to any enlisted man and not returned in good order on demand, and legal fines or forfeitures, may be deducted from such enlisted man's pay.

All officers not regular state employees 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, shall be paid a sum equal to one days active duty for each day actually employed on such 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 shall be at a place other than the city or town of his residence. [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 the same rights of employment or reemployment as they would have if they had been called to active duty in the United States army. [1974 ex.s. c 46 § 2.]

Reemployment rights and benefits of national guard members returning from active duty: RCW 73.16.031-73.16.061.

Chapter 38.32 OFFENSES—PUNISHMENT

Sections

- 38.32.010 Offenses against laws of this state by persons on duty status.
- 38.32.020 Offenses under Washington code of military justice.
- 38.32.030 Exemptions while on duty.
- 38.32.070 Soldier removed from state, request for discharge.
- 38.32.080 Penalty for failure to obey call.
- 38.32.090 Penalty for physician making false certificate.
- 38.32.100 Buying and receiving military property.
- 38.32.120 Authority of commanding officer.
- 38.32.130 Punishment for offenses.
- 38.32.140 Sentence to confinement.

Militia—Organization—Discipline—Officers—Power to call out: State Constitution Art. 10 § 2.

38.32.010 Offenses against laws of this state by persons on duty status. Any officers and men of the organized militia on duty status as provided in RCW 38.38.624, or within state armories, committing offenses against the laws of the state, shall be promptly arrested by the military authorities and turned over to the civil authorities of the county or city in which the offense was committed. [1963 c 220 § 134; 1943 c 130 § 82; Rem. Supp. 1943 § 8603-82.]

38.32.020 Offenses under Washington code of military justice. Offenses under chapter 38.38 RCW committed while on active duty as defined in RCW 38.04.010 may be tried and punished as provided under chapter 38.38 RCW after this active duty has terminated, and if found guilty the accused shall be punished accordingly. Any officers and men of the organized militia on "active service," as defined in RCW 38.04.010, committing any offense under chapter 38.38 RCW, where the offense charged is also made an offense by the civil law of this state, may, in the discretion of the officer whose duty it is to approve the charge, be turned over to the proper civil authorities for trial.

Any officers and men of the organized militia on "active service," as defined in RCW 38.04.010, committing any offense under chapter 38.38 RCW, may, if such offense is committed upon a military reservation of the

United States within this state, be turned over to the civil authorities for trial as provided by federal law. [1963 c 220 § 135; 1943 c 130 § 81; Rem. Supp. 1943 § 8603-81.]

38.32.030 Exemptions while on duty. No person belonging to the military forces of this state shall be arrested on any warrant, except for treason or felony, while going to, remaining at, or returning from any place at which he may be required to attend military duty. Any members of the organized militia parading, or performing any duty according to the law shall have the right of way in any street or highway through which they may pass and while on field duty shall have the right to enter upon, cross or occupy any uninclosed lands, or any inclosed lands where no damage will be caused thereby: *Provided*, That the carriage of the United States mail and legitimate functions of the police and fire departments shall not be interfered with thereby. [1943 c 130 § 45; Rem. Supp. 1943 § 8603-45. Prior: 1917 c 107 § 40; 1909 c 134 § 66; 1895 c 108 § 103.]

38.32.070 Soldier removed from state, request for discharge. If any soldier is known to have removed from the state, and, through ignorance or neglect, has failed to apply for discharge, his discharge may be requested by his immediate commanding officer. [1963 c 220 § 136; 1943 c 130 § 84; Rem. Supp. 1943 § 8603-84. Cf. 1917 c 107 § 83.]

Reviser's note: Caption for 1943 c 130 § 84 reads: "Sec. 84. Desertion."

38.32.080 Penalty for failure to obey call. Any member of the militia who shall have been ordered out for either state or federal service and who shall refuse or wilfully or negligently fail to report at the time and place and to the officer designated in the order or to the representative or successor of such officer, shall be deemed guilty of desertion, and shall suffer such penalty as a general court martial may direct, unless he shall produce a sworn certificate from a licensed physician of good standing that he was physically unable to appear at the time and place designated: *Provided*, That any person chargeable with desertion under this section may be taken by force and compelled to serve. [1943 c 130 § 10; Rem. Supp. 1943 § 8603-10. Prior: 1917 c 107 § 10; 1909 c 134 § 21; 1895 c 108 § 114.]

38.32.090 Penalty for physician making false certificate. Any physician who shall knowingly make and deliver a false certificate of physical disability concerning any member of the militia who shall have been ordered out or summoned for active service shall be guilty of perjury and, upon conviction, as an additional penalty, shall forfeit forever his license and right to practice his profession in this state. [1943 c 130 § 11; Rem. Supp. 1943 § 8603-11. Prior: 1909 c 134 § 22.]

38.32.100 Buying and receiving military property. Any person who shall purchase or receive in pawn or pledge any military property of the state or of the

United States shall be guilty of a gross misdemeanor and, upon conviction thereof, shall be fined not more than five hundred dollars or imprisoned for not more than six months or both such fine and imprisonment. [1943 c 130 § 87; Rem. Supp. 1943 § 8603-87. Cf. 1917 c 107 § 68.]

38.32.120 Authority of commanding officer. The commanding officer at any drill, parade, encampment or other duty may place in arrest for the time of such drill, parade, encampment or other duty any person or persons who shall trespass on the camp grounds, parade grounds, rifle range or armory, or in any way or manner interrupt or molest the orderly discharge of duty of those on duty, or who shall disturb or prevent the passage of troops going to or returning from any regularly ordered tour of duty; and he may prohibit and prevent the sale or use of all spirituous liquors, wines, ale or beer, or holding of huckster or auction sales, and all gambling therein, and remove disorderly persons beyond the limits of such parade or encampment, or within a distance of two miles therefrom, and he shall have full authority to abate as common nuisances all disorderly places, and bar all unauthorized sales within such limits. Any person violating any of the provisions of this section, or any order issued in pursuance thereof, shall be guilty of a misdemeanor, and upon conviction shall be fined not more than one hundred dollars, or imprisoned not more than thirty days, or by both such fine and imprisonment.

No license or renewal thereof shall be issued or granted to any person, firm or corporation for the sale of intoxicating or spirituous liquors within a distance of three hundred feet from any armory used by the state of Washington for military purposes, without the approval of the adjutant general. [1963 c 220 § 137; 1943 c 130 § 52; Rem. Supp. 1943 § 8603-52. Prior: 1937 c 51 § 1; 1909 c 134 § 62; 1895 c 108 § 99.]

38.32.130 Punishment for offenses. On conviction of *any offense hereunder for which no specific penalty has been prescribed or for which no penalty is prescribed under chapter 38.38 RCW, the punishment shall not exceed thirty days imprisonment or one hundred dollars fine, or both such fine and imprisonment. [1963 c 220 § 138; 1943 c 130 § 94; Rem. Supp. 1943 § 8603-94.]

Reviser's note: (1) The amendment of this section by 1963 c 220 § 138 does not take cognizance of the section's repeal by 1963 c 220 § 139.

* (2) Words "any offense hereunder" refer to 1943 c 130; for codification see note following RCW 38.04.010.

38.32.130 Punishment for offenses. [1963 c 220 § 138; 1943 c 130 § 94; Rem. Supp. 1943 § 8603-94.] Repealed by 1963 c 220 § 139.

38.32.140 Sentence to confinement. All military courts of the organized militia of Washington shall have power to sentence to confinement in lieu of fines authorized to be imposed: *Provided*, That such sentence of confinement shall not exceed one day for each dollar of fine authorized. [1943 c 130 § 61; 1917 c 107 § 53; Rem. Supp. 1943 § 8603-61.]

**Chapter 38.36
TRIAL PROCEDURE**

Sections

38.36.120 Fees and mileage.

38.36.120 Fees and mileage. Fees and mileage allowed for the service of process and for civilian witnesses shall be the same as in civil actions. All expenditures necessary to carry the provisions of *this act into effect are hereby authorized to be incurred, and paid out of the appropriations for the maintenance of the organized militia of Washington. [1943 c 130 § 78; Rem. Supp. 1943 § 8603-78. Prior: 1917 c 107 § 59; 1909 c 134 § 90.]

*Reviser's note: "this act", see note following RCW 38.04.010.
Compensation of jurors: RCW 2.36.150.
Travel expense in lieu of mileage in certain cases: RCW 2.40.030.
Witness fees and mileage: RCW 2.40.010.

**Chapter 38.38
WASHINGTON CODE OF MILITARY JUSTICE**

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PART I—GENERAL PROVISIONS

38.38.004 Definitions. In this chapter, unless the context otherwise requires:

- (1) "State military forces" means the national guard of the state, as defined in section 101(3) of title 32, United States Code, the organized naval militia of the state, and any other military force organized under the laws of the state of Washington and shall be analogous to "organized militia" as defined in RCW 38.04.010.
- (2) "Officer" means commissioned or warrant officer.
- (3) "Commissioned officer" includes a commissioned warrant officer.
- (4) "Commanding officer" includes only commissioned officers.
- (5) "Superior commissioned officer" means a commissioned officer superior in rank and command.
- (6) "Enlisted member" means a person in an enlisted grade.
- (7) "Grade" means a step or degree, in a graduated scale of office or military rank, that is established and designated as a grade by law or regulation.
- (8) "Rank" means the order of precedence among members of the state military forces.
- (9) "Active state duty" means full time duty in the active military service of the state under an order of the governor issued under authority vested in him by law, and includes travel to and from such duty.

(10) "Duty status other than active state duty" means and includes any periods of drill and such other training and service not requiring the entire time of the organization or person as may be required under state or federal laws, regulations or orders, and includes travel to and from such duty.

(11) "Military court" means a court martial, a court of inquiry, or a provost court.

(12) "Law officer" means an official of a general court martial detailed in accordance with RCW 38.38.256.

(13) "Law specialist" means a commissioned officer of the organized naval militia of the state designated for special duty (law).

(14) "Legal officer" means any commissioned officer of the organized naval militia of the state designated to perform legal duties for a command.

(15) "State judge advocate" means the commissioned officer responsible for supervising the administration of the military justice in the state military forces.

(16) "Accuser" means a person who signs and swears to charges, any person who directs that charges nominally be signed and sworn to by another, and any person who has an interest other than an official interest in the prosecution of the accused.

(17) "Military" refers to any or all of the armed forces.

(18) "Convening authority" includes, in addition to the person who convened the court, a commissioned officer commanding for the time being, or a successor in command.

(19) "May" is used in a permissive sense. The words "no person may . . ." mean that no person is required, authorized, or permitted to do the act prescribed.

(20) "Shall" is used in an imperative sense.

(21) "Code" means this chapter. [1963 c 220 § 1.]

Effective date—1963 c 220. "This act shall take effect on July 1, 1963." [1963 c 220 § 140.] This applies to chapter 38.38 RCW; the 1963 amendments to RCW 38.04.010, 38.32.010, 38.32.020, 38.32.070, 38.32.120 and 38.32.130; and the repeal of RCW 38.04.050, 38.28.010 through 38.28.080, 38.32.040, 38.32.050, 38.32.060, 38.32.110, 38.32.130, and 38.36.010 through 38.36.110.

38.38.008 Persons subject to this code. This code applies to all members of the state military forces who are not in federal service. [1963 c 220 § 2.]

38.38.012 Jurisdiction to try certain personnel. (2) No person who has deserted from the state military forces may be relieved from amenability to the jurisdiction of this code by virtue of a separation from any later period of service. [1963 c 220 § 3.]

Reviser's note: Subsection (1) of this section was vetoed.

38.38.016 Dismissal of commissioned officer. (1) If any commissioned officer, dismissed by order of the governor, makes a written application for trial by court martial, setting forth, under oath, that he has been wrongfully dismissed, the governor, as soon as practicable, shall convene a general court martial to try that officer on the charges on which he was dismissed. A

court martial so convened has jurisdiction to try the dismissed officer on those charges, and he shall be considered to have waived the right to plead any statute of limitations applicable to any offense with which he is charged. The court martial may, as part of its sentence, adjudge the affirmance of the dismissal, but if the court martial acquits the accused or if the sentence adjudged, as finally approved or affirmed, does not include dismissal, the chief of staff to the governor or adjutant general shall substitute for the dismissal ordered by the governor a form of discharge authorized for administrative issue.

(2) If the governor fails to convene a general court martial within six months from the presentation of an application for trial under this code, the chief of staff to the governor or adjutant general shall substitute for the dismissal ordered by the governor a form of discharge authorized for administrative issue.

(3) If a discharge is substituted for a dismissal under this code, the governor alone may reappoint the officer to such commissioned grade and with such rank as, in the opinion of the governor, that former officer would have attained had he not been dismissed. The reappointment of such a former officer may be made only if a vacancy is available under applicable tables of organization. All time between the dismissal and the reappointment shall be considered as actual service for all purposes.

(4) If an officer is discharged from the organized militia by administrative action or by board proceedings under law, or is dropped from the rolls by order of the governor, he has no right to trial under this section. [1963 c 220 § 4.]

38.38.020 Territorial applicability of the code. (1) This code applies throughout the state. It also applies to all persons otherwise subject to this code while they are serving outside the state, and while they are going to and returning from such service outside the state, in the same manner and to the same extent as if they were serving inside the state.

(2) Courts martial and courts of inquiry may be convened and held in units of the state military forces while those units are serving outside the state with the same jurisdiction and powers as to persons subject to this code as if the proceedings were held inside the state, and offenses committed outside the state may be tried and punished either inside or outside the state. [1963 c 220 § 5.]

38.38.024 Judge advocates and legal officers. (1) The governor, on the recommendation of the adjutant general, shall appoint an officer of the state military forces as state judge advocate. To be eligible for appointment, an officer must be a member of the bar of the highest court of the state and must have been a member of the bar of the state for at least five years.

(2) The adjutant general may appoint as many assistant state judge advocates as he considers necessary. To be eligible for appointment, assistant state judge advocates must be officers of the state military forces and members of the bar of the highest court of the state.

(3) The state judge advocate or his assistants shall make frequent inspections in the field in supervision of the administration of military justice.

(4) Convening authorities shall at all times communicate directly with their staff judge advocates or legal officer in matters relating to the administration of military justice; and the staff judge advocate or legal officer of any command is entitled to communicate directly with the staff judge advocate or legal officer of a superior or subordinate command, or with the state judge advocate.

(5) No person who has acted as member, law officer, trial counsel, assistant trial counsel, defense counsel, assistant defense counsel, or investigating officer, or who has been a witness for either the prosecution or defense, in any case may later act as staff judge advocate or legal officer to any reviewing authority upon the same case. [1963 c 220 § 6.]

PART II—APPREHENSION AND RESTRAINT

38.38.064 Apprehension. (1) Apprehension is the taking of a person into custody.

(2) Any person authorized by this code, or by regulations issued under it, to apprehend persons subject to this code, any marshal of a court martial appointed pursuant to the provisions of this code, and any peace officer authorized to do so by law, may do so upon reasonable belief that an offense has been committed and that the person apprehended committed it.

(3) Commissioned officers, warrant officers, petty officers and noncommissioned officers have authority to quell quarrels, frays, and disorders among persons subject to this code and to apprehend persons subject to this code who take part therein. [1963 c 220 § 7.]

38.38.068 Apprehension of deserters. Any civil officer having authority to apprehend offenders under the laws of the United States or of a state, territory, commonwealth, or possession, or the District of Columbia may summarily apprehend a deserter from the state of Washington military forces and deliver him into the custody of the state of Washington military forces. If an offender is apprehended outside of the state of Washington, his return to the area must be in accordance with normal extradition procedures or reciprocal agreement. [1963 c 220 § 8.]

38.38.072 Imposition of restraint. (1) Arrest is the restraint of a person by an order, not imposed as a punishment for an offense, directing him to remain within certain specified limits. Confinement is the physical restraint of a person.

(2) An enlisted member may be ordered into arrest or confinement by any commissioned officer by an order, oral or written, delivered in person or through other persons subject to this code or through any person authorized by this code to apprehend persons. A commanding officer may authorize warrant officers, petty officers, or noncommissioned officers to order enlisted members of his command or subject to his authority into arrest or confinement.

(3) A commissioned officer or a warrant officer may be ordered apprehended or into arrest or confinement only by a commanding officer to whose authority he is subject, by an order, oral or written, delivered in person or by another commissioned officer. The authority to order such persons apprehended or into arrest or confinement may not be delegated.

(4) No person may be ordered apprehended or into arrest or confinement except for probable cause.

(5) This section does not limit the authority of persons authorized to apprehend offenders to secure the custody of an alleged offender until proper authority may be notified. [1963 c 220 § 9.]

38.38.076 Restraint of persons charged with offenses.

Any person subject to this code charged with an offense under this code shall be ordered into arrest or confinement, as circumstances may require; but when charged only with an offense normally tried by a summary court martial, such person shall not ordinarily be placed in confinement. When any person subject to this code is placed in arrest or confinement prior to trial, immediate steps shall be taken to inform him of the specific wrong of which he is accused and to try him or to dismiss the charges and release him. [1963 c 220 § 10.]

38.38.080 Confinement in jails. Persons confined other than in a guard house, whether before, during or after trial by a military court, shall be confined in civil jails, penitentiaries, or prisons designated by the governor or by such person as he may authorize to act. [1963 c 220 § 11.]

38.38.084 Reports and receiving of prisoners. (1) No provost marshal, commander of a guard, master at arms, warden, keeper, or officer of a city or county jail or any other jail, penitentiary, or prison designated under RCW 38.38.080, may refuse to receive or keep any prisoner committed to his charge, when the committing person furnishes a statement, signed by him, of the offense charged against the prisoner.

(2) Every commander of a guard, master at arms, warden, keeper, or officer of a city or county jail or of any other jail, penitentiary, or prison designated under RCW 38.38.080, to whose charge a prisoner is committed shall, within twenty-four hours after that commitment or as soon as he is relieved from guard, report to the commanding officer of the prisoner the name of the prisoner, the offense charged against him, and the name of the person who ordered or authorized the commitment. [1963 c 220 § 12.]

38.38.088 Punishment prohibited before trial. Subject to RCW 38.38.488, no person, while being held for trial or the result of trial, may be subjected to punishment or penalty other than arrest or confinement upon the charges pending against him, nor shall the arrest or confinement imposed upon him be any more rigorous than the circumstances require to insure his presence, but he may be subjected to minor punishment during that period for infractions of discipline. [1963 c 220 § 13.]

38.38.092 Delivery of offenders to civil authorities.

(1) Under such regulations as may be prescribed under this code a person subject to this code who is on active state duty who is accused of an offense against civil authority may be delivered, upon request, to the civil authority for trial.

(2) When delivery under this section is made to any civil authority of a person undergoing sentence of a court martial, the delivery, if followed by conviction in a civil tribunal, interrupts the execution of the sentence of the court martial, and the offender after having answered to the civil authorities for his offense shall, upon the request of competent military authority, be returned to military custody for the completion of his sentence. [1963 c 220 § 14.]

PART III—NONJUDICIAL PUNISHMENT

38.38.132 Commanding officer's nonjudicial punishment.

(1) Under such regulations as the governor may prescribe any commanding officer may, in addition to or in lieu of admonition or reprimand, impose one of the following disciplinary punishments for minor offenses without the intervention of a court martial:

(a) Upon officer of his command:

(i) Withholding of privileges for not more than two consecutive weeks;

(ii) Restriction to certain specified limits, with or without suspension from duty, for not more than two consecutive weeks; or

(iii) If imposed by the governor, the commanding officer of a force of the state military forces, or the commanding general of a division, a fine or forfeiture of pay and allowances of not more than seventy-five dollars;

(b) Upon other military personnel of his command:

(i) Withholding of privileges for not more than two consecutive weeks;

(ii) Restriction to certain specified limits, with or without suspension from duty, for not more than two consecutive weeks;

(iii) Extra duties for not more than fourteen days, which need not be consecutive, and for not more than two hours per day, holidays included;

(iv) Reduction to next inferior grade if the grade from which demoted was established by the command or an equivalent or lower command;

(v) If imposed upon a person attached to or embarked in a vessel, confinement for not more than seven consecutive days; or

(vi) If imposed by an officer exercising special court martial jurisdiction over the offender, a fine or forfeiture of pay and allowances of not more than ten dollars.

(2) The governor may, by regulation, place limitations on the powers granted by this section with respect to the kind and amount of punishment authorized and the categories of commanding officers authorized to exercise those powers.

(3) An officer in charge may, for minor offenses, impose on enlisted members assigned to the unit of

which he is in charge, such of the punishments authorized to be imposed by commanding officers as the governor may by regulation specifically prescribe, as provided in subsections (1) and (2) of this section.

(4) A person punished under this section who considers his punishment unjust or disproportionate to the offense may, through the proper channel, appeal to the next superior authority. The appeal shall be promptly forwarded and decided, but the person punished may in the meantime be required to undergo the punishment adjudged. The officer who imposes the punishment, his successor in command, and superior authority may suspend, set aside, or remit any part or amount of the punishment and restore all rights, privileges and property affected.

(5) The imposition and enforcement of disciplinary punishment under this section for any act or omission is not a bar to trial by court martial for a serious crime or offense growing out of the same act or omission, and not properly punishable under this section; but the fact that a disciplinary punishment has been enforced may be shown by the accused upon trial, and when so shown shall be considered in determining the measure of punishment to be adjudged in the event of a finding of guilty.

(6) Whenever a punishment of forfeiture of pay and allowances is imposed under this section, the forfeiture may apply to pay or allowances accruing on or after the date that punishment is imposed and to any pay and allowances accrued before that date. [1963 c 220 § 15.]

PART IV—COURTS MARTIAL JURISDICTION

38.38.172 Courts martial of state military forces not in federal service—Composition—Jurisdiction—Powers and proceedings. (1) In the state military forces not in federal service, there are general, special, and summary courts martial constituted like similar courts of the armed forces of the United States. They have the jurisdiction and powers, except as to punishments, and shall follow the forms and procedures provided for those courts.

(2) The three kinds of courts martial are:

(a) General courts martial, consisting of a law officer and not less than five members;

(b) Special courts martial, consisting of not less than three members; and

(c) Summary courts martial, consisting of one commissioned officer. [1963 c 220 § 16.]

38.38.176 Jurisdiction of courts martial in general. Each force of the state military forces has court martial jurisdiction over all persons subject to this code. The exercise of jurisdiction by one force over personnel of another force shall be in accordance with regulations prescribed by the governor. [1963 c 220 § 17.]

38.38.180 Jurisdiction of general courts martial. Subject to RCW 38.38.176, general courts martial have jurisdiction to try persons subject to this code for any offense made punishable by this code and may, under

such limitations as the governor may prescribe, adjudge any of the following punishments:

(1) A fine of not more than two hundred dollars;

(2) Forfeiture of pay and allowances;

(3) A reprimand;

(4) Dismissal or dishonorable discharge;

(5) Reduction of a noncommissioned officer to the ranks; or

(6) Any combination of these punishments. [1963 c 220 § 18.]

38.38.184 Jurisdiction of special courts martial. Subject to RCW 38.38.176, special courts martial have jurisdiction to try persons subject to this code for any offense for which they may be punished under this code. A special court martial has the same powers of punishment as a general court martial, except that a fine imposed by a special court martial may not be more than one hundred dollars for a single offense. [1963 c 220 § 19.]

38.38.188 Jurisdiction of summary courts martial. (1) Subject to RCW 38.38.176, summary courts martial have jurisdiction to try persons subject to this code, except officers for any offense made punishable by this code.

(2) No person with respect to whom summary courts martial have jurisdiction may be brought to trial before a summary court martial if he objects thereto, unless under RCW 38.38.132 he has been permitted and has elected to refuse punishment under that section. If objection to trial by summary court martial is made by an accused who has been permitted to refuse punishment under RCW 38.38.132, trial shall be ordered by special or general court martial, as may be appropriate.

(3) A summary court martial may sentence to a fine of not more than twenty-five dollars for a single offense, to forfeiture of pay and allowances, and to reduction of a noncommissioned officer to the ranks. [1963 c 220 § 20.]

38.38.192 Sentences of dismissal or dishonorable discharge to be approved by the governor. In the organized militia not in federal service, no sentence of dismissal or dishonorable discharge may be executed until it is approved by the governor. [1963 c 220 § 21.]

38.38.196 Complete record of proceedings and testimony if dishonorable discharge, bad conduct discharge or dismissal adjudged. A dishonorable discharge, bad conduct discharge or dismissal may not be adjudged by any court martial unless a complete record of the proceedings and testimony before the court has been made. [1963 c 220 § 22.]

38.38.200 Confinement instead of fine. In the state military forces not in federal service, a court martial may, instead of imposing a fine, sentence to confinement for not more than one day for each dollar of the authorized fine. [1963 c 220 § 23.]

**PART V—APPOINTMENT AND
COMPOSITION OF COURTS MARTIAL**

38.38.240 Who may convene general courts martial.

In the state military forces not in federal service, general courts martial may be convened by the president or by the governor, or by the commanding general of the national guard of the District of Columbia. [1963 c 220 § 24.]

38.38.244 Special courts martial of state military forces not in federal service—Who may convene. (1)

In the state military forces not in federal service, the commanding officer of a garrison, fort, post, camp, air base, auxiliary air base, or other place where troops are on duty, or of a brigade, regiment, wing, group, detached battalion, separate squadron, or other detached command, may convene special courts martial. Special courts martial may also be convened by superior authority. When any such officer is an accuser, the court shall be convened by superior competent authority.

(2) A special court martial may not try a commissioned officer. [1963 c 220 § 25.]

38.38.248 Summary courts martial of state military forces not in federal service—Who may convene. (1)

In the state military forces not in federal service, the commanding officer of a garrison, fort, post, camp, air base, auxiliary air base, or other place where troops are on duty, or of a regiment, wing, group, detached battalion, detached squadron, detached company, or other detachment, may convene a summary court martial consisting of one commissioned officer. The proceedings shall be informal.

(2) When only one commissioned officer is present with a command or detachment he shall be the summary court martial of that command or detachment and shall hear and determine all summary court martial cases brought before him. Summary courts martial may, however, be convened in any case by superior competent authority when considered desirable by him. [1963 c 220 § 26.]

38.38.252 Who may serve on courts martial. (1) Any commissioned officer of or on duty with the state military forces is eligible to serve on all courts martial for the trial of any person who may lawfully be brought before such courts for trial.

(2) Any warrant officer of or on duty with the state military forces is eligible to serve on general and special courts martial for the trial of any person, other than a commissioned officer, who may lawfully be brought before such courts for trial.

(3) (a) Any enlisted member of the state military forces who is not a member of the same unit as the accused is eligible to serve on general and special courts martial for the trial of any enlisted member who may lawfully be brought before such courts for trial, but he shall serve as a member of a court only if, before the convening of the court, the accused personally has requested in writing that enlisted members serve on it. After such a request, the accused may not be tried by a

general or special court martial the membership of which does not include enlisted members in a number comprising at least one-third of the total membership of the court, unless eligible members cannot be obtained on account of physical conditions or military exigencies. If such members cannot be obtained, the court may be convened and the trial held without them, but the convening authority shall make a detailed written statement, to be appended to the record, stating why they could not be obtained.

(b) In this section, the word "unit" means any regularly organized body of the state military forces not larger than a company, a squadron, a division of the naval militia, or a body corresponding to one of them.

(4) (a) When it can be avoided, no person subject to this code may be tried by a court martial any member of which is junior to him in rank or grade.

(b) When convening a court martial, the convening authority shall detail as members thereof such members as, in his opinion, are best qualified for the duty by reason of age, education, training, experience, length of service, and judicial temperament. No member is eligible to serve as a member of a general or special court martial when he is the accuser or a witness for the prosecution or has acted as investigating officer or as counsel in the same case. If within the command of the convening authority there is present and not otherwise disqualified a commissioned officer who is a member of the bar of the highest court of the state and of appropriate rank and grade, the convening authority shall appoint him as president of a special court martial. Although this requirement is binding on the convening authority, failure to meet it in any case does not divest a military court of jurisdiction. [1963 c 220 § 27.]

38.38.256 Law officer of a general court martial. (1)

The authority convening a general court martial shall detail as law officer thereof a commissioned officer who is a member of the bar of the highest court of the state, or a member of the bar of a federal court, and who is certified to be qualified for such duty by the state judge advocate. No person is eligible to act as law officer in a case if he is the accuser or a witness for the prosecution or has acted as investigating officer or as counsel in the same case.

(2) The law officer may not consult with the members of the court, other than on the form of the findings as provided in RCW 38.38.380, except in the presence of the accused, trial counsel, and defense counsel, nor may he vote with the members of the court. [1963 c 220 § 28.]

38.38.260 Detail of trial counsel and defense counsel.

(1) For each general and special court martial the authority convening the court shall detail trial counsel and defense counsel, and such assistants as he considers appropriate. No person who has acted as investigating officer, law officer, or court member in any case may act later as trial counsel, assistant trial counsel, or, unless expressly requested by the accused, as defense counsel or assistant defense counsel in the same case. No person who has acted for the prosecution may act later in the

same case for the defense, nor may any person who has acted for the defense act later in the same case for the prosecution.

(2) Trial counsel or defense counsel detailed for a general court martial:

(a) Must be a person who is a member of the bar of the highest court of the state, or a member of the bar of a federal court; and

(b) Must be certified as competent to perform such duties by the state judge advocate.

(3) In the case of a special court martial:

(a) If the trial counsel is qualified to act as counsel before a general court martial, the defense counsel detailed by the convening authority must be a person similarly qualified; and

(b) If the trial counsel is a member of the bar of the highest court of the state, the defense counsel detailed by the convening authority must be one of the foregoing. [1963 c 220 § 29.]

38.38.264 Detail or employment of reporters and interpreters. Under such regulations as the governor may prescribe, the convening authority of a general or special court martial or court of inquiry shall detail or employ qualified court reporters, who shall record the proceedings of and testimony taken before that court. Under like regulations the convening authority of a military court may detail or employ interpreters who shall interpret for the court. [1963 c 220 § 30.]

38.38.268 Absent and additional members. (1) No member of a general or special court martial may be absent or excused after the accused has been arraigned except for physical disability or as the result of a challenge or by order of the convening authority for good cause.

(2) Whenever a general court martial is reduced below five members, the trial may not proceed unless the convening authority details new members sufficient in number to provide not less than five members. When the new members have been sworn, the trial may proceed after the recorded testimony of each witness previously examined has been read to the court in the presence of the law officer, the accused, and counsel.

(3) Whenever a special court martial is reduced below three members, the trial may not proceed unless the convening authority details new members sufficient in number to provide not less than three members. When the new members have been sworn, the trial shall proceed as if no evidence has previously been introduced, unless a verbatim record of the testimony of previously examined witnesses or a stipulation thereof is read to the court in the presence of the accused and counsel. [1963 c 220 § 31.]

PART VI—PRETRIAL PROCEDURE

38.38.308 Charges and specifications. (1) Charges and specifications shall be signed by a person subject to this code under oath before a person authorized by this code to administer oaths and shall state:

(a) That the signer has personal knowledge of, or has investigated, the matters set forth therein; and

(b) That they are true in fact to the best of his knowledge and belief.

(2) Upon the preferring of charges, the proper authority shall take immediate steps to determine what disposition should be made thereof in the interest of justice and discipline, and the person accused shall be informed of the charges against him as soon as practicable. [1963 c 220 § 32.]

38.38.312 Compulsory self-incrimination prohibited.

(1) No person subject to this code may compel any person to incriminate himself or to answer any question the answer to which may tend to incriminate him.

(2) No person subject to this code may interrogate, or request any statement from, an accused or a person suspected of an offense without first informing him of the nature of the accusation and advising him that he does not have to make any statement regarding the offense of which he is accused or suspected and that any statement made by him may be used as evidence against him in a trial by court martial.

(3) No person subject to this code may compel any person to make a statement or produce evidence before any military tribunal if the statement or evidence is not material to the issue and may tend to degrade him.

(4) No statement obtained from any person in violation of this section, or through the use of coercion, unlawful influence, or unlawful inducement may be received in evidence against him in a trial by court martial. [1963 c 220 § 33.]

38.38.316 Investigation. (1) No charge or specification may be referred to a general court martial for trial until a thorough and impartial investigation of all the matters set forth therein has been made. This investigation shall include inquiry as to the truth of the matter set forth in the charges, consideration of the form of charges, and a recommendation as to the disposition which should be made of the case in the interest of justice and discipline.

(2) The accused shall be advised of the charges against him and of his right to be represented at that investigation by counsel. Upon his own request he shall be represented by civilian counsel if provided by him, or military counsel of his own selection if such counsel is reasonably available, or by counsel detailed by the officer exercising general court martial jurisdiction over the command. At that investigation full opportunity shall be given to the accused to cross-examine witnesses against him if they are available and to present anything he may desire in his own behalf, either in defense or mitigation, and the investigating officer shall examine available witnesses requested by the accused. If the charges are forwarded after the investigation, they shall be accompanied by a statement of the substance of the testimony taken on both sides and a copy thereof shall be given to the accused.

(3) If an investigation of the subject matter of an offense has been conducted before the accused is charged with the offense, and if the accused was present

at the investigation and afforded the opportunities for representation, cross-examination, and presentation prescribed in subsection (2) hereof, no further investigation of that charge is necessary under this section unless it is demanded by the accused after he is informed of the charge. A demand for further investigation entitles the accused to recall witnesses for further cross-examination and to offer any new evidence in his own behalf.

(4) The requirements of this section are binding on all persons administering this code but failure to follow them does not divest a military court of jurisdiction. [1963 c 220 § 34.]

38.38.320 Forwarding of charges. When a person is held for trial by general court martial the commanding officer shall, within eight days after the accused is ordered into arrest or confinement, if practicable, forward the charges, together with the investigation and allied papers, to the governor. If that is not practicable, he shall report in writing to the governor the reasons for delay. [1963 c 220 § 35.]

38.38.324 Advice of state judge advocate and reference for trial. (1) Before directing the trial of any charge by general court martial, the convening authority shall refer it to the state judge advocate for consideration and advice. The convening authority may not refer a charge to a general court martial for trial unless he has found that the charge alleges an offense under this code and is warranted by evidence indicated in the report of the investigation.

(2) If the charges or specifications are not formally correct or do not conform to the substance of the evidence contained in the report of the investigating officer, formal corrections, and such changes in the charges and specifications as are needed to make them conform to the evidence may be made. [1963 c 220 § 36.]

38.38.328 Service of charges. The trial counsel to whom court martial charges are referred for trial shall cause to be served upon the accused a copy of the charges upon which trial is to be had. In time of peace no person may, against his objection, be brought to trial before a general court martial within a period of five days after the service of the charges upon him, or before a special court martial within a period of three days after the service of the charges upon him. [1963 c 220 § 37.]

PART VII—TRIAL PROCEDURE

38.38.368 Governor may prescribe rules. The procedure, including modes of proof, in cases before military courts and other military tribunals may be prescribed by the governor by regulations, which shall, so far as he considers practicable, apply the principles of law and the rules of evidence generally recognized in the trial of criminal cases in the courts of the state, but which may not be contrary to or inconsistent with this code. [1963 c 220 § 38.]

38.38.372 Unlawfully influencing action of court. No authority convening a general, special, or summary court martial nor any other commanding officer, or officer serving on the staff thereof, may censure, reprimand, or admonish the court or any member, law officer, or counsel thereof, with respect to the findings or sentence adjudged by the court, or with respect to any other exercise of its or his functions in the conduct of the proceeding. No person subject to this code may attempt to coerce or, by any unauthorized means, influence the action of the court martial or any other military tribunal or any member thereof, in reaching the findings or sentence in any case, or the action of any convening, approving, or reviewing authority with respect to his judicial acts. [1963 c 220 § 39.]

38.38.376 Duties of trial counsel and defense counsel. (1) The trial counsel of a general or special court martial shall prosecute in the name of the state, and shall, under the direction of the court, prepare the record of the proceedings.

(2) The accused has the right to be represented in his defense before a general or special court martial by civilian counsel if provided by him, or by military counsel of his own selection if reasonably available, or by the defense counsel detailed under RCW 38.38.260. Should the accused have counsel of his own selection, the defense counsel, and assistant defense counsel, if any, who were detailed, shall, if the accused so desires, act as his associate counsel; otherwise they shall be excused by the president of the court.

(3) In every court martial proceeding, the defense counsel may, in the event of conviction, forward for attachment to the record of proceedings a brief of such matters he feels should be considered in behalf of the accused on review, including any objection to the contents of the record which he considers appropriate.

(4) An assistant trial counsel of a general court martial may, under the direction of the trial counsel or when he is qualified to be a trial counsel as required by RCW 38.38.260, perform any duty imposed by law, regulation, or the custom of the service upon the trial counsel of the court. An assistant trial counsel of a special court martial may perform any duty of the trial counsel.

(5) An assistant defense counsel of a general or special court martial may, under the direction of the defense counsel or when he is qualified to be the defense counsel as required by RCW 38.38.260, perform any duty imposed by law, regulation, or the custom of the service upon counsel for the accused. [1963 c 220 § 40.]

38.38.380 Sessions. Whenever a general or special court martial deliberates or votes, only the members of the court may be present. After a general court martial has finally voted on the findings, the court may request the law officer and the reporter to appear before the court to put the findings in proper form, and those proceedings shall be on the record. All other proceedings, including any other consultation of the court with counsel or the law officer, shall be made a part of the record and shall be in the presence of the accused, the defense

counsel, the trial counsel, and in general court martial cases, the law officer. [1963 c 220 § 41.]

38.38.384 Continuances. A court martial may, for reasonable cause, grant a continuance to any party for such time, and as often, as may appear to be just. [1963 c 220 § 42.]

38.38.388 Challenges. (1) Members of a general or special court martial and the law officer of a general court martial may be challenged by the accused or the trial counsel for cause stated to the court. The court shall determine the relevancy and validity of challenges for cause, and may not receive a challenge to more than one person at a time. Challenges by the trial counsel shall ordinarily be presented and decided before those by the accused are offered.

(2) Each accused and the trial counsel is entitled to one peremptory challenge, but the law officer may not be challenged except for cause. [1963 c 220 § 43.]

38.38.392 Oaths. (1) The law officer, interpreters, and, in general and special courts martial, members, trial counsel, assistant trial counsel, defense counsel, assistant defense counsel, and reporters shall take an oath or affirmation in the presence of the accused to perform their duties faithfully.

(2) Each witness before a military court shall be examined on oath or affirmation. [1963 c 220 § 44.]

38.38.396 Statute of limitations. (1) A person charged with desertion or absence without leave in time of war, or with aiding the enemy or with mutiny may be tried and punished at any time without limitation.

(2) Except as otherwise provided in this section, a person charged with desertion in time of peace or with the offense punishable under RCW 38.38.784 is not liable to be tried by court martial if the offense was committed more than three years before the receipt of sworn charges and specifications by an officer exercising summary court martial jurisdiction over the command.

(3) Except as otherwise provided in this section, a person charged with any offense is not liable to be tried by court martial or punished under RCW 38.38.132 if the offense was committed more than two years before the receipt of sworn charges and specifications by an officer exercising summary court martial jurisdiction over the command or before the imposition of punishment under RCW 38.38.132.

(4) Periods in which the accused was absent from territory in which the state has the authority to apprehend him, or in the custody of civil authorities, or in the hands of the enemy, shall be excluded in computing the period of limitation prescribed in this section. [1963 c 220 § 45.]

38.38.400 Former jeopardy. (1) No person may, without his consent, be tried a second time in any military court of the state for the same offense.

(2) No proceeding in which an accused has been found guilty by a court martial upon any charge or specification is a trial in the sense of this section until

the finding of guilty has become final after review of the case has been fully completed.

(3) A proceeding which, after the introduction of evidence but before a finding, is dismissed or terminated by the convening authority or on motion of the prosecution for failure of available evidence or witnesses without any fault of the accused is a trial in the sense of this section. [1963 c 220 § 46.]

38.38.404 Pleas of the accused. If an accused arraigned before a court martial makes an irregular pleading, or after a plea of guilty sets up matter inconsistent with the plea, or if it appears that he has entered the plea of guilty improvidently or through lack of understanding of its meaning and effect, or if he fails or refuses to plead, a plea of not guilty shall be entered in the record, and the court shall proceed as though he had pleaded not guilty. [1963 c 220 § 47.]

38.38.408 Opportunity to obtain witnesses and other evidence. (1) The trial counsel, the defense counsel, and the court martial shall have equal opportunity to obtain witnesses and other evidence in accordance with such regulations as the governor may prescribe.

(2) The president of a court martial or a summary court officer may:

(a) Issue a warrant for the arrest of any accused person who having been served with a warrant and a copy of the charges, disobeys a written order by the convening authority to appear before the court;

(b) Issue subpoenas duces tecum and other subpoenas;

(c) Enforce by attachment the attendance of witnesses and the production of books and papers; and

(d) Sentence for refusal to be sworn or to answer, as provided in actions before civil courts of the state.

(3) Process issued in court martial cases to compel witnesses to appear and testify and to compel the production of other evidence shall run to any part of the state and shall be executed by civil officers as prescribed by the laws of the state. [1963 c 220 § 48.]

38.38.412 Refusal to appear or testify. (1) Any person not subject to this code who:

(a) Has been duly subpoenaed to appear as a witness or to produce books and records before a military court or before any military or civil officer designated to take a deposition to be read in evidence before such a court;

(b) Has been duly paid or tendered the fees and mileage of a witness at the rates allowed to witnesses attending the superior court of the state; and

(c) Wilfully neglects or refuses to appear, or refuses to qualify as a witness or to testify or to produce any evidence which that person may have been legally subpoenaed to produce; is guilty of an offense against the state and a military court may punish him in the same manner as the civil courts of the state. [1963 c 220 § 49.]

38.38.416 Contempts. A military court may punish for contempt any person who uses any menacing word, sign, or gesture in its presence, or who disturbs its proceedings by any riot or disorder. The punishment may

not exceed confinement for thirty days or a fine of one hundred dollars, or both. [1963 c 220 § 50.]

38.38.420 Depositions. (1) At any time after charges have been signed, as provided in RCW 38.38.308, any party may take oral or written depositions unless an authority competent to convene a court martial for the trial of those charges forbids it for good cause. If a deposition is to be taken before charges are referred for trial, such an authority may designate commissioned officers to represent the prosecution and the defense and may authorize those officers to take the deposition of any witness.

(2) The party at whose instance a deposition is to be taken shall give to every other party reasonable written notice of the time and place for taking the deposition.

(3) Depositions may be taken before and authenticated by any military or civil officer authorized by the laws of the state or by the laws of the place where the deposition is taken to administer oaths.

(4) A duly authenticated deposition taken upon reasonable notice to the other parties, so far as otherwise admissible under the rules of evidence, may be read in evidence before any court martial or in any proceeding before a court of inquiry, if it appears:

(a) That the witness resides or is beyond the state in which the court martial or court of inquiry is ordered to sit, or beyond the distance of one hundred miles from the place of trial or hearing;

(b) That the witness by reason of death, age, sickness, bodily infirmity, imprisonment, military necessity, nonamenability to process, or other reasonable cause, is unable or refuses to appear and testify in person at the place of trial or hearing; or

(c) That the present whereabouts of the witness is unknown. [1963 c 220 § 51.]

38.38.424 Admissibility of records of courts of inquiry. (1) In any case not extending to the dismissal of a commissioned officer, the sworn testimony, contained in the duly authenticated record of proceedings of a court of inquiry, of a person whose oral testimony cannot be obtained, may, if otherwise admissible under the rules of evidence, be read in evidence by any party before a court martial if the accused was a party before the court of inquiry and if the same issue was involved or if the accused consents to the introduction of such evidence.

(2) Such testimony may be read in evidence only by the defense in cases extending to the dismissal of a commissioned officer.

(3) Such testimony may also be read in evidence before a court of inquiry or a military board. [1963 c 220 § 52.]

38.38.428 Voting and rulings. (1) Voting by members of a general or special court martial upon questions of challenge, on the findings, and on the sentence shall be by secret written ballot. The junior member of the court shall in each case count the votes. The count shall be checked by the president, who shall forthwith

announce the result of the ballot to the members of the court.

(2) The law officer of a general court martial and the president of a special court martial shall rule upon interlocutory questions, other than challenge, arising during the proceedings. Any such ruling made by the law officer of a general court martial or by the president of a special court martial upon any interlocutory question other than a motion for a finding of not guilty, or the question of the accused's sanity, is final and constitutes the ruling of the court. However, the law officer or president may change the ruling at any time during the trial except a ruling on a motion for a finding of not guilty that was granted. Unless the ruling is final, if any member objects thereto, the court shall be cleared and closed and the question decided by a voice vote as provided in RCW 38.38.432 beginning with the junior in rank.

(3) Before a vote is taken on the findings, the law officer of a general court martial and the president of a special court martial shall, in the presence of the accused and counsel, instruct the court as to the elements of the offense and charge the court:

(a) That the accused must be presumed to be innocent until his guilt is established by legal and competent evidence beyond reasonable doubt;

(b) That in the case being considered, if there is a reasonable doubt as to the guilt of the accused, the doubt must be resolved in favor of the accused and he must be acquitted;

(c) That, if there is a reasonable doubt as to the degree of guilt, the finding must be in a lower degree as to which there is no reasonable doubt; and

(d) That the burden of proof of establishing the guilt of the accused beyond reasonable doubt is upon the state. [1963 c 220 § 53.]

38.38.432 Number of votes required. (1) No person may be convicted of an offense, except by the concurrence of two-thirds of the members present at the time the vote is taken.

(2) All sentences shall be determined by the concurrence of two-thirds of the members present at the time that the vote is taken.

(3) All other questions to be decided by the members of a general or special court martial shall be determined by a majority vote. A tie vote on a challenge disqualifies the member challenged. A tie vote on a motion for a finding of not guilty or on a motion relating to the question of the accused's sanity is a determination against the accused. A tie vote on any other question is a determination in favor of the accused. [1963 c 220 § 54.]

38.38.436 Court to announce action. A court martial shall announce its findings and sentence to the parties as soon as determined. [1963 c 220 § 55.]

38.38.440 Record of trial. (1) Each court martial shall keep a separate record of the proceedings of the trial of each case brought before it and the record shall be authenticated by the signatures of the president and the law officer. If the record cannot be authenticated by

either the president or the law officer, by reason of his death, disability, or absence, it shall be signed by a member in lieu of him. If both the president and the law officer are unavailable, the record shall be authenticated by two members. A record of the proceedings of a trial in which the sentence adjudged includes a bad conduct discharge or is more than that which could be adjudged by a special court martial shall contain a verbatim account of the proceedings and testimony before the court. All other records of trial shall contain such matter and be authenticated in such manner as the governor may by regulation prescribe.

(2) A copy of the record of the proceedings of each general and special court martial shall be given to the accused as soon as it is authenticated. If a verbatim record of trial by general court martial is not required by subsection (1) hereof, but has been made, the accused may buy such a record under such regulations as the governor may prescribe. [1963 c 220 § 56.]

PART VIII—SENTENCES

38.38.480 Cruel and unusual punishments prohibited. Punishment by flogging, or by branding, marking or tattooing on the body, or any other cruel or unusual punishment, may not be adjudged by any court martial or inflicted upon any person subject to this code. The use of irons, single or double, except for the purpose of safe custody, is prohibited. [1963 c 220 § 57.]

38.38.484 Maximum limits. The punishment which a court martial may direct for an offense may not exceed limits prescribed by this code. [1963 c 220 § 58.]

38.38.488 Effective date of sentences. (1) Whenever a sentence of a court martial as lawfully adjudged and approved includes a forfeiture of pay or allowances in addition to confinement not suspended, the forfeiture may apply to pay or allowances becoming due on or after the date the sentence is approved by the convening authority. No forfeiture may extend to any pay or allowance accrued before that date.

(2) Any period of confinement included in a sentence of a court martial begins to run from the date the sentence is adjudged by the court martial but periods during which the sentence to confinement is suspended shall be excluded in computing the service of the term of confinement. Regulations prescribed by the governor may provide that sentences of confinement may not be executed until approved by designated officers.

(3) All other sentences of courts martial are effective on the date ordered executed. [1963 c 220 § 59.]

38.38.492 Execution of confinement. (1) A sentence of confinement adjudged by a military court, whether or not the sentence includes discharge or dismissal, and whether or not the discharge or dismissal has been executed, may be carried into execution by confinement in any place of confinement under the control of any of the forces of the state military forces or in any jail, penitentiary, or prison designated for that purpose. Persons so confined in a jail, penitentiary, or prison are subject to

the same discipline and treatment as persons confined or committed to the jail, penitentiary, or prison by the courts of the state or of any political subdivision thereof.

(2) The omission of the words "hard labor" from any sentence or punishment of a court martial adjudging confinement does not deprive the authority executing that sentence or punishment of the power to require hard labor as a part of the punishment.

(3) The keepers, officers, and wardens of city or county jails and of other jails, penitentiaries, or prisons designated by the governor, or by such person as he may authorize to act under RCW 38.38.080, shall receive persons ordered into confinement before trial and persons committed to confinement by a military court and shall confine them according to law. No such keeper, officer, or warden may require payment of any fee or charge for so receiving or confining a person. [1963 c 220 § 60.]

PART IX—REVIEW OF COURTS MARTIAL

38.38.532 Execution of sentence—Suspension of sentence. Except as provided in RCW 38.38.196 and 38.38.556, a court martial sentence, unless suspended, may be ordered executed by the convening authority when approved by him. He shall approve the sentence or such part, amount, or commuted form of the sentence as he sees fit, and may suspend the execution of the sentence as approved by him. [1963 c 220 § 61.]

38.38.536 Initial action on the record. After a trial by court martial the record shall be forwarded to the convening authority, as reviewing authority, and action thereon may be taken by the person who convened the court, a commissioned officer commanding for the time being, a successor in command, or by the governor. [1963 c 220 § 62.]

38.38.540 Initial action on the record—General court martial records. The convening authority shall refer the record of each general court martial to the staff judge advocate, who shall submit his written opinion thereon to the convening authority. If the final action of the court has resulted in an acquittal of all charges and specifications, the opinion shall be limited to questions of jurisdiction. [1963 c 220 § 63.]

38.38.544 Reconsideration and revision. (1) If a specification before a court martial has been dismissed on motion and the ruling does not amount to a finding of not guilty, the convening authority may return the record to the court for reconsideration of the ruling and any further appropriate action.

(2) Where there is an apparent error or omission in the record or where the record shows improper or inconsistent action by a court martial with respect to a finding or sentence which can be rectified without material prejudice to the substantial rights of the accused, the convening authority may return the record to the court for appropriate action. In no case, however, may the record be returned:

(a) For reconsideration of a finding of not guilty, or a ruling which amounts to a finding of not guilty;

(b) For reconsideration of a finding of not guilty of any charge, unless the record shows a finding of guilty under a specification laid under that charge, which sufficiently alleges a violation of some section of this code; or

(c) For increasing the severity of the sentence unless the sentence prescribed for the offense is mandatory. [1963 c 220 § 64.]

38.38.548 Rehearings. (1) If the convening authority disapproves the findings and sentence of a court martial he may, except where there is lack of sufficient evidence in the record to support the findings, order a rehearing. In such a case he shall state the reasons for disapproval. If he disapproves the findings and sentence and does not order a rehearing, he shall dismiss the charges.

(2) Each rehearing shall take place before a court martial composed of members not members of the court martial which first heard the case. Upon a rehearing the accused may not be tried for any offense of which he was found not guilty by the first court martial, and no sentence in excess of or more severe than the original sentence may be imposed, unless the sentence is based upon a finding of guilty of an offense not considered upon the merits in the original proceedings, or unless the sentence prescribed for the offense is mandatory. [1963 c 220 § 65.]

38.38.552 Approval by the convening authority. In acting on the findings and sentence of a court martial, the convening authority may approve only such findings of guilty, and the sentence or such part or amount of the sentence, as he finds correct in law and fact and as he in his discretion determines should be approved. Unless he indicates otherwise, approval of the sentence is approval of the findings and sentence. [1963 c 220 § 66.]

38.38.556 Review of records—Disposition. (1) If the convening authority is the governor, his action on the review of any record of trial is final.

(2) In all other cases not covered by subsection (1), if the sentence of a special court martial as approved by the convening authority includes a bad conduct discharge, whether or not suspended, the entire record shall be sent to the appropriate staff judge advocate or legal officer of the state force concerned to be reviewed in the same manner as a record of trial by general court martial. The record and the opinion of the staff judge advocate or legal officer shall then be sent to the state judge advocate for review.

(3) All other special and summary court martial records shall be sent to the law specialist or legal officer of the appropriate force of the state military forces and shall be acted upon, transmitted, and disposed of as may be prescribed by regulations prescribed by the governor.

(4) The state judge advocate shall review the record of trial in each case sent to him for review as provided under subsection (1). If the final action of the court martial has resulted in an acquittal of all charges and specifications, the opinion of the state judge advocate is limited to questions of jurisdiction.

(5) The state judge advocate shall take final action in any case reviewable by him.

(6) In a case reviewable by the state judge advocate under this section, the state judge advocate may act only with respect to the findings and sentence as approved by the convening authority. He may affirm only such findings of guilty, and the sentence or such part or amount of the sentence, as he finds correct in law and fact and determines, on the basis of the entire record, should be approved. In considering the record, he may weigh the evidence, judge the credibility of witnesses, and determine controverted questions of fact, recognizing that the trial court saw and heard the witnesses. If the state judge advocate sets aside the findings and sentence, he may, except where the setting aside is based on lack of sufficient evidence in the record to support the findings, order a rehearing. If he sets aside the findings and sentence and does not order a rehearing, he shall order that the charges be dismissed.

(7) In a case reviewable by the state judge advocate under this section, he shall instruct the convening authority to act in accordance with his decision on the review. If he has ordered a rehearing but the convening authority finds a rehearing impracticable, he may dismiss the charges.

(8) The state judge advocate may order one or more boards of review each composed of not less than three commissioned officers of the state military forces, each of whom must be a member of the bar of the highest court of the state. Each board of review shall review the record of any trial by special court martial, including a sentence to a bad conduct discharge, referred to it by the state judge advocate. Boards of review have the same authority on review as the state judge advocate has under this section. [1963 c 220 § 67.]

38.38.560 Error of law—Lesser included offense. (1) A finding or sentence of a court martial may not be held incorrect on the ground of an error of law unless the error materially prejudices the substantial rights of the accused.

(2) Any reviewing authority with the power to approve or affirm a finding of guilty may approve or affirm so much of the finding as includes a lesser included offense. [1963 c 220 § 68.]

38.38.564 Review counsel. (1) Upon the final review of a sentence of a general court martial or of a sentence to a bad conduct discharge, the accused has the right to be represented by counsel before the reviewing authority, before the staff judge advocate or legal officer, as the case may be, and before the state judge advocate.

(2) Upon the request of an accused entitled to be so represented, the state judge advocate shall appoint a lawyer who is a member of the state military forces and who has the qualifications prescribed in RCW 38.38-.260, if available, to represent the accused before the reviewing authority, before the staff judge advocate or legal officer, as the case may be, and before the state judge advocate, in the review of cases specified in subsection (1) of this section.

(3) If provided by him, an accused entitled to be so represented may be represented by civilian counsel before the reviewing authority, before the staff judge advocate or legal officer, as the case may be, and before the state judge advocate. [1963 c 220 § 69.]

38.38.568 Vacation of suspension. (1) Before the vacation of the suspension of a special court martial sentence which as approved includes a bad conduct discharge, or of any general court martial sentence, the officer having special court martial jurisdiction over the probationer shall hold a hearing on the alleged violation of probation. The probationer shall be represented at the hearing by counsel if he so desires.

(2) The record of the hearing and the recommendation of the officer having special court martial jurisdiction shall be sent for action to the governor in cases involving a general court martial sentence and to the commanding officer of the force of the state military forces of which the probationer is a member in all other cases covered by subsection (1) of this section. If the governor or commanding officer vacates the suspension, any unexecuted part of the sentence except a dismissal shall be executed.

(3) The suspension of any other sentence may be vacated by any authority competent to convene, for the command in which the accused is serving or assigned, a court of the kind that imposed the sentence. [1963 c 220 § 70.]

38.38.572 Petition for a new trial. At any time within two years after approval by the convening authority of a court martial sentence which extends to dismissal, dishonorable or bad conduct discharge, the accused may petition the governor for a new trial on ground of newly discovered evidence or fraud on the court martial. [1963 c 220 § 71.]

38.38.576 Remission and suspension. (1) A convening authority may remit or suspend any part or amount of the unexecuted part of any sentence, including all uncollected forfeitures.

(2) The governor may, for good cause, substitute an administrative form of discharge for a discharge or dismissal executed in accordance with the sentence of a court martial. [1963 c 220 § 72.]

38.38.580 Restoration. (1) Under such regulations as the governor may prescribe, all rights, privileges, and property affected by an executed part of a court martial sentence which has been set aside or disapproved, except an executed dismissal or discharge, shall be restored unless a new trial or rehearing is ordered and such executed part is included in a sentence imposed upon a new trial or rehearing.

(2) If a previously executed sentence of dishonorable or bad conduct discharge is not imposed on a new trial, the governor shall substitute therefor a form of discharge authorized for administrative issuance unless the accused is to serve out the remainder of his enlistment.

(3) If a previously executed sentence of dismissal is not imposed on a new trial, the governor shall substitute

therefor a form of discharge authorized for administrative issue, and the commissioned officer dismissed by that sentence may be reappointed by the governor alone to such commissioned grade and with such rank as in the opinion of the governor that former officer would have attained had he not been dismissed. The reappointment of such a former officer may be made if a position vacancy is available under applicable tables of organization. All time between the dismissal and reappointment shall be considered as service for all purposes. [1963 c 220 § 73.]

38.38.584 Finality of proceedings, findings and sentences. The proceedings, findings and sentences of courts martial as reviewed and approved, as required by this code, and all dismissals and discharges carried into execution under sentences by courts martial following review and approval, as required by this code, are final and conclusive. Orders publishing the proceedings of courts martial and all action taken pursuant to those proceedings are binding upon all departments, courts, agencies, and officers of the state, subject only to action upon a petition for a new trial as provided in RCW 38.38.572. [1963 c 220 § 74.]

PART X—PUNITIVE ARTICLES

38.38.624 Persons to be tried or punished. No person may be tried or punished for any offense provided for in RCW 38.38.628 through 38.38.800, unless it was committed while he was in a duty status. [1963 c 220 § 75.]

38.38.628 Principals. Any person subject to this code who:

(1) Commits an offense punishable by this code, or aids, abets, counsels, commands, or procures its commission; or

(2) Causes an act to be done which if directly performed by him would be punishable by this code; is a principal. [1963 c 220 § 76.]

38.38.632 Accessory after the fact. Any person subject to this code who, knowing that an offense punishable by this code has been committed, receives, comforts, or assists the offender in order to hinder or prevent his apprehension, trial, or punishment shall be punished as a court martial may direct. [1963 c 220 § 77.]

38.38.636 Conviction of lesser included offense. An accused may be found guilty of an offense necessarily included in the offense charged or of an attempt to commit either the offense charged or an offense necessarily included therein. [1963 c 220 § 78.]

38.38.640 Attempts. (1) An act, done with specific intent to commit an offense under this code, amounting to more than mere preparation and tending, even though failing to effect its commission, is an attempt to commit that offense.

(2) Any person subject to this code who attempts to commit any offense punishable by this code shall be

punished as a court martial may direct, unless otherwise specifically prescribed.

(3) Any person subject to this code may be convicted of an attempt to commit an offense although it appears on the trial that the offense was consummated. [1963 c 220 § 79.]

38.38.644 Conspiracy. Any person subject to this code who conspires with any other person to commit an offense under this code shall, if one or more of the conspirators does an act to effect the object of the conspiracy, be punished as a court martial may direct. [1963 c 220 § 80.]

38.38.648 Solicitation. (1) Any person subject to this code who solicits or advises another or others to desert in violation of RCW 38.38.660 or mutiny in violation of RCW 38.38.696 shall, if the offense solicited or advised is attempted or committed, be punished with the punishment provided for the commission of the offense, but, if the offense solicited or advised is not committed or attempted, he shall be punished as a court martial may direct.

(2) Any person subject to this code who solicits or advises another or others to commit an act of misbehavior before the enemy in violation of RCW 38.38.716 or sedition in violation of RCW 38.38.696 shall, if the offense solicited or advised is committed, be punished with the punishment provided for the commission of the offense, but, if the offense solicited or advised is not committed, he shall be punished as a court martial may direct. [1963 c 220 § 81.]

38.38.652 Fraudulent enlistment, appointment or separation. Any person who:

(1) Procures his own enlistment or appointment in the state military forces by knowingly false representation or deliberate concealment as to his qualifications for that enlistment or appointment and receives pay or allowances thereunder; or

(2) Procures his own separation from the state military forces by knowingly false representation or deliberate concealment as to his eligibility for that separation; shall be punished as a court martial may direct. [1963 c 220 § 82.]

38.38.656 Unlawful enlistment, appointment, or separation. Any person subject to this code who effects an enlistment or appointment in or a separation from the state military forces of any person who is known to him to be ineligible for that enlistment, appointment, or separation because it is prohibited by law, regulation, or order shall be punished as a court martial may direct. [1963 c 220 § 83.]

38.38.660 Desertion. (1) Any member of the state military forces who:

(a) Without authority goes or remains absent from his unit, organization, or place of duty with intent to remain away therefrom permanently;

(b) Quits his unit, organization or place of duty with intent to avoid hazardous duty or to shirk important service; or

(c) Without being regularly separated from one of the state military forces enlists or accepts an appointment in the same or another one of the state military forces, or in one of the armed forces of the United States, without fully disclosing the fact that he has not been regularly separated; is guilty of desertion.

(2) Any commissioned officer of the state military forces who, after tender of his resignation and before notice of its acceptance, quits his post or proper duties without leave and with intent to remain away therefrom permanently is guilty of desertion.

(3) Any person found guilty of desertion or attempt to desert shall be punished as a court martial may direct. [1963 c 220 § 84.]

38.38.664 Absence without leave. Any person subject to this code who, without authority:

(1) Fails to go to his appointed place of duty at the time prescribed;

(2) Goes from that place; or

(3) Absents himself or remains absent from his unit, organization, or place of duty at which he is required to be at the time prescribed; shall be punished as a court martial may direct. [1963 c 220 § 85.]

38.38.668 Missing movement. Any person subject to this code who through neglect or design misses the movement of a ship, aircraft, or unit with which he is required in the course of duty to move shall be punished as a court martial may direct. [1963 c 220 § 86.]

38.38.672 Contempt towards officials. Any person subject to this code who uses contemptuous words against the president, the governor, or the governor of any other state, territory, commonwealth, or possession in which that person may be serving, shall be punished as a court martial may direct. [1963 c 220 § 87.]

38.38.676 Disrespect towards superior commissioned officer. Any person subject to this code who behaves with disrespect towards his superior commissioned officer shall be punished as a court martial may direct. [1963 c 220 § 88.]

38.38.680 Assaulting or wilfully disobeying superior commissioned officer. Any person subject to this code who:

(1) Strikes his superior commissioned officer or draws or lifts up any weapon or offers any violence against him while he is in the execution of his office; or

(2) Wilfully disobeys a lawful command of his superior commissioned officer; shall be punished as a court martial may direct. [1963 c 220 § 89.]

38.38.684 Insubordinate conduct toward warrant officer, noncommissioned officer, or petty officer. Any warrant officer or enlisted member who:

(1) Strikes or assaults a warrant officer, noncommissioned officer or petty officer, while that officer is in the execution of his office;

(2) Wilfully disobeys the lawful order of a warrant officer, noncommissioned officer, or petty officer; or

(3) Treats with contempt or is disrespectful in language or deportment toward a warrant officer, noncommissioned officer, or petty officer, while that officer is in the execution of his office; shall be punished as a court martial may direct. [1963 c 220 § 90.]

38.38.688 Failure to obey order or regulation. Any person subject to this code who:

(1) Violates or fails to obey any lawful general order or regulation;

(2) Having knowledge of any other lawful order issued by a member of the state military forces which it is his duty to obey, fails to obey the order; or

(3) Is derelict in the performance of his duties; shall be punished as a court martial may direct. [1963 c 220 § 91.]

38.38.692 Cruelty and maltreatment. Any person subject to this code who is guilty of cruelty toward, or oppression or maltreatment of, any person subject to his orders shall be punished as a court martial may direct. [1963 c 220 § 92.]

38.38.696 Mutiny or sedition. (1) Any person subject to this code who:

(a) With intent to usurp or override lawful military authority refuses, in concert with any other person, to obey orders or otherwise do his duty or creates any violence or disturbance is guilty of mutiny;

(b) With intent to cause the overthrow or destruction of lawful civil authority, creates, in concert with any other person, revolt, violence, or other disturbance against that authority is guilty of sedition;

(c) Fails to do his utmost to prevent and suppress a mutiny or sedition being committed in his presence, or fails to take all reasonable means to inform his superior commissioned officer or commanding officer of a mutiny or sedition which he knows or has reason to believe is taking place, is guilty of a failure to suppress or report a mutiny or sedition.

(2) A person who is found guilty of attempted mutiny, mutiny, sedition, or failure to suppress or report a mutiny or sedition shall be punished as a court martial may direct. [1963 c 220 § 93.]

38.38.700 Resistance, breach of arrest, and escape. Any person subject to this code who resists apprehension or breaks arrest or who escapes from physical restraint lawfully imposed shall be punished as a court martial may direct. [1963 c 220 § 94.]

38.38.704 Releasing prisoner without proper authority. Any person subject to this code who, without proper authority, releases any prisoner committed to his charge,

or who through neglect or design suffers any such prisoner to escape, shall be punished as a court martial may direct, whether or not the prisoner was committed in strict compliance with law. [1963 c 220 § 95.]

38.38.708 Unlawful detention of another. Any person subject to this code who, except as provided by law or regulation, apprehends, arrests, or confines any person shall be punished as a court martial may direct. [1963 c 220 § 96.]

38.38.712 Noncompliance with procedural rules. Any person subject to this code who:

(1) Is responsible for unnecessary delay in the disposition of any case of a person accused of an offense under this code; or

(2) Knowingly and intentionally fails to enforce or comply with any provision of this code regulating the proceedings before, during, or after trial of an accused; shall be punished as a court martial may direct. [1963 c 220 § 97.]

38.38.716 Misbehavior before the enemy. Any person subject to this code who before or in the presence of the enemy:

(1) Runs away;

(2) Shamefully abandons, surrenders, or delivers up any command, unit, place, or military property which it is his duty to defend;

(3) Through disobedience, neglect, or intentional misconduct endangers the safety of any such command, unit, place, or military property;

(4) Casts away his arms or ammunition;

(5) Is guilty of cowardly conduct;

(6) Quits his place of duty to plunder or pillage;

(7) Causes false alarms in any command, unit, or place under control of the armed forces of the United States or the state military forces;

(8) Wilfully fails to do his utmost to encounter, engage, capture, or destroy any enemy troops, combatants, vessels, aircraft, or any other thing, which it is his duty so to encounter, engage, capture, or destroy; or

(9) Does not afford all practicable relief and assistance to any troops, combatants, vessels, or aircraft of the armed forces belonging to the United States or their allies, to the state, or to any other state, when engaged in battle;

shall be punished as a court martial may direct. [1963 c 220 § 98.]

38.38.720 Subordinate compelling surrender. Any person subject to this code who compels or attempts to compel the commander of any of the state military forces of the state, or of any other state, to give it up to an enemy or to abandon it, or who strikes the colors or flag to an enemy without proper authority, shall be punished as a court martial may direct. [1963 c 220 § 99.]

38.38.724 Improper use of countersign. Any person subject to this code who in time of war discloses the parole or countersign to any person not entitled to receive it, or who gives to another who is entitled to

receive and use the parole or countersign a different parole or countersign from that which, to his knowledge, he was authorized and required to give, shall be punished as a court martial may direct. [1963 c 220 § 100.]

38.38.728 Forcing a safeguard. Any person subject to this code who forces a safeguard shall be punished as a court martial may direct. [1963 c 220 § 101.]

38.38.732 Captured or abandoned property. (1) All persons subject to this code shall secure all public property taken from the enemy for the service of the United States, and shall give notice and turn over to the proper authority without delay all captured or abandoned property in their possession, custody, or control.

(2) Any person subject to this code who:

(a) Fails to carry out the duties prescribed in subsection (1) hereof;

(b) Buys, sells, trades, or in any way deals in or disposes of captured or abandoned property, whereby he receives or expects any profit, benefit, or advantage to himself or another directly or indirectly connected with himself; or

(c) Engages in looting or pillaging; shall be punished as a court martial may direct. [1963 c 220 § 102.]

38.38.736 Aiding the enemy. Any person subject to this code who:

(1) Aids, or attempts to aid, the enemy with arms, ammunition, supplies, money, or other things; or

(2) Without proper authority, knowingly harbors or protects or gives intelligence to, or communicates or corresponds with or holds any intercourse with the enemy, either directly or indirectly; shall be punished as a court martial may direct. [1963 c 220 § 103.]

38.38.740 Misconduct of a prisoner. Any person subject to this code who, while in the hands of the enemy in time of war:

(1) For the purpose of securing favorable treatment by his captors acts without proper authority in a manner contrary to law, custom, or regulation, to the detriment of others of whatever nationality held by the enemy as civilian or military prisoners; or

(2) While in a position of authority over such persons maltreats them without justifiable cause; shall be punished as a court martial may direct. [1963 c 220 § 104.]

38.38.744 False official statements. Any person subject to this code who, with intent to deceive, signs any false record, return, regulation, order, or other official document, knowing it to be false, or makes any other false official statement knowing it to be false, shall be punished as a court martial may direct. [1963 c 220 § 105.]

38.38.748 Military property—Loss, damage, destruction, or wrongful disposition. Any person subject to this code who, without proper authority:

(1) Sells or otherwise disposes of;
(2) Wilfully or through neglect damages, destroys, or loses; or

(3) Wilfully or through neglect suffers to be damaged, destroyed, sold or wrongfully disposed of; any military property of the United States or of the state shall be punished as a court martial may direct. [1963 c 220 § 106.]

38.38.752 Property other than military property—Waste, spoilage, or destruction. Any person subject to this code who, while in a duty status, wilfully or recklessly wastes, spoils, or otherwise wilfully and wrongfully destroys or damages any property other than military property of the United States or of the state shall be punished as a court martial may direct. [1963 c 220 § 107.]

38.38.756 Improper hazarding of vessel. (1) Any person subject to this code who wilfully and wrongfully hazards or suffers to be hazarded any vessel of the armed forces of the United States or of the state military forces shall be punished as a court martial may direct.

(2) Any person subject to this code who negligently hazards or suffers to be hazarded any vessel of the armed forces of the United States or of the state military forces shall be punished as a court martial may direct. [1963 c 220 § 108.]

38.38.760 Drunken or reckless driving. Any person subject to this code who operates any vehicle while drunk, or in a reckless or wanton manner, shall be punished as a court martial may direct. [1963 c 220 § 109.]

38.38.764 Drunk on duty—Sleeping on post—Leaving post before relief. Any person subject to this code who is found drunk on duty or sleeping upon his post, or who leaves his post before he is regularly relieved, shall be punished as a court martial may direct. [1963 c 220 § 110.]

38.38.768 Dueling. Any person subject to this code who fights or promotes, or is concerned in or connives at fighting a duel, or who, having knowledge of a challenge sent or about to be sent, fails to report the fact promptly to the proper authority, shall be punished as a court martial may direct. [1963 c 220 § 111.]

38.38.772 Malingering. Any person subject to this code who for the purpose of avoiding work, duty or service in the state military forces:

(1) Feigns illness, physical disablement, mental lapse or derangement; or

(2) Intentionally inflicts self-injury; shall be punished as a court martial may direct. [1963 c 220 § 112.]

38.38.776 Riot or breach of peace. Any person subject to this code who causes or participates in any riot or breach of the peace shall be punished as a court martial may direct. [1963 c 220 § 113.]

38.38.780 Provoking speeches or gestures. Any person subject to this code who uses provoking or reproachful words or gestures toward any other person subject to this code shall be punished as a court martial may direct. [1963 c 220 § 114.]

38.38.784 Perjury. Any person subject to this code who in a judicial proceeding or in a course of justice conducted under this code wilfully and corruptly gives, upon a lawful oath or in any form allowed by law to be substituted for an oath, any false testimony material to the issue or matter of inquiry is guilty of perjury and shall be punished as a court martial may direct. [1963 c 220 § 115.]

38.38.788 Frauds against the government. Any person subject to this code:

(1) Who, knowing it to be false or fraudulent:

(a) Makes any claim against the United States, the state, or any officer thereof; or

(b) Presents to any person in the civil or military service thereof, for approval or payment any claim against the United States, the state, or any officer thereof;

(2) Who, for the purpose of obtaining the approval, allowance, or payment of any claim against the United States, the state, or any officer thereof:

(a) Makes or uses any writing or other paper knowing it to contain any false or fraudulent statements;

(b) Makes any oath to any fact or to any writing or other paper knowing the oath to be false; or

(c) Forges or counterfeits any signature upon any writing or other paper, or uses any such signature knowing it to be forged or counterfeited;

(3) Who, having charge, possession, custody, or control of any money, or other property of the United States or the state, furnished or intended for the armed forces of the United States or the state military forces, knowingly delivers to any person having authority to receive it, any amount thereof less than that for which he receives a certificate or receipt; or

(4) Who, being authorized to make or deliver any paper certifying the receipt of any property of the United States or the state, furnished or intended for the armed forces of the United States or the state military forces, makes or delivers to any person such writing without having full knowledge of the truth of the statements therein contained and with intent to defraud the United States or the state; shall, upon conviction, be punished as a court martial may direct. [1963 c 220 § 116.]

38.38.792 Larceny and wrongful appropriation. (1) Any person subject to this code who wrongfully takes, obtains, or withholds, by any means, from the possession of the owner or of any other person any money, personal property, or article of value of any kind:

(a) With intent permanently to deprive or defraud another person of the use and benefit of property or to appropriate it to his own use or the use of any person other than the owner, steals that property and is guilty of larceny; or

(b) With intent temporarily to deprive or defraud another person of the use and benefit of property or to appropriate it to his own use or the use of any person other than the owner, is guilty of wrongful appropriation.

(2) Any person found guilty of larceny or wrongful appropriation shall be punished as a court martial may direct. [1963 c 220 § 117.]

38.38.796 Conduct unbecoming an officer and a gentleman. Any commissioned officer who is convicted of conduct unbecoming an officer and a gentleman shall be punished as a court martial may direct. [1963 c 220 § 118.]

38.38.800 General article. Though not specifically mentioned in this code, all disorders and neglects to the prejudice of good order and discipline in the state military forces, of which persons subject to this code may be guilty, shall be taken cognizance of by a general, special or summary court martial, according to the nature and degree of the offense, and shall be punished at the discretion of that court. However, cognizance may not be taken of, and jurisdiction may not be extended to, the crimes of murder, manslaughter, rape, robbery, maiming, sodomy, arson, extortion, assault, burglary, or housebreaking, jurisdiction of which is reserved to civil courts. [1963 c 220 § 119.]

PART XI—MISCELLANEOUS PROVISIONS

38.38.840 Courts of inquiry. (1) Courts of inquiry to investigate any matter may be convened by the governor or by any other person designated by the governor for that purpose, whether or not the persons involved have requested such an inquiry: *Provided*, That upon the request of the officer involved such an inquiry shall be instituted as hereinabove set forth.

(2) A court of inquiry consists of three or more commissioned officers. For each court of inquiry the convening authority shall also appoint counsel for the court.

(3) Any person subject to this code whose conduct is subject to inquiry shall be designated as a party. Any person subject to this code or employed in the division of military and naval affairs, who has a direct interest in the subject of inquiry has the right to be designated as a party upon request to the court. Any person designated as a party shall be given due notice and has the right to be present, to be represented by counsel, to cross-examine witnesses, and to introduce evidence.

(4) Members of a court of inquiry may be challenged by a party, but only for cause stated to the court.

(5) The members, counsel, the reporter, and interpreters of courts of inquiry shall take an oath or affirmation to faithfully perform their duties.

(6) Witnesses may be summoned to appear and testify and be examined before courts of inquiry, as provided for courts martial.

(7) Courts of inquiry shall make findings of fact but may not express opinions or make recommendations unless required to do so by the convening authority.

(8) Each court of inquiry shall keep a record of its proceedings, which shall be authenticated by the signatures of the president and counsel for the court and forwarded to the convening authority. If the record cannot be authenticated by the president, it shall be signed by a member in lieu of the president. If the record cannot be authenticated by the counsel for the court, it shall be signed by a member in lieu of the counsel. [1963 c 220 § 120.]

38.38.844 Authority to administer oaths. (1) The following members of the state military forces may administer oaths for the purposes of military administration, including military justice, and affidavits may be taken for those purposes before persons having the general powers of a notary public:

(a) The state judge advocate and all assistant state judge advocates.

(b) All law specialists.

(c) All summary courts martial.

(d) All adjutants, assistant adjutants, acting adjutants, and personnel adjutants.

(e) All commanding officers of the naval militia.

(f) All legal officers.

(g) The president, law officer, trial counsel, and assistant trial counsel for all general and special courts martial.

(h) The president and the counsel for the court of any court of inquiry.

(i) All officers designated to take a deposition.

(j) All persons detailed to conduct an investigation; and

(k) All other persons designated by regulations of the governor.

(2) Officers of the state military forces may not be authorized to administer oaths as provided in this section unless they are on active duty in or with those forces under orders of the governor as prescribed in this code.

(3) The signature without seal of any such person, together with the title of his office, is prima facie evidence of his authority. [1963 c 220 § 121.]

38.38.848 Sections to be explained. RCW 38.38.008, 38.38.012, 38.38.064 through 38.38.132, 38.38.252, 38.38.260, 38.38.372, 38.38.480, 38.38.624 through 38.38.792, and 38.38.848 through 38.38.860 shall be carefully explained to every enlisted member at the time of his enlistment or transfer or induction into, or at the time of his order to duty in or with any of the state military forces or within thirty days thereafter. They shall also be explained annually to each unit of the state military forces. A complete text of this code and of the regulations prescribed by the governor thereunder shall be made available to any member of the state military forces, upon his request, for his personal examination. [1963 c 220 § 122.]

38.38.852 Complaints of wrongs. Any member of the state military forces who believes himself wronged by his commanding officer, and who, upon due application to that commanding officer, is refused redress, may complain to any superior commissioned officer, who shall

forward the complaint to the governor or adjutant general. [1963 c 220 § 123.]

38.38.856 Redress of injuries to property. (1) Whenever complaint is made to any commanding officer that wilful damage has been done to the property of any person or that his property has been wrongfully taken by members of the state military forces, he may, subject to such regulations as the governor may prescribe, convene a board to investigate the complaint. The board shall consist of from one to three commissioned officers and, for the purpose of that investigation, it has power to summon witnesses and examine them upon oath or affirmation, to receive depositions or other documentary evidence, and to assess the damages sustained against the responsible parties. The assessment of damages made by the board is subject to the approval of the commanding officer, and in the amount approved by him shall be charged against the pay of the offenders. The order of the commanding officer directing charges herein authorized is conclusive, except as provided in subsection (3) hereof, on any disbursing officer for the payment by him to the injured parties of the damages so assessed and approved.

(2) If the offenders cannot be ascertained, but the organization or detachment to which they belong is known, charges totaling the amount of damages assessed and approved may be paid to the injured parties from the military funds of the units of the state military forces to which the offenders belonged.

(3) Any person subject to this code who is accused of causing wilful damage to property has the right to be represented by counsel, to summon witnesses in his behalf, and to cross-examine those appearing against him. He has the right of appeal to the next higher commander. [1963 c 220 § 124.]

38.38.860 Execution of process and sentence. In the state military forces not in federal service, the processes and sentences of its courts martial shall be executed by the civil officers prescribed by the laws of the state. [1963 c 220 § 125.]

38.38.864 Process of military courts. (1) Military courts may issue any process or mandate necessary to carry into effect their powers. Such a court may issue subpoenas and subpoenas duces tecum and enforce by attachment attendance of witnesses and production of books and records, when it is sitting within the state and the witnesses, books and records sought are also so located.

(2) Process and mandates may be issued by summary courts martial, provost courts, or the president of other military courts and may be directed to and may be executed by the marshals of the military court or any peace officer and shall be in such form as may be prescribed by regulations issued under this code.

(3) All officers to whom process or mandates may be so directed shall execute them and make return of their acts thereunder according to the requirements of those documents. Except as otherwise specifically provided in

this code, no such officer may demand or require payment of any fee or charge for receiving, executing, or returning such a process or mandate or for any service in connection therewith. [1963 c 220 § 126.]

38.38.868 Payment of fines and disposition thereof. Fines imposed by a military court may be paid to it or to an officer executing its process. The amount of such a fine may be noted upon any state roll or account for pay of the delinquent and deducted from any pay or allowance due or thereafter to become due him, until the fine is liquidated. Any sum so deducted shall be turned in to the military court which imposed the fine. Notwithstanding any other law, the officer collecting a fine or penalty imposed by a military court upon an officer or enlisted man shall pay it within thirty days to the state treasurer. Such a fine becomes a part of, is credited to, and may be spent from, the military fund of the organization or detachment to which the officer or enlisted man who paid the fine belonged. The treasurer of the state shall then report the amount thereof designating the organization or detachment to which it belongs, to the adjutant general of the state, and shall pay it over to the organization or detachment on request of its commanding officer. [1963 c 220 § 127.]

38.38.872 Immunity for action of military courts. No accused may bring an action or proceeding against the convening authority or a member of a military court or officer or person acting under its authority or reviewing its proceedings because of the approval, imposition, or execution of any sentence or the imposition or collection of a fine or penalty, or the execution of any process or mandate of a military court. [1963 c 220 § 128.]

38.38.876 Presumption of jurisdiction. The jurisdiction of the military courts and boards established by this code shall be presumed and the burden of proof rests on any person seeking to oust those courts or boards of jurisdiction in any action or proceeding. [1963 c 220 § 129.]

38.38.880 Delegation of authority by the governor. The governor may delegate any authority vested in him under this code, and may provide for the subdelegation of any such authority, except the power given him by RCW 38.38.192 and 38.38.240. [1963 c 220 § 130.]

38.38.884 Uniformity of interpretation. This chapter shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it and, so far as practical, to make that law uniform with the law of the United States. [1963 c 220 § 131.]

38.38.888 Short title. This chapter may be cited as the "Washington code of military justice." [1963 c 220 § 132.]

- 38.40.020 Not liable for exercise of judgment.
- 38.40.030 Compensation for death or disability.
- 38.40.040 Interference with employment.
- 38.40.050 Discharge from employment.
- 38.40.060 Military leaves for public employees.
- 38.40.080 Uniforms, etc., exempt.
- 38.40.090 Exemption from jury duty.
- 38.40.100 Notice for duty.
- 38.40.110 Membership in other organizations—Discrimination prohibited.
- 38.40.120 Authorized military organizations.
- 38.40.130 Corporations may be formed.
- 38.40.140 Unlawful wearing of military insignia.
- 38.40.150 Property to remain public property.
- 38.40.160 Personal effects of deceased soldiers.

Absent service voters: Chapter 29.39 RCW.

Acknowledgments and powers of attorney: Chapter 73.20 RCW.

Acquisitions of lands for permanent military installations: Chapter 37.16 RCW.

Artillery, firing across highway: RCW 77.16.260.

Carrying pistol forbidden—Exception: RCW 9.41.060.

Common carriers—Special exceptions on carriage of property, government freight, etc.: RCW 81.28.080.

Custody, proof and probate of wills—Proof where one or more witnesses insane, deceased or in war service: RCW 11.20.040.

Eminent domain—Condemnation for military purposes: RCW 8.04.170, 8.04.180.

Eminent domain—Notice where military land is involved: RCW 8.28.030.

Evidence—Proof of missing in action, capture by enemy, etc.: RCW 5.40.030.

Evidence—Written finding of presumed death as prima facie evidence: RCW 5.40.020.

Federal areas and jurisdiction: Title 37 RCW.

Firing artillery across highway: RCW 77.16.260.

Gas bombs: RCW 70.74.310.

Hunting and fishing licenses free to certain veterans: RCW 77.32.230.

Joint armory sites: RCW 36.64.050.

Juries—Persons exempt: RCW 2.36.080.

Machine guns prohibited, exception: RCW 9.41.190.

Mental illness hospitalization—Authority over patient—Federal agencies, private establishments: RCW 71.02.490.

Mental illness hospitalization—Commitment to veterans administration or other federal agency—General provision: RCW 73.36.165.

Militia—Privilege from arrest: State Constitution Art. 10 § 5.

Militia—Soldiers' home: State Constitution Art. 10 § 3.

Motor vehicle licenses—Exemption—State and publicly owned vehicles: RCW 46.16.020.

Operator's license required—Exceptions: RCW 46.20.021, 46.20.025.

Personal exemptions—Pension money exempt: RCW 6.16.030.

Public schools and colleges—Programs in observance of Veterans Day: RCW 28A.02.070.

Residence, contingencies affecting: State Constitution Art. 6 § 4.

Soldiers' and veterans' homes: Chapter 72.36 RCW.

Statute of limitations tolled—As to person in military service of United States: RCW 4.16.220.

Tide and shore land grants to United States: RCW 79.01.596, 79.01.600, 79.01.604, 79.01.608.

Veterans' and veterans' affairs: Title 73 RCW.

Veterans' rehabilitation council: Chapter 43.61 RCW.

Voter, when privileged from arrest: State Constitution Art. 6 § 5.

Wills—Requisites of wills—Nuncupative wills—Foreign wills: RCW 11.12.020.

38.40.010 Liability of officers and enlisted men on duty. Members of the militia ordered into active service of the state by any proper authority shall not be liable civilly or criminally for any act or acts done by them

Chapter 38.40

MISCELLANEOUS PROVISIONS

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38.40.010 Liability of officers and enlisted men on duty.

while on such duty nor shall any action lie against any officer or enlisted man for any acts done by him in line of duty by virtue of any order which may thereafter be held invalid by any civil court. When a suit or proceeding shall be commenced in any court by any person against any officer or enlisted man of the militia for any act done by such officer or enlisted man in his official capacity or in the discharge of any duty, or against any person acting under the authority or order of such officer or by virtue of any warrant issued pursuant to law, the defendant may require the person prosecuting or instituting the proceeding to give security for the payment of all costs that may be awarded to the defendant, and the defendant in all cases may make a general denial and, under such general denial, give all other or any special defense matter in evidence. In case the plaintiff shall be nonsuited or the verdict or judgment be in favor of the defendant, treble costs shall be assessed against the plaintiff. The defendant in such action shall be defended by the attorney general at the expense of the state, but private counsel may also be employed by the defendant. The venue of all such actions shall be Thurston county and the state of Washington shall be in all cases a necessary party defendant. [1943 c 130 § 13; Rem. Supp. 1943 § 8603-13. Cf. 1909 c 134 § 25, part; 1895 c 108 § 173, part.]

Reviser's note: Caption for 1943 c 130 § 13 reads: "Sec. 13. *Suits against Officers or Enlisted Men.*"

38.40.020 Not liable for exercise of judgment. The commanding officer of any of the military forces of the state of Washington engaged under the order of proper authority in the suppression of insurrection, the dispersion of a mob, the protection of life or property, or the enforcement of the laws, shall exercise his discretion as to the propriety of the means to be used in controlling or dispersing of any mob or other unlawful assembly and, if he exercises his honest judgment thereon, he shall not be liable in either a civil or criminal action for any act done in line of duty. [1943 c 130 § 14; Rem. Supp. 1943 § 8603-14. Cf. 1909 c 134 § 25, part; 1895 c 108 § 173, part.]

38.40.030 Compensation for death or disability. If any officer or enlisted man of the organized militia is wounded or otherwise disabled while in active state service as a member of the military force, he shall receive from the state of Washington just and reasonable relief in the amount to be determined as hereinafter provided, including necessary medical aid. In case such officer or enlisted man dies from disease contracted or injury received or is killed while in active state service under order of the governor, then the dependents of such deceased shall receive such compensation as may be allowed as hereinafter provided. 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. Such board to have the same power to take evidence, administer oaths, issue subpoenas and 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 shall be final and conclusive and shall constitute the fixed award for such injury or loss and shall be a debt of the state of Washington. [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.]

Reviser's note: Caption for 1943 c 130 § 40 reads: "Sec. 40. *Compensation for injuries.*"

Workmen's compensation: Title 51 RCW.

38.40.040 Interference with employment. A person, who either by himself, or with another, wilfully deprives a member of the organized militia of Washington of his employment or prevents, by himself or another, such member being employed, or obstructs or annoys said member or his employer in his trade, business or employment, because he is such member, or dissuades any person from enlisting in said organized militia by threat or injury to him in his employment, trade or business, in case he shall so enlist, shall be guilty of a gross misdemeanor and on conviction thereof shall be fined in a sum not exceeding five hundred dollars, or imprisonment in the county jail not more than six months, or by both such fine and imprisonment. [1943 c 130 § 46; Rem. Supp. 1943 § 8603-46. Prior: 1917 c 107 § 41; 1909 c 134 § 67; 1895 c 108 § 104, part.]

38.40.050 Discharge from employment. No member of the organized militia of Washington shall be discharged by his employer by reason of the performance of any military duties upon which he may be ordered. When any member of the organized militia of Washington is ordered upon active duty which takes him from his employment he may apply upon the termination of such duty to be restored to his position and employment, and if the tour of duty shall have continued for a period not longer than three months, any employer or the officer or manager of any firm or corporation having authority to reemploy such member and failing to do so shall be guilty of a gross misdemeanor, and on conviction thereof shall be fined in any sum not exceeding five hundred dollars, or imprisonment in the county jail for a period not exceeding six months, or by both such fine and imprisonment. [1943 c 130 § 48; Rem. Supp. 1943 § 8603-48. Prior: 1917 c 107 § 43; 1909 c 134 § 69; 1895 c 108 § 104, part.]

38.40.060 Military leaves for public employees. Every officer and employee of the state or of any county, city, or other political subdivision thereof who is a member of the Washington national guard or of the army, navy, air force, coast guard, or marine corps reserve of the United States, or of any organized reserve or armed

forces of the United States shall be entitled to and shall be granted military leave of absence from such employment for a period not exceeding fifteen days during each calendar year. Such leave shall be granted in order that the person may take part in active training duty in such manner and at such time as he may be ordered to active training duty. Such military leave of absence shall be in addition to any vacation or sick leave to which the officer or employee might otherwise be entitled, and shall not involve any loss of efficiency rating, privileges, or pay. During the period of military leave, the officer or employee shall receive from the state, or the county, city, or other political subdivision, his normal pay. [1957 c 236 § 1; 1939 c 113 § 1.]

38.40.080 Uniforms, etc., exempt. The military uniforms, arms and equipment of members of the organized militia of Washington shall be exempt from execution and taxation. [1943 c 130 § 39; Rem. Supp. 1943 § 8603-39. Prior: 1917 c 107 § 34; 1909 c 134 § 53; 1895 c 108 § 82.]

38.40.090 Exemption from jury duty. Every officer and enlisted man of the organized militia of Washington shall be exempt from all jury duty during the term of his service therein. [1943 c 130 § 90; Rem. Supp. 1943 § 8603-90. Prior: 1917 c 107 § 124; 1909 c 134 § 95; 1895 c 108 § 74.]

38.40.100 Notice for duty. Orders for duty may be oral or written. Officers and enlisted men may be warned for duty as follows: Either by stating the substance of the order, or by reading the order to the person warned, or by delivering a copy of such order to such person, or by leaving a copy of such order at his last known place of abode or business, with some person of suitable age and discretion, or by sending a copy of such order or notice containing the substance thereof, to such man by mail, directed to him at his last known place of abode or business. Orders may be transmitted by telegraph or telephone. Such warning may be given by any officer or authorized enlisted man. The officer or enlisted man giving such warning shall, when required, make a return thereof, containing the names of persons warned and the time, place and manner of warning. Such returns shall be verified on oath and shall be prima facie evidence, on the trial of any person returned as a delinquent, of the facts therein stated. [1943 c 130 § 53; Rem. Supp. 1943 § 8603-53. Prior: 1909 c 134 § 65; 1895 c 108 § 102.]

38.40.110 Membership in other organizations—Discrimination prohibited. No club, society, association, corporation, or organization shall by any constitution, rule, bylaws, resolution, vote or regulation, or otherwise, discriminate against any member of the organized militia of Washington because of his membership in said organized militia, in respect to his eligibility to membership in such club, society, association, corporation or organization, or in respect to his rights to retain and exercise the rights of membership therein. Any person or persons, club, society, association, corporation or organization, violating or aiding, abetting, or assisting in the

violation of any provision of this section shall be guilty of a misdemeanor and on conviction thereof shall be fined in any sum not exceeding one hundred dollars and in addition thereto shall forfeit right to do business for a period of thirty days. [1943 c 130 § 47; Rem. Supp. 1943 § 8603-47. Prior: 1917 c 107 § 42; 1909 c 134 § 68.]

Reviser's note: Caption for 1943 c 30 § 47 reads: "Sec. 47. *Rights of members of the Organized Militia.*"

38.40.120 Authorized military organizations. No body of men other than the recognized militia organizations of this state, armed forces of the United States, students of educational institutions where military science is a prescribed part of the course of instruction or bona fide veterans organizations shall associate themselves together as a military company or organize or parade in public with firearms: *Provided*, That nothing herein shall be construed to prevent authorized parades by the organized militia of another state or armed forces of foreign countries. Any person participating in any such unauthorized organization shall be guilty of a misdemeanor. [1943 c 130 § 54; Rem. Supp. 1943 § 8603-54. Prior: 1909 c 249 § 294; 1903 c 135 § 1.]

38.40.130 Corporations may be formed. The officers, or the officers and enlisted men of any regiment, battalion, company or similar unit of the organized militia of Washington, or the officers and enlisted men of any two or more companies or similar units of the organized militia of the state of Washington, located at the same station, are hereby authorized to organize themselves into a corporation for social purposes and for the purpose of holding, acquiring and disposing of such property, real and personal, as such military organizations may possess or acquire. Such corporations shall not be required to pay any filing or license fee to the state.

The dissolution or disbandment of any such unit as a military organization shall not in itself terminate the existence of the corporation, but the existence of the same may continue for the period limited in its articles of incorporation for the benefit of such corporation.

Upon the dissolution or disbandment of any such unit which shall not have incorporated, and which shall at the time of such dissolution or disbandment possess any funds or property, the title to such funds or property shall immediately vest in the state of Washington, and the adjutant general shall take possession thereof and dispose of the same to the best interest of the organized militia of Washington. [1943 c 130 § 49; Rem. Supp. 1943 § 8603-49. Prior: 1923 c 49 § 4; 1917 c 107 § 44; 1915 c 19 § 1; 1909 c 134 § 71; 1895 c 108 §§ 123, 124.]

38.40.140 Unlawful wearing of military insignia. It shall be a misdemeanor for any person to wear any uniform or any device, strap, knot or insignia of any design or character used as a designation of grade, rank of office, or branch of service, such as are by law or by regulation duly promulgated, prescribed for the use of the militia, except members of the military or naval forces of the United States, the organized militia of this

or any other state, honorably discharged members of the armed forces of the United States of America, members of veteran associations and cadet students in educational institutions where military science is a prescribed course of instruction: *Provided*, That this section shall not apply to regalia used by secret or fraternal organizations worn while exemplifying their ritual or strictly incidental to organizations' activities, or to actors in their regular roles, or to duly qualified peace officers of this state or any subdivision thereof. [1943 c 130 § 55; Rem. Supp. 1943 § 8603-55. Cf. 1909 c 134 § 48.]

38.40.150 Property to remain public property. All property issued to organizations and members of the organized militia of Washington shall be and remain public property. [1943 c 130 § 38; Rem. Supp. 1943 § 8603-38. Prior: 1917 c 107 § 33; 1909 c 134 § 51; 1895 c 108 § 78.]

38.40.160 Personal effects of deceased soldiers. In case of death of any enlisted man while on active duty, his commanding officer shall immediately secure all his effects then in camp or quarters and shall in the presence of two witnesses make an inventory thereof in duplicate; the original copy to be transmitted to the adjutant general and the copy to be turned over to the personal representative of such deceased at the time said effects are claimed. [1943 c 130 § 89; Rem. Supp. 1943 § 8603-89.]

Chapter 38.44 ENROLLMENT OF PERSONS

Sections

38.44.010	Commander-in-chief may order enrollment.
38.44.020	Notice of enrollment.
38.44.030	Exemptions.
38.44.040	Penalties for dereliction or false certificate.
38.44.050	Compensation of enrolling officer.
38.44.060	Examination of records.

Militia—Exemption from military duty: State Constitution Art. 10 § 6.

38.44.010 Commander-in-chief may order enrollment. Whenever the commander-in-chief shall deem it necessary, in event of, or imminent danger of war, insurrection, rebellion, invasion, tumult, riot, resistance to law or process or breach of the peace, he may order an enrollment by counties of all persons subject to military duty, designating the county assessor or some other person for each county to act as county enrolling officer. Each county enrolling officer may appoint such assistant or assistants as may be authorized by the commander-in-chief. In each county the enrollment shall include every sane able bodied inhabitant not under sentence for an infamous crime, who is more than eighteen and less than forty-five years of age. The enrollment shall be made in triplicate and shall state the name, residence, age, occupation and previous or existing military or naval service of each person enrolled. When complete the rolls shall be verified under oath by the enrolling officer, who shall immediately thereupon file one copy with the adjutant general of the state and another with

the county auditor, retaining the third copy for himself. [1973 1st ex.s. c 154 § 57; 1909 c 134 § 4; 1895 c 108 § 4; RRS § 8456.]

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

38.44.020 Notice of enrollment. Persons making an enrollment under *this act shall, at the time of making same, serve a notice of such enrollment upon each person enrolled, by delivering such notice to him personally or by leaving it with some person of suitable age and discretion at his place of business or residence, or by mailing such notice to him at his last known place of residence, and shall make a return under oath of such service to accompany the copy of the enrollment filed with the adjutant general. Such return shall be prima facie evidence of the facts therein shown. [1909 c 134 § 5; 1895 c 108 § 5; RRS § 8457.]

***Reviser's note:** "this act", the sections of this act (1909 c 134) not heretofore repealed are codified as RCW 38.20.040 and 38.44.020 through 38.44.060.

38.44.030 Exemptions. Whenever an enrollment shall have been ordered under *this act, the commanding officers of existing organizations of militia, and the chiefs of all police and fire departments shall make and deliver to the enrolling officer of the county in which such organization and departments are stationed, verified lists in triplicate of the members of their respective commands and departments, and the enrolling officer shall mark "Exempt" opposite the names of all persons so listed, attaching one copy of each such list to each copy of the enrollment. The enrolling officer shall also mark "Exempt" opposite the names of all federal, state and county officers. All other persons claiming exemption must within fifteen days after service upon them of the notice of enrollment make a written verified claim in duplicate of such exemption and file the same in the office of the county auditor, who shall within five days thereafter forward one copy thereof with remarks and recommendations to the adjutant general. Upon the expiration of the time within which any claim of exemption may be filed and received by the adjutant general, the latter shall notify the county auditor of his decision in each case where exemption has been claimed, and the county auditor shall write upon the roll opposite the name of each person whose claim of exemption has been allowed by the adjutant general, the word "Exempt." All those on the roll not marked "Exempt" shall be subject to military duty. [1909 c 134 § 6; 1895 c 108 § 6, part; RRS § 8458.]

***Reviser's note:** "this act", see note following RCW 38.44.020.

38.44.040 Penalties for dereliction or false certificate. If any officer or person, who becomes charged under *this act with any duty relating to an enrollment of persons subject to military duty, refuses or neglects to perform the same within the time and substantially in the manner required by law, or if he shall knowingly make any false certificate, or if, when acting as county or assistant enrolling officer, he shall knowingly or wilfully omit from the roll any person required by *this act

to be enrolled he shall thereby forfeit not less than one hundred nor more than five hundred dollars, to be sued for in the name of the state of Washington by the prosecuting attorney of the county in which such offense shall occur, the amount of the penalty to be determined by the court, and, when recovered, to be paid into the military fund of the state. [1909 c 134 § 7; RRS § 8459.]

Reviser's note: *(1) "this act", see note following RCW 38.44.020.

(2) The military fund of this state created in 1895 c 108 § 131 was abolished by 1929 c 118 § 2, which reads: "Sec. 2. All moneys in the state treasury to the credit of the military fund on the 1st day of May, 1929, and all moneys thereafter paid into the state treasury for, or to the credit of, the military fund, shall be and are hereby transferred to, and placed in, the general fund in the state treasury." [1929 c 118 § 2.]

38.44.050 Compensation of enrolling officer. Each county enrolling officer shall be allowed the sum of five cents per name enrolled and served with notice of enrollment by him or his assistants, to be audited and paid as other military bills out of any moneys in the military fund not otherwise appropriated, and from such allowance he must pay his assistant or assistants. [1909 c 134 § 8; RRS § 8460.]

Reviser's note: See note following RCW 38.44.040.

38.44.060 Examination of records. All civil officers in each county, city and town shall allow persons authorized under *this act to make enrollments, at all proper times, to examine their records and take copies thereof or information therefrom. It shall be the duty of every person, under the penalties provided in RCW 38.44.040, upon application of any person legally authorized to make an enrollment, truthfully to state all of the facts within his knowledge concerning any individual of whom the enroller shall make inquiry. In event of a violation of this section the enroller shall report the facts to the prosecuting attorney, who shall at once proceed to enforce the penalty. [1909 c 134 § 9; 1895 c 108 § 6, part; RRS § 8461.]

Reviser's note: *(1) "this act", see note following RCW 38.44.020.

(2) Caption for 1909 c 134 § 9 reads: "Sec. 9. *Examination of Assessment Rolls and Poll Lists.*"

Chapter 38.48

STATE AND NATIONAL DEFENSE

Sections

38.48.050 Acceptance of national defense facilities act.

Reviser's note: The following acts, which appear to have been of limited duration, are omitted from RCW:

(1) 1941 c 200, 1943 c 191; RRS §§ 8607-7 through 8607-15; Act in aid of national defense;

(2) 1943 c 93; Authorizing sale or lease of tools and equipment to federal agencies;

(3) 1943 c 200; Washington state war council; and

(4) 1945 c 211; Armory drill pay for active state guard.

38.48.050 Acceptance of national defense facilities act. The legislature hereby expresses its intention to secure to this state the benefits of the act of congress entitled the "National Defense Facilities Act" (64 Stat. 829, U.S.C. Title 50, section 883), and the state military

department shall be charged with the duty to cooperate with any official or agency of the United States having powers or duties under the provisions of the said act of congress for the acquisition, construction, expansion, rehabilitation or conversion of facilities necessary for the administration and training of units of the state military department and reserve components of the armed forces of the United States. The provisions of the said act of congress are hereby accepted by this state and this state will observe and comply with the requirements thereof. [1953 c 181 § 1; 1953 c 277 § 4. The language of the two sections is identical except that 1953 c 277 § 4 omits the citation of the federal statute.]

Chapter 38.52 EMERGENCY SERVICES

Sections

- 38.52.005 Name changed to department of emergency services—Local organizations and advisory council names changed.
- 38.52.006 Succession and vesting of powers, duties and functions.
- 38.52.010 Definitions.
- 38.52.020 Declaration of policy and purpose.
- 38.52.030 Department of emergency services created—Director, powers and duties—Communications coordinating committee—State coordinator of search and rescue operations—State program for emergency assistance.
- 38.52.040 Emergency services council.
- 38.52.050 Governor's general powers and duties.
- 38.52.060 Mobile support units.
- 38.52.070 Local organizations authorized—Joint establishment, operation—Emergency powers, procedures.
- 38.52.080 Outside aid—Rights and liabilities—Claims.
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- 38.52.100 Appropriations—Acceptance of funds, services, etc.
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- 38.52.200 Liability for compensation is in lieu of other liability—Exception.
- 38.52.205 Claims arising from emergency service related activities—Filing—Contents.
- 38.52.207 Claims arising from emergency service related activities—Filing—Consideration, adjustment, settlement, etc., by director of emergency services—Effect.
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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.
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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 service activities.
38.52.900	Short title.
38.52.920	Repeal and saving.

38.52.005 Name changed to department of emergency services—Local organizations and advisory council names changed. On and after May 23, 1972, the state department of civil defense shall be known and designated as the department of emergency services which shall administer the program of civil defense in the state of Washington as provided for in this chapter. All local organizations, organized and performing civil defense functions pursuant to RCW 38.52.070, shall henceforth change their name and be called the ----- department/division of emergency services. The advisory council created pursuant to RCW 38.52.040 shall hereafter be known and designated as the emergency services advisory council. [1972 ex.s. c 6 § 1.]

38.52.006 Succession and vesting of powers, duties and functions. The state department of emergency services and emergency services advisory council shall succeed to and are hereby vested with all powers, duties, and jurisdiction previously vested in said respective civil defense units. The local organizations for civil defense created pursuant to RCW 38.52.070 shall, as departments or divisions of emergency services, also succeed to and be vested with all powers, duties, and jurisdictions previously vested in such local organizations. [1972 ex.s. c 6 § 2.]

38.52.010 Definitions. As used in this chapter:

(1) "Emergency services" means the preparation for and the carrying out of all emergency functions, other than functions for which the military forces are primarily responsible, to minimize and repair injury and damage, and to aid victims suffering from damage, resulting from disasters caused by enemy attack, sabotage, or other hostile action, or by fire, flood, storm, earthquake, or other natural causes, and to provide support for search and rescue operations for persons and property in distress. These functions include, without limitation, fire fighting services, police services, medical and health services, rescue, engineering, air raid warning services, communications, radiological, chemical and other special weapons defense, evacuation of persons from stricken areas, emergency welfare services, emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services and other functions related to civilian protection, together with all other activities necessary or incidental

to the preparation and for carrying out of the foregoing functions.

(2) "Local organization for emergency services" means an organization created in accordance with the provisions of this chapter by state or local authority to perform local emergency services functions.

(3) "Mobile support unit" means an organization for emergency services created in accordance with the provisions of this chapter by state or local authority to be dispatched by the governor to supplement local organizations for emergency services in stricken areas.

(4) "Political subdivision" means any county, city or town.

(5) "Emergency services worker" means any person who is registered with a state or local emergency services organization and holds an identification card issued by the state or local emergency services director for the purpose of engaging in authorized emergency services or is an employee of the state of Washington or any political subdivision thereof who is called upon to perform emergency services.

(6) "Injury" as used in this chapter shall mean and include accidental injuries and/or occupational diseases arising out of emergency services.

(7) "Disaster" as used in this chapter shall mean events, arising out of either enemy attack, sabotage, or other hostile action, or natural causes, which reach such a dimension or degree of destructiveness as to warrant the governor declaring a state of emergency pursuant to RCW 43.06.010. [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.]

Executive head, executive heads, defined: RCW 38.52.070.

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 resulting from enemy attack, sabotage or other hostile action, or from fire, flood, storm, earthquake, or other natural causes, 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 provide for the common defense and 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 services, and to authorize the creation of local organizations for emergency services 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 services functions; and

(d) To provide a means of compensating emergency services workers who may suffer any injury as herein defined as a result of participation in emergency services.

(2) It is further declared to be the purpose of this chapter and the policy of the state that all emergency services 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. [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 services created—Director, powers and duties—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 services and a director of emergency services (hereinafter called the director) who shall be the head thereof. 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 during the pleasure of the governor, and shall be compensated at the rate established by the governor's advisory committee on salaries and wages.

(2) The director may employ such technical, clerical, stenographic, and other personnel and may make such expenditures within the appropriation therefor, or from other funds made available for purposes of emergency services, as may be necessary to carry out the purposes of this chapter.

(3) The director and other personnel of the department shall be provided with appropriate office space, furniture, equipment, supplies, stationery, and printing in the same manner as provided for personnel of other state agencies.

(4) 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 services of this state. The director shall coordinate the activities of all organizations for emergency services within the state, and shall maintain liaison with and cooperate with emergency services 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.

(5) The director shall appoint a communications coordinating committee consisting of six persons with the director 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 be given full and complete authority over all plans for the direction and control of any communications facilities or functions to be operated or controlled under the provisions of this chapter by the department of emergency services, except supplemental emergency communications facilities under the direction of any local organization for emergency services.

(6) 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.

(7) 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 disaster caused by enemy attack, sabotage, or other hostile action, or by fire, flood, storms, earthquake, or other natural causes. 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. [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.

38.52.040 Emergency services council. There is hereby created an emergency services 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 services. The governor shall serve as chairman of the council, and the members thereof 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. [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 services, 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 services 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 services 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; copies of all of such rules, regulations and orders shall upon their issuance forthwith be transmitted to the auditors of the respective counties for filing in their offices and a separate file and a separate index shall be maintained therefor;

(b) To prepare a comprehensive plan and program for the emergency services of this state, such plan and program to be integrated into and coordinated with the emergency services plans of the federal government and of other states to the fullest extent possible, and to coordinate the preparation of plans and programs for emergency services by the political subdivisions of this state, such plans to be integrated into and coordinated with the emergency services plan and program of this state to the fullest possible extent;

(c) In accordance with such plan and program for the emergency services of this state, to procure supplies and equipment, to institute training programs and public information programs, and to take all other preparatory steps including the partial or full mobilization of emergency services organizations in advance of actual disaster, to insure the furnishing of adequately trained and equipped forces of emergency services personnel in time of need;

(d) To 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 services, and to plan for the most efficient emergency use thereof;

(e) 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;

(f) To delegate any administrative authority vested in him under this chapter, and to provide for the subdelegation of any such authority;

(g) To appoint, with the advice of local authorities, metropolitan or regional area coordinators, or both, when practicable;

(h) To cooperate with the president and the heads of the armed forces, the emergency services 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 services of the state and nation, including the direction or control of

(i) blackouts and practice blackouts, air-raid drills, mobilization of emergency services forces, and other tests and exercises;

(ii) warnings and signals for drills or attacks and the mechanical devices to be used in connection therewith;

(iii) the effective screening or extinguishing of all lights and lighting devices and appliances;

(iv) shutting off water mains, gas mains, electric power connections and the suspension of all other utility services;

(v) the conduct of civilians and the movement and cessation of movement of pedestrians and vehicular traffic during, prior, and subsequent to drills or attack;

(vi) public meetings or gatherings; and

(vii) the evacuation and reception of the civilian population. [1974 ex.s. c 171 § 7; 1951 c 178 § 6.]

38.52.060 Mobile support units. (1) The governor, through the director is authorized to create and establish such number of mobile support units as may be necessary to reinforce emergency services organizations in stricken areas and with due consideration of the plans of the federal government and of other states. He shall appoint a commander for each such unit who shall have primary responsibility for the organization, administration and operation of such unit. Mobile support units shall be called to duty upon orders of the governor and shall perform their functions in any part of the state, or, upon the conditions specified in this section, in other states.

(2) Personnel of mobile support units while on duty, whether within or without the state, shall:

(a) If they are employees of the state, have the powers, duties, rights, privileges, and immunities and receive the compensation incidental to their employment;

(b) If they are employees of a political subdivision of the state, and whether serving within or without such political subdivision, have the powers, duties, rights, privileges, and immunities and receive the compensation incidental to their employment; and

(c) If they are not employees of the state or a political subdivision thereof, be entitled to compensation by the state at a rate to be determined by the governor based upon the scale paid by the state to state employees of the same, or similar, classification. All personnel of mobile support units shall, while on duty, be subject to the operational control of the authority in charge of emergency services activities in the area in which they are serving, and shall be reimbursed for all actual and necessary travel and subsistence expenses.

(3) The state shall reimburse a political subdivision for the compensation paid and actual and necessary travel, subsistence, and maintenance expenses of employees of such political subdivision while serving as members of a mobile support unit, and for all payments for death, disability, or injury of such employees incurred in the course of such duty, and for all losses of or damage to supplies and equipment of such political

subdivision resulting from the operation of such mobile support unit.

(4) Whenever a mobile support unit of another state shall render aid in this state pursuant to the orders of the governor of its home state and upon the request of the governor of this state the personnel thereof shall have the powers, duties, rights, privileges and immunities of emergency services employees of this state except compensation, and this state shall reimburse such other state for the compensation paid and actual and necessary travel, subsistence, and maintenance expenses of the personnel of such mobile support unit while rendering such aid, and for all payments for death, disability, or injury of such personnel incurred in the course of rendering such aid, and for all losses of or damage to supplies and equipment of such other state or a political subdivision thereof resulting from the rendering of such aid: *Provided*, That the laws of such other state contain provisions substantially similar to this section.

(5) No personnel of mobile support units of this state shall be ordered by the governor to operate in any other state unless the laws of such other state contain provisions substantially similar to this section. [1974 ex.s. c 171 § 8; 1951 c 178 § 7.]

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 services in accordance with the state emergency services plan and program: *Provided*, That a political subdivision proposing such establishment shall submit its plan and program for emergency services to the state director of emergency services and secure his recommendations thereon in order that the local organization for emergency services may be coordinated with the plan and program of the state. If the director's recommendations are adverse to the plan as submitted, the matter shall be referred to the council for final action. The director of emergency services may authorize two or more political subdivisions to join in the establishment and operation of a local organization for emergency services as circumstances may warrant, in which case each political subdivision shall contribute to the cost of emergency services 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 services 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 services fund. Each local organization for emergency services 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 services, subject to the direction and control

of such executive officer or officers. In the case of a jointly established and operated organization for emergency services, the director shall be appointed by the joint action of the executive heads of the constituent political subdivisions. As used in this chapter, the term "executive head" and "executive heads" mean, in the case of counties, the board of county commissioners and, in the case of cities and towns, the mayor. Each local organization for emergency services shall perform emergency services 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, 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. [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 services 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. [1974 ex.s. c 171 § 10; 1951 c 178 § 9.]

38.52.090 Mutual aid arrangements—Interstate civil defense and disaster compact. (1) The director of each local organization for emergency services may, in collaboration with other public and private agencies within this state, develop or cause to be developed mutual aid arrangements for reciprocal emergency services aid and assistance in case of disaster too great to be dealt with unassisted. Such arrangements shall be consistent with the state emergency services plan and program, and in time of emergency it shall be the duty of each local organization for emergency services to render assistance in accordance with the provisions of such mutual aid arrangements. The director 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 each local organization for emergency services may, subject to the approval of the governor, enter into mutual aid arrangements with emergency services agencies or organizations in other states for reciprocal emergency services aid and assistance in case of disaster too great to be dealt with unassisted, and in furtherance thereof the following interstate civil defense and disaster compact is hereby approved, ratified, adopted, entered into, and enacted by the state of Washington:

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. [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 services.

(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 services, 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 services, 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. [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 services 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 services 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 services regulations for registered emergency services workers. [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 services 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. [1974 ex.s. c 171 § 14; 1951 c 178 § 14.]

38.52.130 Loyalty oath required. (1) No person shall be employed or associated in any capacity in any emergency services organization established under this chapter who advocates or has advocated a change by force or violence in the constitutional form of the government of the United States or in this state or the overthrow of any government in the United States by force or violence, or who has been convicted of or is under indictment or information charging any subversive act against the United States. Each person who is appointed to serve in an organization for emergency services shall, before entering upon his duties, take an oath, in writing, before a person authorized to administer oaths in this state, which oath shall be substantially as follows:

"I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of Washington, against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

"And I do further swear (or affirm) that I do not advocate, nor am I a member of any political party or organization that advocates the overthrow of the government of the United States or of this state by force or violence; and that during such time as I am a member of

the (name of emergency services organization), I will not advocate nor become a member of any political party or organization that advocates the overthrow of the government of the United States or of this state by force or violence."

(2) The director of emergency services or any emergency services official designated by him is authorized to administer the loyalty oath as required by this chapter. [1974 ex.s. c 171 § 15; 1953 c 145 § 2; 1951 c 178 § 15.]

Subversive activities: Chapter 9.81 RCW.

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 services 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. [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 services 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. [1974 ex.s. c 171 § 17; 1951 c 178 § 18.]

38.52.160 Matching funds from political subdivision may be required. The emergency services 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. [1974 ex.s. c 171 § 18; 1951 c 178 § 19.]

38.52.170 Plan for federal area. Whenever the state director of emergency services finds that it will be in the interest of the emergency services 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 services 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 services 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. [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 services 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 services 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 services workers while actually engaged in emergency services duties, or as members of any agency of the state or political subdivision thereof engaged in emergency services 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 services: *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 services 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. [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 services worker and his dependents shall have no right to receive compensation from the state, from the agency, from the local organization for emergency services with which he is registered, or from the county or city which has empowered the local organization for emergency services 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 services worker. [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 services worker, and is acting within the course of his duties as an emergency services worker;

(2) Where, at the time of the injury, loss, or damage, the organization for emergency services which the worker is assisting is an approved organization for emergency services;

(3) Where the injury, loss, or damage is proximately caused by his service either with or without negligence as an emergency services 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. [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 services worker or his dependents or any other person on the part of the state, the agency, the local organization for emergency services with which the emergency services worker is registered, and the county or city which has empowered the local organization for emergency services 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 services

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 services worker. [1974 ex.s. c 171 § 23; 1953 c 223 § 9.]

38.52.205 Claims arising from emergency service related activities—Filing—Contents. All claims against the state for property damages or indemnification therefor arising from emergency service related activities will be presented to and filed with the state auditor within one hundred twenty days from the date the claim arose. Contents of all such claims shall conform to the tort claim filing requirements found in RCW 4.92.100 as now or hereafter amended. [1974 ex.s. c 171 § 24; 1971 ex.s. c 8 § 4.]

38.52.207 Claims arising from emergency service related activities—Filing—Consideration, adjustment, settlement, etc., by director of emergency services—Effect. The director of the state department of emergency services, 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 five hundred 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. [1974 ex.s. c 171 § 25; 1971 ex.s. c 8 § 5.]

38.52.210 Compensation boards—Established. (1) In each local organization for emergency services established by the county commissioners 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 one member of the board of county commissioners selected by the county commissioners of the county who will serve as chairman of the compensation board; the county director of emergency services; the prosecuting attorney; the emergency services coordinator for medical and health services; and the county auditor who will serve as secretary of the compensation board.

(2) In each local organization for emergency services 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 services; one councilman or commissioner selected by the

council or the commission; the city attorney or corporation counsel; and the emergency services coordinator of medical and health services. The councilman or commissioner so selected shall serve as chairman of the compensation board and the director of emergency services shall serve as secretary of the board. [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 five hundred dollars or less, the local organization director shall submit recommendations directly to the state without convening a compensation board. [1971 ex.s. c 8 § 3; 1953 c 223 § 5.]

38.52.230 Compensation boards—Attendance of witnesses, oaths, rules—Members uncompensated. The compensation board, in addition to other powers herein granted, shall have the power to compel the attendance of witnesses to testify before it on all matters connected with the operation of this chapter and its chairman or any member of said board may administer oath to such witnesses; to make all necessary rules and regulations for its guidance in conformity with the provisions of this chapter: *Provided, however*, That no compensation or emoluments shall be paid to any member of said board for any duties performed as a member of said compensation board. [1953 c 223 § 6.]

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 services 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 services council for action. [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 services 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 services worker from any action by the board within one year by writing to the department of emergency services. [1974 ex.s. c 171 § 28; 1953 c 223 § 8.]

38.52.260 When compensation furnished. Compensation shall be furnished to an emergency services worker either within or without the state for any injury arising out of and occurring in the course of his activities as an emergency services 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 services worker is performing services as an emergency services worker, and is acting within the course of his duties as an emergency services worker.

(2) Where, at the time of the injury the local organization for emergency services with which the emergency services worker is registered is an approved local organization for emergency services.

(3) Where the injury is proximately caused by his service as an emergency services worker, either with or without negligence.

(4) Where the injury is not caused by the intoxication of the injured emergency services worker.

(5) Where the injury is not intentionally self-inflicted. [1974 ex.s. c 171 § 29; 1953 c 223 § 10.]

38.52.270 Minors entitled to benefits. Emergency service volunteers 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 services volunteer shall not be deemed as employment or in violation of any of the provisions of chapter 49.12 RCW. [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 services workers or their dependents pursuant to the provisions of this chapter except from money appropriated for the purpose of this chapter. [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 services 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. [1974 ex.s. c 171 § 32; 1971 ex.s. c 289 § 71; 1953 c 223 § 13.]

*Reviser's note: "this 1971 amendatory act", see note following RCW 51.08.018.

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 services worker is due to the negligence or wrong of another not on emergency services 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 services; 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 services 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. [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 services shall establish by rule and regulation various classes of emergency services 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 services workers of each class are to be registered. [1974 ex.s. c 171 § 33; 1953 c 223 § 15.]

38.52.320 Schedule of payments. The department of emergency services 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. [1974 ex.s. c 171 § 34; 1953 c 223 § 16.]

38.52.330 Expenditures authorized—Claims, payment and disposition—Appeals. The department of emergency services 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 services workers and their dependents; to adjust and dispose of all claims submitted by a local compensation board: *Provided*, That nothing herein shall be construed to mean that the department of emergency services or the state emergency services 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 services 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. [1974 ex.s. c 171 § 35; 1971 ex.s. c 289 § 72; 1953 c 223 § 17.]

***Reviser's note:** "this 1971 amendatory act", see note following RCW 51.08.018.

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 services 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 services 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 services 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. [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 services workers or to their dependents for injuries arising out of and occurring in the course of their activities as emergency services workers, then the amount of compensation which any emergency services 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 services worker or his dependents have received and will receive from the United States or any agent thereof as a result of his injury. [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 services worker, then the emergency services worker has no right to receive similar medical, surgical or hospital treatment as provided in this chapter. However, the department of emergency services may furnish medical, surgical or hospital treatment as part of the compensation provided under the provisions of this chapter. [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 services worker or his dependents for medical, surgical or hospital treatment, or any combination thereof, furnished to the injured emergency services worker, the emergency services worker has no right to receive similar medical, surgical or hospital treatment as provided in this chapter, but the department of emergency services, 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 services worker or his dependents. As a condition to the furnishing of such medical, surgical or hospital treatment, the department shall require the emergency services 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 services worker or his dependents may have to reimbursement from the United States or any agent thereof. [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 services worker or his dependents prevents such emergency services 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 services 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. [1974 ex.s. c 171 § 40; 1953 c 223 § 22.]

38.52.390 Contracts or work on cost basis for emergency services activities. The governor, or upon his direction, the state emergency services 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 services 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. [1971 ex.s. c 8 § 6.]

38.52.900 Short title. This chapter may be cited as the Washington Emergency Services Act. [1974 ex.s. c 171 § 41; 1951 c 178 § 1.]

38.52.920 Repeal and saving. Chapter 177, Laws of 1941, chapters 6 and 24, Laws of 1943, and chapter 88, Laws of 1949 are repealed: *Provided*, That this section shall not affect the validity of any order, rule, regulation, contract, or agreement made or promulgated under authority of the repealed acts, which orders, rules, regulations, contracts, or agreements shall remain in force until they may be repealed, amended, or superseded by orders, rules, regulations, contracts, or agreements made or promulgated under this chapter: *Provided further*, That this section shall not affect the tenure of any officer, employee, or person serving under authority of any repealed act and such officer, employee, or person shall continue in his position until such time as a successor is appointed or employed under the provisions of this chapter. [1951 c 178 § 17.]

TITLE 39

PUBLIC CONTRACTS AND INDEBTEDNESS

Chapters

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- 39.06** Public works—Registration, licensing, of contractors.
- 39.08** Contractor's bond.
- 39.12** Prevailing wages on public works.
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Law against discrimination: Chapter 49.60 RCW.

Municipal revenue bond act: Chapter 35.41 RCW.

Participation in world fairs by municipal corporations and political subdivisions authorized: Chapter 35.60 RCW.

Public officer requiring bond or insurance from particular insurer, agent or broker, procuring bond or insurance, violations: RCW 48.30.270.

School district hot lunch program, federal surplus or donated food commodities: Chapter 28A.30 RCW.

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Chapter 39.04 PUBLIC WORKS

Sections

- 39.04.010 Definitions.
- 39.04.020 Plans and specifications—Estimates—Publication—Emergencies.
- 39.04.040 Work to be executed according to plans—Supplemental plans.
- 39.04.050 Contents of original estimates.
- 39.04.060 Supplemental estimates.
- 39.04.070 Account and record of cost.
- 39.04.080 Certified copy to be filed—Engineers' certificate.
- 39.04.090 Record of cost, etc., to be published.
- 39.04.100 Records open to public inspection—Certified copies.
- 39.04.110 Penalty for false entries.
- 39.04.120 Pollution and preservation of natural resources laws to be included in bidding invitations—Change orders—Costs—Arbitration.
- 39.04.130 Application of RCW 39.04.120.
- 39.04.140 Contracts affected by increase in price of petroleum products—Termination—Continuation with contracting agency sharing increased costs—Conditions.

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County roads and bridges—Plans, approval, bids, etc.: Chapter 36.77 RCW.

Liens for labor, materials, taxes on public works: Chapter 60.28 RCW.

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Public buildings, provision to be made for aged and handicapped: Chapter 70.92 RCW.

State highway construction and maintenance: Chapter 47.28 RCW.

Suppression of competitive bidding on public works, penalty: RCW 9.18.120–9.18.150.

Traffic control at work sites: RCW 47.36.200–47.36.230.

Workmen's compensation law applicable to contracts for public works: RCW 51.12.050, 51.12.070.

39.04.010 Definitions. The term state shall include the state of Washington and all departments, supervisors, commissioners and agencies thereof.

The term municipality shall include every city, county, town, district or other public agency thereof which is authorized by law to require the execution of public work, except drainage districts, diking districts, diking and drainage improvement districts, drainage improvement districts, diking improvement districts, consolidated diking and drainage improvement districts, consolidated drainage improvement districts, consolidated diking improvement districts, irrigation districts or any such other districts as shall from time to time be authorized by law for the reclamation or development of waste or undeveloped lands.

The term public work shall include all work, construction, alteration, repair or improvement other than ordinary maintenance, executed at the cost of the state or of any municipality, or which is by law a lien or charge on any property therein, but nothing herein shall apply to the construction, alteration, repair or improvement of any municipal street railway system.

The term contract shall mean a contract in writing for the execution of public work for a fixed or determinable amount duly awarded after advertisement and competitive bid.

Cost of superintendence, engineering, clerical and accounting service shall include all expenditures specially incurred for such service, and shall include a proportionate charge for the time of all salaried officers, engineers, clerks, accountants and employees of the state or municipality while engaged in such work or in keeping or preparing the estimates, accounts and records thereof. [1923 c 183 § 1; RRS § 10322–1.]

39.04.020 Plans and specifications—Estimates—Publication—Emergencies. Whenever the state, or any municipality shall determine that any public work is necessary to be done it shall cause plans and/or specifications thereof and an estimate of the cost of such work to be made and filed in the office of the director, supervisor, commissioner, trustee, board or agency having by law the authority to require such work to be done.

If the state, or such municipality shall determine that it is necessary or advisable that such work shall be executed by any means or method other than by contract, and it shall appear by such estimate that the probable cost of executing such work will exceed the sum of twenty-five hundred dollars, then the state or such municipality shall at least fifteen days before beginning work cause such estimate, together with a description of the work, to be published at least once in a legal newspaper of general circulation published in or as near as possible to that part of the county in which such work is to be done: *Provided*, That when any emergency shall require the immediate execution of such public work,

upon a finding of the existence of such emergency by the authority having power to direct such public work to be done and duly entered of record, publication of description and estimate may be made within seven days after the commencement of the work. [1975 1st ex.s. c 230 § 2; 1967 c 70 § 1; 1923 c 183 § 2; RRS § 10322–2. Formerly RCW 39.04.020 and 39.04.030.]

39.04.040 Work to be executed according to plans—Supplemental plans. Whenever plans and specifications shall have been filed the work to be done shall be executed in accordance with such plans and specifications unless supplemental plans and specifications of the alterations to be made therein shall be made and filed in the office where the original plans and specifications are filed.

In the event that the probable cost of executing such work in accordance with the supplemental plans and specifications shall be increased or decreased from the estimated cost as shown by the original estimate to an amount in excess of ten percent of such estimate, then a supplemental estimate shall be made of the increased or decreased cost of executing the work in accordance with the supplemental plans and specifications and filed in the office where the original estimate is filed. [1923 c 183 § 3; RRS § 10322–3.]

39.04.050 Contents of original estimates. Original estimates shall show in detail the estimated cost of the work; the estimated quantities of each class of work; the estimated unit cost for each class; the estimated total cost for each class; the time limit, allowed for the completion of the work and the estimated dates of commencement and completion. Such estimates shall show in detail the estimated total cost of labor, material, provisions, supplies, equipment rentals, equipment purchases, industrial insurance and medical aid, superintendence, engineering, clerical and accounting service, the value of the use of equipment owned by the state or such municipality and other estimated expenses in the execution of such work. [1923 c 183 § 4; RRS § 10322–4.]

39.04.060 Supplemental estimates. Supplemental estimates shall show the estimated increase or decrease in the total quantities of each class, in the unit cost of each class, in the total cost for each class and in the total cost of the work as shown by the original estimate, together with any change in the time limit and in the estimated dates of commencing and completing the work. [1923 c 183 § 5; RRS § 10322–5.]

39.04.070 Account and record of cost. Whenever the state or any municipality shall execute any public work by any means or method other than by contract, it shall cause to be kept and preserved a full, true and accurate account and record of the costs of executing such work.

Such account and record shall show in accurately tabulated form and under appropriate headings the totals of all classes and kinds of work performed, the total cost and unit cost of each class, together with the costs of executing such work, including, under separate

headings, the costs of labor; material; equipment purchased; provisions and supplies; rental of equipment, industrial insurance and medical aid; superintendence; engineering; clerical and accounting service; the reasonable value, including depreciation, of the use of equipment owned by the state or municipality; and all other expenses incurred therein. [1923 c 183 § 6; RRS § 10322-6.]

39.04.080 Certified copy to be filed—Engineers' certificate. A true copy of such account or record, duly certified by the officer or officers having by law authority to direct such work to be done, to be a full, true and accurate account of the costs of executing such work shall be filed in the office where the original plans and specifications are filed within sixty days after the completion of the work.

The engineer or other officer having charge of the execution of such work shall execute a certificate which shall be attached to and filed with such certified copy, certifying that such work was executed in accordance with the plans and specifications on file and the times of commencement and completion of such work. If the work is not in accordance with such plans and specifications he shall set forth the manner and extent of the variance therefrom. [1923 c 183 § 7; RRS § 10322-7.]

39.04.090 Record of cost, etc., to be published. Within thirty days after the filing of the final account or record of the cost of executing such work, the officer or officers of the state or of such municipality having authority to direct such work to be done shall, if the cost of executing such work exceeds twenty-five hundred dollars, cause a true copy of such account or record and of any supplemental estimate on file, together with a general description of such work, to be published at least once in the same newspaper or publication in which the original estimate was published.

If the original estimate was not published a copy thereof shall be published at the time of and with the publication of the account or record of costs, and such publication may be made in any newspaper or other publication in which publication of any original estimate is authorized. [1923 c 183 § 8; RRS § 10322-8.]

39.04.100 Records open to public inspection—Certified copies. All plans, specifications, estimates, and copies of accounts or records and all certificates attached thereto shall, when filed, become public records and shall at all reasonable times be subject to public inspection.

Certified copies of any estimate, account or record shall be furnished by the officer having the custody thereof to any person on demand and the payment of the legal fees for making and certifying the same. [1923 c 183 § 9; RRS § 10322-9.]

39.04.110 Penalty for false entries. Any director, supervisor, officer or employee of the state and any commissioner, trustee, supervisor, officer or employee of any municipality who shall knowingly make any false entry in any account or record required by this chapter or who

shall knowingly certify to any false statement in any certificate required by this chapter, shall be guilty of a misdemeanor. [1923 c 183 § 10; RRS § 10322-10.]

Falsifying accounts: RCW 42.20.070.

Misconduct of public officers: Chapter 42.20 RCW.

39.04.120 Pollution and preservation of natural resources laws to be included in bidding invitations—Change orders—Costs—Arbitration. All invitations for bid proposals for public construction projects issued by the state of Washington, its authorities or agencies, or any political subdivision of the state, shall set forth in the contract documents to the extent they are reasonably obtainable by the public awarding authority those provisions of federal, state and local statutes, ordinances and regulations dealing with the prevention of environmental pollution and the preservation of public natural resources that affect or are affected by the projects. If the successful bidder must undertake additional work due to the enactment of new or the amendment of existing statutes, ordinances, rules or regulations occurring after the submission of the successful bid, the awarding agency shall issue a change order setting forth the additional work that must be undertaken, which shall not invalidate the contract. The cost of such a change order to the awarding agency shall be determined in accordance with the provisions of the contract for change orders or force accounts or, if no such provision is set forth in the contract, then the cost to the awarding agency shall be the contractor's costs for wages, labor costs other than wages, wage taxes, materials, equipment rentals, insurance, and subcontracts attributable to the additional activity plus a reasonable sum for overhead and profit: *Provided*, That such additional costs to undertake work not specified in the contract documents shall not be approved unless written authorization is given the successful bidder prior to his undertaking such additional activity. In the event of a dispute between the awarding agency and the successful bidder, arbitration procedures may be commenced under the applicable terms of the construction contract, or, if the contract contains no such provision for arbitration, the then obtaining rules of the American arbitration association. [1973 1st ex.s. c 62 § 1.]

Severability—1973 1st ex.s. c 62: "If any provision or part of this 1973 act shall be judged to be invalid or unconstitutional, such adjudication shall not affect the validity of any provision or part of this 1973 act not adjudged invalid or unconstitutional." [1973 1st ex.s. c 62 § 4.] This applies to RCW 39.04.120, 39.04.130 and 60.28.080.

Delay due to litigation, change orders, costs, arbitration, termination: RCW 60.28.080.

39.04.130 Application of RCW 39.04.120. RCW 39.04.120 shall take effect in ninety days but shall not apply to any contract awarded pursuant to an invitation for bids issued on or before the date it takes effect, or to any persons or bonds in respect of any such contract. [1973 1st ex.s. c 62 § 2.]

39.04.140 Contracts affected by increase in price of petroleum products—Termination—Continuation with contracting agency sharing increased costs—Conditions. (1) The legislature finds (a) that the increase

in the price of petroleum products resulting from the world wide shortage of crude oil has created a condition which has rendered performance by contractors of many public works contracts economically impossible and (b) that provision should be made to provide for the orderly termination of such contracts; the deletion of work affected by petroleum prices without the necessity of litigation; or, alternatively at the election of any contracting agency, the continuation of the contract with the agency assuming a share of the increased petroleum costs.

(2) Whenever the state or any municipality shall have awarded any public works contract during the performance of which (a) any legally enforceable private agreement or contractual arrangement between either the contractor or a first tier subcontractor and his suppliers of crude oil, residual fuel oil, refined petroleum products, or asphalt required in order to complete performance of the public works contract are superseded, with resulting increased costs of performance of the public works contract, by force majeure regulations, rules, allocations, or rulings issued by any federal, state, or other agency acting pursuant to any federal or state economic stabilization act, petroleum allocation act, or other legislation authorizing the same; or (b) the cost of petroleum products for which has increased by more than twenty percent over the current market price thereof as the date of contract award, then the contractor may elect to terminate the contract in its entirety or to delete such portions of the work from the contract, and the state or municipality shall pay the contractor for all work performed prior to the date of termination of the contract or deletion of such work. The state or municipality shall also pay the contractor for all acceptable materials ordered by the contractor and delivered on the work site prior to the termination of the contract or deletion of such work by the contractor. Such materials shall be purchased from the contractor by the state or the municipality at the actual cost of such material to the contractor and shall thereupon become the property of the state or municipality. No payment shall be made to the contractor for overhead costs or anticipated profits as to work not performed as a result of deletion of such work or termination of the contract. Amounts retained and accumulated under RCW 60.28.010 shall be held for a period of thirty days following the election of the contractor to terminate the contract in its entirety: *Provided*, That if the contractor elects to terminate or delete such portions of the work and the state or such municipality finds that it is in the public interest to complete performance on such public works contract then the state or such municipality shall require the contractor to complete performance of the public works contract and the state or such municipality shall modify the provisions of that public works contract to increase the contract price so that the state or municipality shall bear eighty percent of such increased costs over the contractor's estimated cost at the time of contract bid opening and the contractor shall bear the balance thereof. Upon request by the state or municipality the contractor shall make his records available for audit by the state or municipality to verify such increased costs.

(3) This section shall apply only to public works contracts awarded prior to November 1, 1973, and only to work under such contracts which has not been performed on the date the contractor elects to terminate the contract or delete such work from the contract. [1974 ex.s. c 194 § 1.]

Severability—1974 ex.s. c 194: "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 194 § 2.]

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 shall execute a contract with any contractor who is not registered or licensed as may be required by the laws of this state: *Provided*, That this requirement shall not apply to contractors on highway projects who have been prequalified as required by RCW 47.28.070, with the highway department to perform highway construction, reconstruction or maintenance. [1967 c 70 § 3.]

Construction building permits—Cities, towns or counties prohibited from issuing without proof of registration: RCW 18.27.110.

Chapter 39.08

CONTRACTOR'S BOND

Sections

39.08.010 Bond required—Conditions—Retention of contract amount in lieu of bond.

39.08.015 Liability for failure to take bond.

39.08.030 Conditions of bond—Notice of claim—Action on bond—Attorney's fees.

39.08.065 Notice to contractor condition to suit on bond when supplies are furnished to subcontractor.

39.08.080 Liens for labor, materials, taxes, on public works.

Public officer requiring bond or insurance from particular insurer, agent or broker, procuring bond or insurance, violations: RCW 48.30.270.

39.08.010 Bond required—Conditions—Retention of contract amount in lieu of bond. Whenever any board, council, commission, trustees or body acting for the state or any county or municipality or any public body shall contract with any person or corporation to do any work for the state, county or municipality, or other public body, city, town or district, such board, council, commission, trustees or body shall require the person or persons with whom such contract is made to make, execute and deliver to such board, council, commission, trustees or body a good and sufficient bond, with two or more sureties, or with a surety company as surety, conditioned that such person or persons shall faithfully perform all the provisions of such contract and pay all laborers, mechanics and subcontractors and materialmen, and all persons who shall supply such person or

persons, or subcontractors, with provisions and supplies for the carrying on of such work, which bond shall be filed with the county auditor of the county where such work is performed or improvement made, except in cases of cities and towns, in which cases such bond shall be filed with the clerk or comptroller thereof, and any person or persons performing such services or furnishing material to any subcontractor shall have the same right under the provisions of such bond as if such work, services or material was furnished to the original contractor: *Provided, however,* That the provisions of RCW 39.08.010 through 39.08.030 shall not apply to any money loaned or advanced to any such contractor, subcontractor or other person in the performance of any such work: *Provided further,* That on contracts of two thousand dollars or less, the respective public entity may, in lieu of the bond, retain one hundred percent of the contract amount for a period of thirty days after date of final acceptance, or until receipt of all necessary releases from the department of revenue and the department of labor and industries. [1975 1st ex.s. c 278 § 23; 1967 c 70 § 2; 1915 c 28 § 1; 1909 c 207 § 1; RRS § 1159. Prior: 1897 c 44 § 1; 1888 p 15 § 1.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Liens for labor, material, taxes on public works—Reserve fund required: RCW 60.28.010.

State highway construction and maintenance, bond and surety requirements: Chapter 47.28 RCW.

39.08.015 Liability for failure to take bond. If any board of county commissioners of any county, or mayor and common council of any incorporated city or town, or tribunal transacting the business of any municipal corporation shall fail to take such bond as herein required, such county, incorporated city or town, or other municipal corporation, shall be liable to the persons mentioned in RCW 39.08.010, to the full extent and for the full amount of all such debts so contracted by such contractor. [1909 c 207 § 2; RRS § 1160. Prior: 1888 p 15 § 2. Formerly RCW 39.08.070.]

39.08.030 Conditions of bond—Notice of claim—Action on bond—Attorney's fees. The bond mentioned in RCW 39.08.010 shall be in an amount equal to the full contract price agreed to be paid for such work or improvement, and shall be to the state of Washington, except in cases of cities and towns, in which cases such municipalities may by general ordinance fix and determine the amount of such bond and to whom such bond shall run: *Provided,* The same shall not be for a less amount than twenty-five percent of the contract price of any such improvement, and may designate that the same shall be payable to such city, and not to the state of Washington, and all such persons mentioned in RCW 39.08.010 shall have a right of action in his, her, or their own name or names on such bond for work done by such laborers or mechanics, and for materials furnished or provisions and goods supplied and furnished in the prosecution of such work, or the making of such improvements: *Provided,* That such persons shall not have any right of action on such bond for any sum

whatever, unless within thirty days from and after the completion of the contract with an acceptance of the work by the affirmative action of the board, council, commission, trustees, officer, or body acting for the state, county or municipality, or other public body, city, town or district, the laborer, mechanic or subcontractor, or materialman, or person claiming to have supplied materials, provisions or goods for the prosecution of such work, or the making of such improvement, shall present to and file with such board, council, commission, trustees or body acting for the state, county or municipality, or other public body, city, town or district, a notice in writing in substance as follows:

To (here insert the name of the state, county or municipality or other public body, city, town or district):

Notice is hereby given that the undersigned (here insert the name of the laborer, mechanic or subcontractor, or materialman, or person claiming to have furnished labor, materials or provisions for or upon such contract or work) has a claim in the sum of _____ dollars (here insert the amount) against the bond taken from _____ (here insert the name of the principal and surety or sureties upon such bond) for the work of _____ (here insert a brief mention or description of the work concerning which said bond was taken).

(here to be signed) _____

Such notice shall be signed by the person or corporation making the claim or giving the notice, and said notice, after being presented and filed, shall be a public record open to inspection by any person, and in any suit or action brought against such surety or sureties by any such person or corporation to recover for any of the items hereinbefore specified, the claimant shall be entitled to recover in addition to all other costs, attorney's fees in such sum as the court shall adjudge reasonable: *Provided, however,* That no attorney's fees shall be allowed in any suit or action brought or instituted before the expiration of thirty days following the date of filing of the notice hereinbefore mentioned: *Provided further,* That any city may avail itself of the provisions of RCW 39.08.010 through 39.08.030, notwithstanding any charter provisions in conflict herewith: *And provided further,* That any city or town may impose any other or further conditions and obligations in such bond as may be deemed necessary for its proper protection in the fulfillment of the terms of the contract secured thereby, and not in conflict herewith. [1915 c 28 § 2; 1909 c 207 § 3; RRS § 1161. Prior: 1899 c 105 § 1; 1888 p 16 § 3. Formerly RCW 39.08.030 through 39.08.060.]

39.08.065 Notice to contractor condition to suit on bond when supplies are furnished to subcontractor. Every person, firm or corporation furnishing materials, supplies or provisions to be used in the construction, performance, carrying on, prosecution or doing of any work for the state, or any county, city, town, district, municipality or other public body, shall, not later than ten days after the date of the first delivery of such materials, supplies or provisions to any subcontractor or agent of any person, firm or corporation having a subcontract for the construction, performance, carrying on, prosecution or doing of such work, deliver or mail to the contractor a

notice in writing stating in substance and effect that such person, firm or corporation has commenced to deliver materials, supplies or provisions for use thereon, with the name of the subcontractor or agent ordering or to whom the same is furnished and that such contractor and his bond will be held for the payment of the same, and no suit or action shall be maintained in any court against the contractor or his bond to recover for such material, supplies or provisions or any part thereof unless the provisions of this section have been complied with. [1915 c 167 § 1; RRS § 1159-1. Formerly RCW 39.08.020.]

39.08.080 Liens for labor, materials, taxes, on public works. See chapter 60.28 RCW.

Chapter 39.12 PREVAILING WAGES ON PUBLIC WORKS

Sections

- 39.12.010 Definitions.
- 39.12.015 Industrial statistician to make determinations of prevailing rate.
- 39.12.020 Prevailing rate to be paid on public works and under public building service maintenance contracts.
- 39.12.021 Prevailing rate to be paid on public works—Apprentice workmen.
- 39.12.022 Vocationally handicapped—Exemption from RCW 39.12.020—Procedure.
- 39.12.030 Contract specifications must state minimum hourly rate—Stipulation for payment.
- 39.12.040 Statement of intent to pay prevailing wages, affidavit of wages paid—Duty of public agencies to require—Approval—Prerequisite to payment.
- 39.12.042 Compliance with RCW 39.12.040—Liability of public agencies to workmen, laborers or mechanics.
- 39.12.050 Penalty for false certificate—Unpaid wages lien against contractor's bond.
- 39.12.060 Director of labor and industries to arbitrate disputes.
- 39.12.900 Severability—1945 c 63.

Hours of labor on public works: Chapter 49.28 RCW.

Minimum salaries of state employees: RCW 43.03.080, 43.03.090.

Workmen's compensation applicable to public works contracts: RCW 51.12.050, 51.12.070.

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

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

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

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

(b) The rate of costs to the contractor or subcontractor which may be reasonably anticipated in providing benefits to workmen, laborers, and mechanics pursuant to an enforceable commitment to carry out a financially responsible plan or program which was communicated in writing to the workmen, laborers, and mechanics affected, for medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing, for unemployment benefits, life insurance, disability and sickness insurance, or accident insurance, for vacation and holiday pay, for defraying costs of apprenticeship or other similar programs, or for other bona fide fringe benefits, but only where the contractor or subcontractor is not required by other federal, state, or local law to provide any of such benefits. [1965 ex.s. c 133 § 1; 1945 c 63 § 3; Rem. Supp. 1945 § 10322-22.]

39.12.015 Industrial statistician to make determinations of prevailing rate. All determinations of the prevailing rate of wage shall be made by the industrial statistician of the department of labor and industries. [1965 ex.s. c 133 § 2.]

39.12.020 Prevailing rate to be paid on public works and under public building service maintenance contracts. The hourly wages to be paid to laborers, workmen or mechanics, upon all public works and under all public building service maintenance contracts of the state or any county, municipality or political subdivision created by its laws, shall be not less than the prevailing rate of wage for an hour's work in the same trade or occupation in the locality within the state where such labor is performed. This chapter shall not apply to workmen or other persons regularly employed on monthly or per diem salary by the state, or any county, municipality, or political subdivision created by its laws. [1967 ex.s. c 14 § 1; 1945 c 63 § 1; Rem. Supp. 1945 § 10322-20.]

Prevailing wages determined by United States Department of Labor under resident employees law: RCW 39.16.005.

39.12.021 Prevailing rate to be paid on public works—Apprentice workmen. Apprentice workmen employed upon public works projects for whom an apprenticeship agreement has been registered and approved with the state apprenticeship council pursuant to chapter 49.04 RCW, must be paid at least the prevailing hourly rate for an apprentice of that trade. Any workman for whom an apprenticeship agreement has not been registered and approved by the state apprenticeship council shall be considered to be a fully qualified journeyman, and, therefore, shall be paid at the prevailing hourly rate for journeymen. [1963 c 93 § 1.]

39.12.022 Vocationally handicapped—Exemption from RCW 39.12.020—Procedure. The director of the department of labor and industries, to the extent necessary in order to prevent curtailment of opportunities for

employment, shall by regulations provide for the employment of individuals whose earning capacity is impaired by physical or mental deficiency or injury, under special certificates issued by the director, at such wages lower than the prevailing rate applicable under RCW 39.12.020 and for such period as shall be fixed in such certificates. [1972 ex.s. c 91 § 1.]

39.12.030 Contract specifications must state minimum hourly rate—Stipulation for payment. The specifications for every contract for the construction, reconstruction, maintenance or repair of any public work to which the state or any county, municipality, or political subdivision created by its laws is a party, shall contain a provision stating the hourly minimum rate of wage, not less than the prevailing rate of wage, which may be paid to laborers, workmen or mechanics in each trade or occupation required for such public work employed in the performance of the contract either by the contractor, subcontractor or other person doing or contracting to do the whole or any part of the work contemplated by the contract, and the contract shall contain a stipulation that such laborers, workmen or mechanics shall be paid not less than such specified hourly minimum rate of wage. [1945 c 63 § 2; Rem. Supp. 1945 § 10322–21.]

39.12.040 Statement of intent to pay prevailing wages, affidavit of wages paid—Duty of public agencies to require—Approval—Prerequisite to payment. Before payment is made by or on behalf of the state, or any county, municipality, or political subdivision created by its laws, of any sum or sums due on account of a public works contract, it shall be the duty of the officer or person charged with the custody and disbursement of public funds to require the contractor and each and every subcontractor from the contractor or a subcontractor to submit to such officer a "Statement of Intent to Pay Prevailing Wages". Each statement of intent to pay prevailing wages must be approved by the industrial statistician of the department of labor and industries before it is submitted to said officer. Unless otherwise authorized by the department of labor and industries, each voucher claim submitted by a contractor for payment on a project estimate shall state that the prevailing wages have been paid in accordance with the prefiled statement or statements of intent to pay prevailing wages on file with the public agency. Following the final acceptance of a public works project, it shall be the duty of the officer charged with the disbursement of public funds, to require the contractor and each and every subcontractor from the contractor or a subcontractor to submit to such officer an "Affidavit of Wages Paid" before the funds retained according to the provisions of RCW 60.28.010 are released to the contractor. Each affidavit of wages paid must be certified by the industrial statistician of the department of labor and industries before it is submitted to said officer. [1975-'76 2nd ex.s. c 49 § 1; 1965 ex.s. c 133 § 3; 1945 c 63 § 4; Rem. Supp. 1945 § 10322–23.]

39.12.042 Compliance with RCW 39.12.040—Liability of public agencies to workmen, laborers or mechanics. If any agency of the state, or any county, municipality, or political subdivision created by its laws shall wilfully fail to comply with the provisions of RCW 39.12.040 as now or hereafter amended, such agency of the state, or county, municipality, or political subdivision created by its laws, shall be liable to all workmen, laborers, or mechanics to the full extent and for the full amount of wages due, pursuant to the prevailing wage requirements of RCW 39.12.020. [1975-'76 2nd ex.s. c 49 § 2.]

39.12.050 Penalty for false certificate—Unpaid wages lien against contractor's bond. Any contractor or subcontractor who shall upon his oath verify any statement required to be filed under this chapter which is known by him to be false, or is made without knowledge in reckless disregard of the truth, shall, after a finding to that effect in a hearing held by the director of the department of labor and industries, subject to the provisions of chapter 34.04 RCW, be subject to a civil penalty not to exceed five hundred dollars, and shall not be permitted to bid on any contract covered by the provisions of this chapter until such penalty has been paid in full to the director.

To the extent that a contractor or subcontractor has not paid wages at the rate required by this chapter, and a finding to that effect has been made as provided by this section, such unpaid wages shall constitute a lien of the first priority against such contractor's or subcontractor's bond according to the provisions of RCW 18.27.040. [1973 c 120 § 1; 1945 c 63 § 5; Rem. Supp. 1945 § 10322–24.]

39.12.060 Director of labor and industries to arbitrate disputes. Such contract shall contain a further provision that in case any dispute arises as to what are the prevailing rates of wages for work of a similar nature and such dispute cannot be adjusted by the parties in interest, including labor and management representatives, the matter shall be referred for arbitration to the director of the department of labor and industries of the state and his decision therein shall be final and conclusive and binding on all parties involved in the dispute. [1965 ex.s. c 133 § 4; 1945 c 63 § 6; Rem. Supp. 1945 § 10322–25.]

Arbitration: Chapters 7.04 and 49.08 RCW.

39.12.900 Severability—1945 c 63. If any section or provision of this chapter shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the chapter as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional. [1945 c 63 § 7.]

Chapter 39.16

RESIDENT EMPLOYEES ON PUBLIC WORKS

Sections

39.16.005 Employment of resident employees—Percentage specified—Wages.

- 39.16.020 Procedure when resident labor unavailable.
 39.16.030 Provisions to be written into contract—Civil penalty.
 39.16.040 Criminal penalty.

39.16.005 Employment of resident employees—Percentage specified—Wages. In all contracts let by the state, or any department thereof, or any county, city, or town for the erection, construction, alteration, demolition, or repair of any public building, structure, bridge, highway, or any other kind of public work or improvement, the contractor or subcontractor shall employ ninety-five percent or more bona fide Washington residents as employees where more than forty persons are employed, and ninety percent or more bona fide Washington residents as employees where forty or less persons are employed. The contractor shall pay the standard prevailing wages for the specific type of construction as determined by the United States department of labor in the city or county where the work is being performed. The term "resident", as used in this chapter, shall mean any person who has been a bona fide resident of the state of Washington for a period of ninety days prior to such employment: *Provided*, That in contracts involving the expenditure of federal aid funds this chapter shall not be enforced in such manner to conflict with or be contrary to the federal statutes, rules, and regulations prescribing a labor preference to honorably discharged soldiers, sailors, and marines, or prohibiting as unlawful any other preference or discrimination among the citizens of the United States: *Provided further*, That this section shall not apply to any employees who are residents of any state bordering on the state of Washington if such bordering state does not restrict the right of a resident of Washington to be employed in the performance of all contracts let by the bordering state, or any department thereof, or any county, city, or town for the erection, construction, alteration, demolition, or repair of any public building, structure, bridge, highway, or any other kind of public work or improvement. [1973 1st ex.s. c 29 § 1; 1972 ex.s. c 28 § 1.]

39.16.020 Procedure when resident labor unavailable. In the event a sufficient number of Washington residents shall not be available the contractor or subcontractor shall immediately notify the public body with whom the contract has been executed of such facts, and shall state the number of nonresidents needed. The public body shall immediately investigate the facts and if the conditions are as stated the public body shall, by a written order, designate the number of nonresidents and the period for which they may be employed: *Provided*, That should residents become available within the period, such residents shall be immediately employed and the period shortened consistent with the supply of resident labor. [1943 c 246 § 2; Rem. Supp. 1943 § 10322-10b.]

39.16.030 Provisions to be written into contract—Civil penalty. The provisions of this chapter shall be written into every such public contract, including the following penalty. Any contractor or subcontractor who shall employ a nonresident in excess of the percentage preferences, excepting as herein permitted, shall have deducted, for every violation, from the amount due him,

the prevailing wages which should have been paid to a displaced resident. The money so deducted shall be retained by the public body for whom the contract is being performed. [1943 c 246 § 3; Rem. Supp. 1943 § 10322-10c.]

39.16.040 Criminal penalty. Any person, firm or corporation violating any of the provisions of this chapter shall be guilty of a misdemeanor. [1943 c 246 § 4; Rem. Supp. 1943 § 10322-10d.]

Chapter 39.20 EMPLOYMENT OF CERTAIN ALIENS

Sections

- 39.20.010 Employment of alien evading military service prohibited.
 39.20.020 Acceptance of employment by alien prohibited.
 39.20.030 List of employees.
 39.20.040 Penalty.

Law against discrimination: Chapter 49.60 RCW.

39.20.010 Employment of alien evading military service prohibited. It shall be unlawful for any officer or agent of, or any contractor with, the state of Washington, or any county, city, town or municipal corporation to knowingly employ any alien, whether a declarant or otherwise, who claimed and was granted exemption from military service in the war with Germany and her allies, under the provisions of the "Act of Congress, May 18, 1917", or any acts amendatory thereof, on the ground that he was not a citizen of the United States. [1919 c 111 § 1; RRS § 2334-1.]

39.20.020 Acceptance of employment by alien prohibited. It shall be unlawful for any such alien to accept employment with any officer or agent of, or any contractor for, the state of Washington, or any county, city, town or municipal corporation thereof. [1919 c 111 § 2; RRS § 2334-2.]

39.20.030 List of employees. Every contractor shall, upon demand of the executive officer of the state or municipal corporation with which he has contracted, furnish a list of his employees which shall set forth whether they are citizens of the United States. [1919 c 111 § 3; RRS § 2334-3.]

39.20.040 Penalty. Every person violating the provisions of this chapter shall be guilty of a misdemeanor. [1919 c 111 § 4; RRS § 2334-4.]

Chapter 39.23 PURCHASE OF PRODUCTS AND SERVICES OF SHELTERED WORKSHOPS, DSHS PROGRAMS

Sections

- 39.23.005 Declaration of intent.
 39.23.010 Definitions.
 39.23.020 Products and/or services, purchase of—Authorization—Determining fair market price.

39.23.005 Declaration of intent. It is the intent of the legislature to encourage municipalities to purchase products and/or services manufactured or provided by

sheltered workshops and programs of the department of social and health services which operate facilities serving the handicapped and disadvantaged. [1975 c 20 § 1.]

39.23.010 Definitions. As used in RCW 39.23.005 and 39.23.020 the term "sheltered workshops" shall have the meaning ascribed to it by RCW 82.04.385 and "programs of the department of social and health services" shall mean the group training homes and day training centers defined in RCW 72.33.800 and "municipality" shall have the meaning ascribed to it by RCW 39.04.010. [1975 c 20 § 2.]

39.23.020 Products and/or services, purchase of—Authorization—Determining fair market price. Municipalities are hereby authorized to purchase products and/or services manufactured or provided by sheltered workshops and programs of the department of social and health services. Such purchases shall be at the fair market price of such products and services as determined by a municipality. To determine the fair market price a municipality shall use the last comparable bid on the products and/or services or in the alternative the last price paid for the products and/or services. Upon the establishment of the fair market price as provided for in this section a municipality is hereby empowered to negotiate directly with sheltered workshops or officials in charge of the programs of the department of social and health services for the purchase of the products or services. [1975 c 20 § 3.]

Chapter 39.24

WASHINGTON COMMODITIES TO BE USED

Sections

- 39.24.020 Fuel produced in state—Restriction on public use or purchase of other fuels—Permission to use out-of-state fuels—Procedure.
 39.24.030 Fuel produced in state—Penalty.
 39.24.040 Severability—1933 c 179.

Powers and duties of division of purchasing: RCW 43.19.190.

Purchase of institutional industries produced products: Chapter 72.60 RCW.

39.24.020 Fuel produced in state—Restriction on public use or purchase of other fuels—Permission to use out-of-state fuels—Procedure. No fuel shall be purchased for use or used in any plant, building, institution or establishment of any kind owned or operated by the state of Washington, or by any county, city, town, school district, or other municipal corporation or agency of any kind, in the state of Washington, unless the same shall have been wholly mined or produced within the state of Washington: *Provided*, That nothing herein contained shall be construed to impair any valid contract existing or in force on February 1, 1937: *And provided also*, No such existing contract shall be extended or renewed unless it complies herewith: *Provided*, That, no such plant, building, institution or establishment of any kind, which, at the time of the passage of this act, is using and/or burning fuel therein, mined or produced outside of the state of Washington, shall be compelled to comply with the provisions of this act, if the director of

the department of finance, budget and business of the state of Washington determines and finds the cost of heating such plant, building, institution or establishment by the use of fuels wholly mined or produced within the state of Washington is over five percent greater than the "cost" of heating such plant, building, institution or establishment by the use of fuels wholly mined or produced outside the state of Washington, and written permission shall be issued by the director of the department of finance, budget and business to continue the use of out-of-state fuel. An application shall be filed with the director of the department of finance, budget and business, by the state, municipality, or political subdivision owning or operating such plant, building, institution or establishment, before January 1, 1938, for permission to continue the use of out-of-state fuel therein and for a hearing for such a determination and find, and a hearing shall be had upon such application. Upon the filing of such application, the director of the department of finance, budget and business shall cause a hearing to be had thereon on or before June 1, 1938, and shall cause to be published in some newspaper printed in the vicinity of the place where such plant, building, institution or establishment is located, a notice stating the name of the applicant, the purpose, nature and object of the application, the plant, building, institution or establishment involved, and the time and place of the hearing of such application. Such notice shall be published once in each week for three successive weeks. Proof of such publication shall be made by affidavit of the publisher of the newspaper. Such hearing shall be had upon sworn testimony. The director of the department of finance, budget and business or his assistants may administer oaths and issue subpoenas to enforce the attendance of all necessary witnesses. The director of the department of finance, budget and business shall have full power after such hearing to determine and find whether the cost of heating such a plant, building, institution or establishment by the use of fuels wholly mined or produced in the state of Washington is over five percent greater than the cost of heating such a plant, building, institution or establishment by the use of fuels wholly mined or produced outside the state of Washington, and such determination and finding shall be final and conclusive, and shall be made within thirty days after the close of such hearing. If the director of the department of finance, budget and business denies the application for permission to continue the use of out-of-state fuels and makes a determination or finding adverse to the applicant, the applicant shall have until September 1, 1938, within which to make necessary changes in plant or equipment. Pending the filing of the application for such hearing, the giving of notice, the holding of such hearing, and the rendition of a decision, no such plant, building, institution or establishment shall be required to change from the use of out-of-state fuels to the use of fuels wholly mined or produced within the state. [1937 c 164 § 1; 1933 c 179 § 1; RRS § 10322-11.]

Reviser's note: (1) The above section, 1937 c 164 § 1, amending 1933 c 179 § 1, was declared unconstitutional in *Nicholls v. Spokane School District No. 81*, 195 Wash. 310; compare prior law, 1933 c 179 § 1, which reads as follows: "No fuel shall be purchased for use nor

used in any plant, building, institution or establishment of any kind, owned or operated by the state of Washington, or by any county, city, town, school district or other municipal corporation or agency of any kind in the state of Washington unless the same shall have been wholly mined or produced within the state of Washington: *Provided*, That nothing herein contained shall be construed to impair any valid contract existing or in force on February 1, 1933; *And provided also*, No such existing contract shall be extended or renewed unless it complies herewith: *Provided*, That the department of business control shall have and exercise full powers of investigation in cases where the advisability of making changes in equipment is questioned. No building, plant, institution or establishment shall be compelled to comply with the provisions of this act if the department of business control, upon its investigation finds the 'cost' of heating by the using of state fuels is over five percent greater than the 'cost' of heating by the use of out of state fuels. The department of business control may extend the allotted time for making such changes if in its opinion this is believed to be necessary."

(2) Department of business control was abolished and its powers and duties transferred to the department of finance, budget and business by 1935 c 176 §§ 23, 21; name of department of finance, budget and business changed to department of public institutions by 1947 c 114 § 5; department of public institutions superseded by department of social and health services and department of general administration (RCW 43.17.010) and its powers and duties transferred thereto (RCW 43.19-.015, 43.28.020).

(3) "this act", see RCW 39.24.020 through 39.24.040.

39.24.030 Fuel produced in state—Penalty. It shall be the duty of all persons directly or indirectly charged with the duty of purchasing fuel for use in any such building, plant, institution or establishment to comply with the provisions of the foregoing section, and any person so violating any of the provisions of this act shall be guilty of a gross misdemeanor and shall be punished by imprisonment in the county jail for not more than two years or a fine of one thousand dollars, or both. [1933 c 179 § 2; RRS § 10322-12.]

39.24.040 Severability—1933 c 179. In the event any portion of this act, or any provision in any section is held to be unconstitutional the same shall not be construed to affect the validity or constitutionality of the remaining provisions hereof. [1933 c 179 § 3; RRS § 10322-13.]

Chapter 39.25 OFFSHORE ITEMS

Sections

- 39.25.010 Definitions.
39.25.020 Solicitation of bids for public contract shall require bidder to furnish certified statement of offshore items used.
39.25.030 Retention of certificates by purchasing officer—Public examination.

39.25.010 Definitions. As used in this chapter:

(1) The term "state" shall include the state of Washington and all departments, supervisors, commissioners and agencies thereof.

(2) The term "municipality" shall include every city, county, town, district or other public agency thereof which is authorized by law to require the execution of public work.

(3) The term "contract" shall mean a contract in writing for the execution of public work for a fixed or determinable amount and a contract for the purchase of

materials, supplies, goods, wares or merchandise duly awarded after advertisement and competitive bid.

(4) The term "offshore items" shall mean those items procured from sources beyond the territorial boundaries of the United States including Alaska and Hawaii. [1967 c 139 § 1.]

39.25.020 Solicitation of bids for public contract shall require bidder to furnish certified statement of offshore items used. Whenever competitive bids are solicited for public contract, such solicitation shall set forth, in addition to the terms and specifications thereof, a requirement that the bidder shall furnish, upon completion of the contract, a statement certified by the bidder setting forth the nature and source of offshore items in excess of two thousand five hundred dollars which have been utilized in the performance of the contract. [1967 c 139 § 2.]

39.25.030 Retention of certificates by purchasing officer—Public examination. The director of general administration, through the division of purchasing, regarding all contracts to which the state is a party, and the responsible purchasing officers of each municipality, regarding all contracts to which the municipality is a party, shall keep the certificates required by RCW 39.25.020 and shall maintain them in an orderly fashion. The certificates shall be available for examination by the public. They shall be kept for a period of five years from the date of their receipt. [1967 c 139 § 3.]

Chapter 39.28 EMERGENCY PUBLIC WORKS

Sections

- 39.28.010 Definitions.
39.28.020 Powers conferred.
39.28.030 Construction of act.
39.28.040 Loans and grants to finance preliminary public works expenditures.

39.28.010 Definitions. The following terms wherever used or referred to in RCW 39.28.010 through 39.28-.030 shall have the following meaning unless a different meaning appears from the context.

(1) The term "municipality" shall mean the state, a county, city, town, district or other municipal corporation or political subdivision;

(2) The term "governing body" shall mean the body, a board charged with the governing of the municipality;

(3) The term "law" shall mean any act or statute, general, special or local, of this state, including, without being limited to, the charter of any municipality;

(4) The term "bonds" shall mean bonds, interim receipts, certificates, or other obligations of a municipality issued or to be issued by its governing body for the purpose of financing or aiding in the financing of any work, undertaking or project for which a loan or grant, or both, has heretofore been made or may hereafter be made by any federal agency;

(5) The term "Recovery Act" shall mean any acts of the congress of the United States of America to reduce

and relieve unemployment or to provide for the construction of public works;

(6) The term "federal agency" shall include the United States of America, the president of the United States of America, and any agency or instrumentality of the United States of America, which has heretofore been or hereafter may be designated, created or authorized to make loans or grants;

(7) The term "public works project" shall mean any work, project, or undertaking which any municipality, is authorized or required by law to undertake or any lawful purpose for which any municipality is authorized or required by law to make an appropriation;

(8) The term "contract" or "agreement" between a federal agency and a municipality shall include contracts and agreements in the customary form and shall also be deemed to include an allotment of funds, resolution, unilateral promise, or commitment by a federal agency by which it shall undertake to make a loan or grant, or both, upon the performance of specified conditions or compliance with rules and regulations theretofore or thereafter promulgated, prescribed or published by a federal agency. In the case of such an allotment of funds, resolution, unilateral promise, or commitment by a federal agency, the terms, conditions and restrictions therein set forth and the rules and regulations theretofore or thereafter promulgated, prescribed or published shall, for the purpose of RCW 39.28.010 through 39.28.030, be deemed to constitute covenants of such a contract which shall be performed by the municipality, if the municipality accepts any money from such federal agency. [1971 c 76 § 4; 1937 c 107 § 2; RRS § 10322A-8. Prior: 1935 c 107 § 2; RRS § 10322A-2.]

Short title: "This act may be cited as 'The Municipal Emergency Procedure Act (Revision of 1937)'." [1937 c 107 § 1; RRS § 10322A-7. Prior: 1935 c 107 § 1; RRS § 10322A-1.]

Severability—1937 c 107: "If any provision of this act, or the application thereof to any person, body, or circumstances shall be held invalid, the remainder of the act and the application of each provision to persons, bodies, or circumstances other than those as to which it shall have been held invalid shall not be affected thereby." [1937 c 107 § 5; RRS § 10322A-11. Prior: 1935 c 107 § 5; RRS § 10322A-5.]

The foregoing annotations apply to RCW 39.28.010 through 39.28.030.

39.28.020 Powers conferred. Every municipality shall have power and is hereby authorized:

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

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

(3) To subscribe to and comply with the Recovery Act and any rules and regulations made by any federal

agency with regard to any grants or loans, or both, from any federal agency;

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

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

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

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

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

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

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

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

(12) To do all acts and things necessary or convenient to carry out the powers expressly given in RCW 39.28.010 through 39.28.030. [1937 c 107 § 3; RRS § 10322A-9. Prior: 1935 c 107 § 3; RRS § 10322A-3.]

39.28.030 Construction of act. The powers conferred by RCW 39.28.010 through 39.28.030 shall be in addition and supplemental to and not in substitution for the

powers now or hereafter conferred upon any municipality by any other law. RCW 39.28.010 through 39.28.030 is intended to aid in relieving the existing emergency by simplifying the procedure for the construction and financing of public works projects. RCW 39.28.010 through 39.28.030 is remedial in nature and the powers hereby granted shall be liberally construed. Nothing in RCW 39.28.010 through 39.28.030 shall be construed to authorize the issuance of bonds for any purpose by any municipality not authorized to issue bonds for such purpose under any other law heretofore or hereafter enacted, nor to dispense with the approval by a state department, board, officer or commission of a public works project where such approval is necessary under provisions of existing law: *Provided*, That any port district which is now indebted in an amount equal to or in excess of the indebtedness which may be contracted without a vote of the electors of the district is hereby authorized, for the purposes of RCW 39.28.010 through 39.28.030, through its governing body, to contract a further indebtedness and borrow money for port purposes and issue general bonds therefor, as in RCW 39.28.010 through 39.28.030 provided, in an additional amount not exceeding three-sixteenths of one 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, without the assent of the voters of the district: *Provided, further*, That such additional indebtedness together with the existing indebtedness of such port district shall not exceed the total indebtedness permitted to be incurred by such port district under existing laws. [1970 ex.s. c 42 § 25; 1937 c 107 § 4; RRS § 10322A-10. Prior: 1935 c 107 § 4; RRS § 10322A-4.]

Severability—Effective date—1970 ex.s. c 42: See notes following RCW 39.36.015.

39.28.040 Loans and grants to finance preliminary public works expenditures. The state of Washington, its various counties, municipal corporations, quasi municipal corporations, cities, towns, villages and all other political subdivisions of the state are hereby authorized to accept from the federal government all loans, advances, grants in aid, or donations that may be made available by any federal agency for the purpose of financing the cost of architectural, engineering, and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other acts preliminary to the construction of public works. [1971 c 76 § 5; 1945 c 106 § 1; Rem. Supp. 1945 § 10322-45.]

Chapter 39.29

PERSONAL SERVICE CONTRACTS

Sections

- 39.29.010 Filing of personal service contracts required—Exemption of certain activities—Emergencies—Review.
 39.29.020 Compliance—Expenditure of funds prohibited—Effective date of contracts—Civil penalty.
 39.29.030 Exemption of certain fruit and agricultural commissions.

39.29.010 Filing of personal service contracts required—Exemption of certain activities—Emergencies—Review. On and after July 24, 1974 all personal service contracts, including renewals and amendments of existing contracts, entered into by any state officer or activity of the executive and judicial branches of state government, including state agencies, departments, offices, divisions, boards, commissions, and educational, correctional and other types of institutions, shall be filed with the office of program planning and fiscal management and the legislative budget committee at least ten days prior to the date any work commences under such contracts regardless of the source of funds. The director of the office of program planning and fiscal management may exempt on a limited basis specific classes of personal service contracts involving activities of the executive and judicial branches after preparation of documented justification and consultation with the legislative budget committee: *Provided*, That approval of the exemption is granted prior to commencement of the contract work.

In special emergency cases when work commencement is clearly a major and overriding factor and immediate contract action is mandatory, filing may be delayed for personal service contracts involving executive and judicial branches by the director of the office of program planning and fiscal management after consultation with the legislative auditor: *Provided*, That such filing shall be made prior to commencement of the contract work with documented justification for the filing delay.

Standing and other committees of the legislature and officers or employees of the legislative branch shall file personal service contracts with the legislative budget committee and the office of program planning and fiscal management in accordance with the ten day time limitation set forth in this section. This requirement conforms with legislative intent that all personal service contracts negotiated within state government shall be subject to periodic and centralized legislative review. Requests by legislative committees or personnel for either exemptions or delays in filing individual personal service contracts shall be forwarded to the legislative budget committee for review and maintenance of a central control file for use in preparation of summary reports on personal service contracts as directed by the legislature. Filing of personal service contracts delayed for emergency purposes shall be made not more than five days after commencement of the contract work involved. [1974 ex.s. c 191 § 1.]

39.29.020 Compliance—Expenditure of funds prohibited—Effective date of contracts—Civil penalty. No state officer or activity of state government subject to this chapter shall expend any funds for personal service contracts without first complying with the provisions of RCW 39.29.010. Except in cases where filing delay has been authorized under RCW 39.29.010, no contract shall become effective until ten days following the date of filing pursuant to this chapter, or the effective date of the contract whichever is later. The state officer or employee executing the personal service contracts shall

be responsible for compliance with the filing requirements of this chapter. Failure to comply with the filing requirements of this chapter shall subject the state officer or employee to a civil penalty in the amount of three hundred dollars. [1974 ex.s. c 191 § 2.]

39.29.030 Exemption of certain fruit and agricultural commissions. This chapter shall not apply to the Washington state apple advertising commission, the Washington state fruit commission, the Washington state dairy products commission, or any agricultural commodity commission created under the provisions of chapter 15.66 RCW and exempted from the budget and accounting system by chapter 43.88 RCW except for special provisions concerning budget submissions and audits. [1974 ex.s. c 191 § 3.]

Chapter 39.30
CONTRACTS—INDEBTEDNESS
LIMITATIONS—COMPETITIVE BIDDING
VIOLATIONS

Sections

- 39.30.010 Executory conditional sales contracts for purchase of property—Limit on indebtedness—Election, when.
39.30.020 Contracts requiring competitive bidding—Violations by municipal officer—Penalties.

39.30.010 Executory conditional sales contracts for purchase of property—Limit on indebtedness—Election, when. Any city or town or metropolitan park district or county or library district may execute an executory conditional sales contract with a county or counties, the state or any of its political subdivisions, the government of the United States, or any private party for the purchase of any real or personal property, or property rights in connection with the exercise of any powers or duties which they now or hereafter are authorized to exercise, if the entire amount of the purchase price specified in such contract does not result in a total indebtedness in excess of three-fourths of one percent of the value of the taxable property in such city or town or metropolitan park district or county or library district: *Provided*, That if such a proposed contract would result in a total indebtedness in excess of three-fourths of one percent of the value of the taxable property of such city or town or metropolitan park district or county or library district, as the case may be, a proposition in regard to whether or not such a contract 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: *Provided further*, That any city or town or metropolitan park district or county or library district may jointly execute contracts authorized by this section, if the entire amount of the purchase price does not result in a joint total indebtedness in excess of three-fourths of one percent of the value of the taxable property in such city or town or metropolitan park district or county or library district. The term "value of the taxable property" shall have the meaning set forth in RCW 39.36.015. [1970 ex.s. c 42 § 26; 1963 c 92 § 1; 1961 c 158 § 1.]

Severability—Effective date—1970 ex.s. c 42: See notes following RCW 39.36.015.

39.30.020 Contracts requiring competitive bidding—Violations by municipal officer—Penalties. In addition to any other remedies or penalties contained in any law, municipal charter, ordinance, resolution or other enactment, any municipal officer by or through whom or under whose supervision, in whole or in part, any contract is made in wilful and intentional violation of any law, municipal charter, ordinance, resolution or other enactment requiring competitive bidding upon such contract shall be held liable to a civil penalty of not less than three hundred dollars and may be held liable, jointly and severally with any other such municipal officer, for all consequential damages to the municipal corporation. If, as a result of a criminal action, the violation is found to have been intentional, the municipal officer shall immediately forfeit his office. For purposes of this section, "municipal officer" shall mean an "officer" or "municipal officer" as those terms are defined in RCW 42.23.020(2). [1974 ex.s. c 74 § 1.]

Contracts by cities or towns, bidding requirements: RCW 35.23.352.

Chapter 39.32
PURCHASE OF FEDERAL PROPERTY

Sections

- 39.32.010 Definitions.
39.32.020 Acquisition of surplus property authorized.
39.32.030 "Surplus property purchase revolving fund" created.
39.32.035 Administration and use of revolving fund—Director's authority to lease and acquire surplus property.
39.32.040 Procedure to purchase—Requisitions—Price at which sold—Disposition of proceeds—Duties of governor.
39.32.050 Deposit of revolving fund—Bond or collateral.
39.32.060 Rules and regulations.
39.32.070 Purchase of property from federal government authorized—Authority to contract—Bidding—Payment.
39.32.080 Purchase of property from federal government authorized—Inconsistent provisions suspended.
39.32.090 Purchases by political subdivisions from or through United States authorized.

Authority of counties to receive and distribute federal surplus commodities to needy: RCW 36.39.040.

General power of division of purchasing to acquire and dispose of federal surplus property and commodities: RCW 43.19.190.

Public assistance recipients, certification of to receive federal surplus commodities: RCW 74.04.340–74.04.360.

39.32.010 Definitions. For the purposes of RCW 39.32.010 through 39.32.060:

The term "eligible institution" means, any tax-supported medical institution, hospital, clinic, health center, school system, and nonprofit medical institution, hospital, clinic, health center, youth camp facility, school, college or university declared or held exempt from taxation under Section 501(c)(3) of the United States Internal Revenue Code of 1954, and institutions or activities as may be or are hereafter declared or held eligible under federal law to acquire surplus property.

The term "state department" means any office, department, commission, institution or other agency of

the state of Washington authorized by law to exercise any governmental authority on behalf of the state.

The term "political subdivision" means any political subdivision of the state including any county, city, town, township, port district, public utility district, irrigation district or other municipal corporation or quasi municipal corporation.

The term "surplus property" means any property, title to which is in the federal government or any department or agency thereof, and which property is to be disposed of as surplus under any act of congress heretofore or hereafter enacted providing for such disposition. [1967 ex.s. c 70 § 1; 1945 c 205 § 1; Rem. Supp. 1945 § 10322-60.]

39.32.020 Acquisition of surplus property authorized. The director of general administration, through and by means of the division of purchasing, is hereby authorized to purchase, lease or otherwise acquire from the government of the United States or any surplus property disposal agency thereof surplus property to be used in accordance with the provisions of this chapter. [1967 ex.s. c 70 § 2; 1945 c 205 § 2; Rem. Supp. 1945 § 10322-61.]

Authority of superintendent of public instruction to acquire federal surplus or donated food commodities for school district hot lunch program: Chapter 28A.30 RCW.

39.32.030 "Surplus property purchase revolving fund" created. There is created in the department of general administration a revolving fund to be designated the surplus property purchase revolving fund, and there is hereby appropriated to said revolving fund from the general fund for the fiscal biennium ending March 31, 1947, the sum of five million dollars or so much thereof as shall be necessary. The director shall have power, with the approval of the governor, to transfer so much of this appropriation to the revolving fund from time to time as he may deem necessary to maintain said fund in a condition adequate to carry out the purposes of RCW 39.32.010 through 39.32.060. [1967 ex.s. c 70 § 3; 1945 c 205 § 3; Rem. Supp. 1945 § 10322-62. FORMER PART OF SECTION: 1945 c 205 § 4 now codified as RCW 39.32.035.]

39.32.035 Administration and use of revolving fund—Director's authority to lease and acquire surplus property. The surplus property purchase revolving fund shall be administered by the director of general administration and be used for the purchase, lease or other acquisition from time to time of surplus property from any federal surplus property disposal agency. The director may purchase, lease or acquire such surplus property on the requisition of a state department or political subdivision and without such requisition at such time or times as he deems it advantageous to do so; and in either case he shall be responsible for the care and custody of the property purchased so long as it remains in his possession. [1967 ex.s. c 70 § 4; 1945 c 205 § 4; Rem. Supp. 1945 § 10322-63. Formerly RCW 39.32.030, part.]

39.32.040 Procedure to purchase—Requisitions—Price at which sold—Disposition of proceeds—Duties of governor. In purchasing surplus property on requisition for any state department or political subdivision the director may advance the purchase price thereof from the surplus property purchase revolving fund, and he shall then in due course bill the proper state department or political subdivision for the amount paid by him for the property plus a reasonable amount to cover the expense incurred by him in connection with the transaction. In purchasing surplus property without requisition, the director shall be deemed to take title outright and he shall then be authorized to resell from time to time any or all of such property to such state departments, political subdivisions and eligible institutions as desire to avail themselves of the privilege of purchasing. All moneys received in payment for surplus property from state departments, political subdivisions and eligible institutions, shall be deposited by the director in the surplus property purchase revolving fund. The director shall sell surplus property to state departments, political subdivisions and eligible institutions at a price sufficient only to reimburse the surplus property purchase revolving fund for the cost of the property to the fund, plus a reasonable amount to cover expenses incurred in connection with the transaction. Where surplus property is transferred to a state agency, political subdivision or eligible institution without cost to the transferee, the director may impose a reasonable charge to cover expenses incurred in connection with the transaction. The governor, through the director of general administration, shall administer the surplus property program in the state and shall perform or supervise all those functions with respect to the program, its agencies and instrumentalities. [1967 ex.s. c 70 § 5; 1945 c 205 § 5; Rem. Supp. 1945 § 10322-64.]

39.32.050 Deposit of revolving fund—Bond or collateral. The surplus property purchase revolving fund shall be deposited by the director in such banks as he may select, but any such depository shall furnish a surety bond executed by a surety company or companies authorized to do business in the state of Washington, or collateral eligible as security for deposit of state funds, in at least the full amount of the deposit in each depository bank. Moneys shall be paid from the surplus property purchase revolving fund by voucher and check in such form and in such manner as shall be prescribed by the director. [1945 c 205 § 6; Rem. Supp. 1945 § 10322-65.]

State depositories: Chapter 43.85 RCW.

39.32.060 Rules and regulations. The director of general administration shall have power to promulgate such rules and regulations as may be necessary to effectuate the purposes of RCW 39.32.010 through 39.32.060. [1967 ex.s. c 70 § 6; 1945 c 205 § 7; Rem. Supp. 1945 § 10322-66.]

39.32.070 Purchase of property from federal government authorized—Authority to contract—Bidding—Payment. The state of Washington, through

any department, division, bureau, board, commission, authority, or agency thereof, and all counties, cities, towns, and other political subdivisions thereof, is hereby authorized to enter into any contract with the United States of America, or with any agency thereof, for the purchase of any equipment, supplies, materials, or other property, without regard to the provisions of any law requiring the advertising, giving of notices, inviting or receiving bids, or which may require the delivery of purchases before payment, and to this end the executive head of any such department, division, bureau, board, commission, authority, or agency of the state, the county commissioners and the executive authority of any city or town, may designate by appropriate resolution or order any office holder or employee of its own to enter a bid or bids in its behalf at any sale of any equipment, supplies, material or other property real or personal owned by the United States of America or any agency thereof, and may authorize said person to make any down payment, or payment in full, required in connection with such bidding. [1945 c 180 § 1; Rem. Supp. 1945 § 10322-50. FORMER PART OF SECTION: 1945 c 88 § 1 now codified as RCW 39.32.090.]

39.32.080 Purchase of property from federal government authorized—Inconsistent provisions suspended. Any provisions of any law, charter, ordinance, resolution, bylaw, rule or regulation which are inconsistent with the provisions of RCW 39.32.070 and 39.32.080 are suspended to the extent such provisions are inconsistent herewith. [1945 c 180 § 2; Rem. Supp. 1945 § 10322-51.]

39.32.090 Purchases by political subdivisions from or through United States authorized. Whenever authorized by ordinance or resolution of its legislative authority any political subdivision of the state shall have power to purchase supplies, materials and/or equipment from or through the United States government without calling for bids, notwithstanding any law or charter provision to the contrary. [1945 c 88 § 1; Rem. Supp. 1945 § 10322-40. Formerly RCW 39.32.070, part.]

Chapter 39.33 INTERGOVERNMENTAL DISPOSITION OF PROPERTY

Sections

- 39.33.010 Sale, exchange, transfer, lease of public property authorized—Section deemed alternative.
39.33.050 Public mass transportation systems—Contracts for services or use.
39.33.060 Transfer of property or contract for use for park and recreational purposes.

39.33.010 Sale, exchange, transfer, lease of public property authorized—Section deemed alternative. (1) The state or any municipality or any political subdivision thereof, may sell, transfer, exchange, lease or otherwise dispose of any property, real or personal, or property rights, including but not limited to the title to real property, to the state or any municipality or any political subdivision thereof, or the federal government, on such

terms and conditions as may be mutually agreed upon by the proper authorities of the state and/or the subdivisions concerned: *Provided*, That such property is determined by decree of the superior court in the county where such property is located, after publication of notice of hearing is given as fixed and directed by such court, to be either necessary, or surplus or excess to the future foreseeable needs of the state or of such municipality or any political subdivision thereof concerned, which requests authority to transfer such property.

(2) This section shall be deemed to provide an alternative method for the doing of the things authorized herein, and shall not be construed as imposing any additional condition upon the exercise of any other powers vested in the state, municipalities or political subdivisions.

(3) No intergovernmental transfer, lease, or other disposition of property made pursuant to any other provision of law prior to May 23, 1972 shall be construed to be invalid solely because the parties thereto did not comply with the procedures of this section. [1973 c 109 § 1; 1972 ex.s. c 95 § 1; 1953 c 133 § 1.]

Exchange of county tax title lands with other governmental agencies: Chapter 36.35 RCW.

Special act authorizing exchange of public lands in Clark county notwithstanding proviso in RCW 39.33.010: See 1967 c 219.

39.33.050 Public mass transportation systems—Contracts for services or use. The legislative body of any municipal corporation, quasi municipal corporation or political subdivision of the state of Washington authorized to develop and operate a public mass transportation system shall have power to contract with the legislative body of any other municipal corporation, quasi municipal corporation or political subdivision of the state of Washington, or with any person, firm or corporation for public transportation services or for the use of all or any part of any publicly owned transportation facilities for such period and under such terms and conditions and upon such rentals, fees and charges as the legislative body operating such public transportation system may determine, and may pledge all or any portion of such rentals, fees and charges and all other revenue derived from the ownership or operation of publicly owned transportation facilities to pay and to secure the payment of general obligation bonds and/or revenue bonds of such municipality issued for the purpose of acquiring or constructing a public mass transportation system. [1969 ex.s. c 255 § 16.]

Construction—Severability—1969 ex.s. c 255: See notes following RCW 35.58.272.

Public transportation systems: RCW 35.58.272-35.58.2792.

39.33.060 Transfer of property or contract for use for park and recreational purposes. Any governmental unit, as defined in RCW 36.93.020(1) as it now exists or is hereafter amended, may convey its real or personal property or any interest or right therein to, or contract for the use of such property by, the county or park and recreation district wherein such property is located for park or recreational purposes, by private negotiation and upon such terms and with such consideration as might

be mutually agreed to by such governmental unit and the board of county commissioners or the park and recreation district board of commissioners. [1971 ex.s. c 243 § 7.]

Severability—1971 ex.s. c 243: See RCW 84.34.920.

Chapter 39.34 INTERLOCAL COOPERATION ACT

Sections

- 39.34.010 Declaration of purpose.
 39.34.020 Definitions.
 39.34.030 Joint powers—Agreements for joint or cooperative action, requisites, effect on responsibilities of component agencies—Financing of joint projects.
 39.34.040 Agreements to be filed—Status of interstate agreements—Real party in interest—Actions.
 39.34.050 Duty to submit agreement to jurisdictional state officer or agency.
 39.34.060 Participating agencies may appropriate funds and provide personnel and services.
 39.34.070 Authority of joint boards to receive loans or grants.
 39.34.080 Contracts to perform governmental activities which each contracting agency is authorized to perform.
 39.34.085 Agreements for operation of bus services.
 39.34.090 Agencies' contracting authority regarding electricity, utilities' powers, preserved.
 39.34.100 Powers conferred by chapter are supplemental.
 39.34.110 Powers otherwise prohibited by Constitutions or federal laws.
 39.34.120 Duty to submit certain agreements to the office of community affairs—Comments.
 39.34.130 Transactions between state agencies—Charging of costs—Regulation by budget director.
 39.34.140 Transactions between state agencies—Procedures for payments through transfers upon accounts.
 39.34.150 Transactions between state agencies—Advancements.
 39.34.160 Transactions between state agencies—Time limitation for expenditure of advance—Unexpended balance.
 39.34.170 Transactions between state agencies—Powers and authority cumulative.
 39.34.900 Short title.
 39.34.910 Severability—1967 c 239.
 39.34.920 Effective date—1967 c 239.

School district associations, right to mortgage or convey money security interest in association property—Limitations: RCW 28A.58.0401.

School districts, intermediate school districts, agreements with other governmental entities for transportation of students, the public or other noncommon school purposes—Limitations: RCW 28A.24.180.

39.34.010 Declaration of purpose. It is the purpose of this chapter to permit local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of local communities. [1967 c 239 § 1.]

Joint operations by municipal corporations and political subdivisions, deposit and control of funds: RCW 43.09.285.

39.34.020 Definitions. For the purposes of this chapter, the term "public agency" shall mean any city, town, county, public utility district, irrigation district, port

district, fire protection district, school district, air pollution control authority, rural county library districts, intercounty rural library districts, public hospital districts, regional planning agency created by any combination of county and city governments, health department or district, weed control district, county transit authority, Indian tribe recognized as such by the federal government, or metropolitan municipal corporation of this state; any agency of the state government or of the United States; and any political subdivision of another state.

The term "state" shall mean a state of the United States. [1975 1st ex.s. c 115 § 1; 1973 c 34 § 1; 1971 c 33 § 1; 1969 c 88 § 1; 1969 c 40 § 1; 1967 c 239 § 3.]

39.34.030 Joint powers—Agreements for joint or cooperative action, requisites, effect on responsibilities of component agencies—Financing of joint projects. (1) Any power or powers, privileges or authority exercised or capable of exercise by a public agency of this state may be exercised and enjoyed jointly with any other public agency of this state having the power or powers, privilege or authority, and jointly with any public agency of any other state or of the United States to the extent that laws of such other state or of the United States permit such joint exercise or enjoyment. Any agency of the state government when acting jointly with any public agency may exercise and enjoy all of the powers, privileges and authority conferred by this chapter upon a public agency.

(2) Any two or more public agencies may enter into agreements with one another for joint or cooperative action pursuant to the provisions of this chapter. Appropriate action by ordinance, resolution or otherwise pursuant to law of the governing bodies of the participating public agencies shall be necessary before any such agreement may enter into force.

(3) Any such agreement shall specify the following:

(a) Its duration;

(b) The precise organization, composition and nature of any separate legal or administrative entity created thereby together with the powers delegated thereto, provided such entity may be legally created. Such entity may include a nonprofit corporation whose membership is limited solely to the participating public agencies and the funds of any such corporation shall be subject to audit in the manner provided by law for the auditing of public funds;

(c) Its purpose or purposes;

(d) The manner of financing the joint or cooperative undertaking and of establishing and maintaining a budget therefor;

(e) The permissible method or methods to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination;

(f) Any other necessary and proper matters.

(4) In the event that the agreement does not establish a separate legal entity to conduct the joint or cooperative undertaking, the agreement shall, in addition to items (a), (c), (d), (e) and (f) enumerated in subdivision (3) hereof, contain the following:

(a) Provision for an administrator or a joint board responsible for administering the joint or cooperative undertaking. In the case of a joint board, public agencies party to the agreement shall be represented;

(b) The manner of acquiring, holding and disposing of real and personal property used in the joint or cooperative undertaking. Any joint board is authorized to establish a special fund with a state, county, city, or district treasurer servicing an involved public agency designated "Operating fund of ----- joint board".

(5) No agreement made pursuant to this chapter shall relieve any public agency of any obligation or responsibility imposed upon it by law except that to the extent of actual and timely performance thereof by a joint board or other legal or administrative entity created by an agreement made hereunder, said performance may be offered in satisfaction of the obligation or responsibility.

(6) Financing of joint projects by agreement shall be as provided by law. [1972 ex.s. c 81 § 1; 1967 c 239 § 4.]

Joint operations by municipal corporations or political subdivisions, deposit and control of funds: RCW 43.09.285.

39.34.040 Agreements to be filed—Status of interstate agreements—Real party in interest—Actions. Prior to its entry into force, an agreement made pursuant to this chapter shall be filed with the city clerk and county auditor and with the secretary of state. In the event that an agreement entered into pursuant to this chapter is between or among one or more public agencies of this state and one or more public agencies of another state or of the United States said agreement shall have the status of an interstate compact, but in any case or controversy involving performance or interpretation thereof or liability thereunder, the public agencies party thereto shall be real parties in interest and the state may maintain an action to recoup or otherwise make itself whole for any damages or liability which it may incur by reason of being joined as a party therein. Such action shall be maintainable against any public agency or agencies whose default, failure of performance, or other conduct caused or contributed to the incurring of damage or liability by the state. [1967 c 239 § 5.]

39.34.050 Duty to submit agreement to jurisdictional state officer or agency. In the event that an agreement made pursuant to this chapter shall deal in whole or in part with the provision of services or facilities with regard to which an officer or agency of the state government has constitutional or statutory powers of control, the agreement shall, as a condition precedent to its entry into force, be submitted to the state officer or agency having such power of control and shall be approved or disapproved by him or it as to all matters within his or its jurisdiction. [1967 c 239 § 6.]

Duty to submit certain agreements to the office of community affairs: RCW 39.34.120.

39.34.060 Participating agencies may appropriate funds and provide personnel and services. Any public agency entering into an agreement pursuant to this

chapter may appropriate funds and may sell, lease, give, or otherwise supply the administrative joint board or other legal or administrative entity created to operate the joint or cooperative undertaking by providing such personnel or services therefor as may be within its legal power to furnish. [1967 c 239 § 7.]

39.34.070 Authority of joint boards to receive loans or grants. Any joint board created pursuant to the provisions of this chapter is hereby authorized to accept loans or grants of federal, state or private funds in order to accomplish the purposes of this chapter provided each of the participating public agencies is authorized by law to receive such funds. [1967 c 239 § 8.]

39.34.080 Contracts to perform governmental activities which each contracting agency is authorized to perform. Any one or more public agencies may contract with any one or more other public agencies to perform any governmental service, activity, or undertaking which each public agency entering into the contract is authorized by law to perform: *Provided*, That such contract shall be authorized by the governing body of each party to the contract. Such contract shall set forth fully the purposes, powers, rights, objectives, and responsibilities of the contracting parties. [1967 c 239 § 9.]

39.34.085 Agreements for operation of bus services. In addition to the other powers granted by chapter 39.34 RCW, one or more cities or towns or a county, or any combination thereof, may enter into agreements with each other to allow a city to operate bus service for the transportation of the general public within the territorial boundaries of each when no such existing bus certificate of public convenience and necessity has been authorized by the Washington utilities and transportation commission: *Provided, however*, That such transportation may extend beyond the territorial boundaries of either party to the agreement if the agreement so provides, and if such service is not in conflict with existing bus service authorized by the Washington utilities and transportation commission. The provisions of this section shall be cumulative and nonexclusive and shall not affect any other right granted by this chapter or any other provision of law. [1969 ex.s. c 139 § 1.]

39.34.090 Agencies' contracting authority regarding electricity, utilities' powers, preserved. Nothing in this chapter shall be construed to increase or decrease existing authority of any public agency of this state to enter into agreements or contracts with any other public agency of this state or of any other state or the United States with regard to the generation, transmission, or distribution of electricity or the existing powers of any private or public utilities. [1967 c 239 § 10.]

39.34.100 Powers conferred by chapter are supplemental. The powers and authority conferred by this chapter shall be construed as in addition and supplemental to powers or authority conferred by any other law, and nothing contained herein shall be construed as

limiting any other powers or authority of any public agency. [1967 c 239 § 11.]

39.34.110 Powers otherwise prohibited by Constitutions or federal laws. No power, privilege, or other authority shall be exercised under this chapter where prohibited by the state Constitution or the Constitution or laws of the federal government. [1967 c 239 § 12.]

39.34.120 Duty to submit certain agreements to the office of community affairs—Comments. In the event that an agreement made pursuant to this chapter shall deal in whole or in part with matters of land-use planning, air or water pollution, zoning, building or housing codes, or any other matter for which specific responsibility has been assigned to the office of community affairs by legislative action, then such agreement shall be submitted to the office of community affairs at least sixty days prior to the effective date of the agreement. The office of community affairs may file written comments with the parties to the proposed agreement not less than fifteen days prior to the effective date of the proposed agreement. Such comments shall not be binding upon the parties to the proposed agreement but may be used by the parties to determine the advisability of adopting, rejecting or amending the proposed agreement. [1967 c 239 § 13.]

Duty to submit agreement to jurisdictional state officer or agency: RCW 39.34.050.

39.34.130 Transactions between state agencies—Charging of costs—Regulation by budget director. Except as otherwise provided by law, the full costs of a state agency incurred in providing services or furnishing materials to or for another agency under chapter 39.34 RCW or any other statute shall be charged to the agency contracting for such services or materials and shall be repaid and credited to the fund or appropriation against which the expenditure originally was charged. Amounts representing a return of expenditures from an appropriation shall be considered as returned loans of services or of goods, supplies or other materials furnished, and may be expended as part of the original appropriation to which they belong without further or additional appropriation. Such interagency transactions shall be subject to regulation by the budget director, including but not limited to provisions for the determination of costs, prevention of interagency contract costs beyond those which are fully reimbursable, disclosure of reimbursements in the governor's budget and such other requirements and restrictions as will promote more economical and efficient operations of state agencies.

Except as otherwise provided by law, this section shall not apply to the furnishing of materials or services by one agency to another when other funds have been provided specifically for that purpose pursuant to law. [1969 ex.s. c 61 § 1.]

Duty to submit agreement of jurisdictional state officer or agency: RCW 39.34.050.

39.34.140 Transactions between state agencies—Procedures for payments through transfers upon

accounts. The budget director may establish procedures whereby some or all payments between state agencies may be made by transfers upon the accounts of the state treasurer in lieu of making such payments by warrant or check. Such procedures, when established, shall include provision for corresponding entries to be made in the accounts of the affected agencies. [1969 ex.s. c 61 § 2.]

39.34.150 Transactions between state agencies—Advancements. State agencies are authorized to advance funds to defray charges for materials to be furnished or services to be rendered by other state agencies. Such advances shall be made only upon the approval of the budget director, or his order made pursuant to an appropriate regulation requiring advances in certain cases. An advance shall be made from the fund or appropriation available for the procuring of such services or materials, to the state agency which is to perform the services or furnish the materials, in an amount no greater than the estimated charges therefor. [1969 ex.s. c 61 § 3.]

39.34.160 Transactions between state agencies—Time limitation for expenditure of advance—Unexpended balance. An advance made under RCW 39.34.130 through 39.34.150 from appropriated funds shall be available for expenditure for no longer than the period of the appropriation from which it was made. When the actual costs of materials and services have been finally determined, and in no event later than the lapsing of the appropriation, any unexpended balance of the advance shall be returned to the agency for credit to the fund or account from which it was made. [1969 ex.s. c 61 § 4.]

39.34.170 Transactions between state agencies—Powers and authority cumulative. The powers and authority conferred by RCW 39.34.130 through 39.34.160 shall be construed as in addition and supplemental to powers or authority conferred by any other law, and not to limit any other powers or authority of any public agency expressly granted by any other statute. [1969 ex.s. c 61 § 5.]

39.34.900 Short title. This chapter may be cited as the "Interlocal Cooperation Act." [1967 c 239 § 2.]

39.34.910 Severability—1967 c 239. If any provision of this chapter, or its application to any person or circumstance is held invalid, the remainder of the chapter, or the application of the provision to other persons or circumstances is not affected. [1967 c 239 § 14.]

39.34.920 Effective date—1967 c 239. The effective date of this chapter is July 1, 1967. [1967 c 239 § 15.]

Chapter 39.35

ENERGY CONSERVATION IN DESIGN OF PUBLIC FACILITIES

Sections

- 39.35.010 Legislative finding.
- 39.35.020 Legislative declaration.

- 39.35.030 Definitions.
- 39.35.040 Facility design to include life-cycle cost analysis.
- 39.35.900 Severability—1975 1st ex.s. c 177.

39.35.010 Legislative finding. The legislature hereby finds:

- (1) That major publicly owned or leased facilities have a significant impact on our state's consumption of energy;
- (2) That energy conservation practices adopted for the design, construction, and utilization of such facilities will have a beneficial effect on our overall supply of energy;
- (3) That the cost of the energy consumed by such facilities over the life of the facilities shall be considered in addition to the initial cost of constructing such facilities; and
- (4) That the cost of energy is significant and major facility designs shall be based on the total life-cycle cost, including the initial construction cost, and the cost, over the economic life of a major facility, of the energy consumed, and of the operation and maintenance of a major facility as they affect energy consumption. [1975 1st ex.s. c 177 § 1.]

39.35.020 Legislative declaration. The legislature declares that it is the public policy of this state to insure that energy conservation practices are employed in the design of major publicly owned or leased facilities. To this end the legislature authorizes and directs that public agencies analyze the cost of energy consumption of each major facility to be planned and constructed or renovated after September 8, 1975. [1975 1st ex.s. c 177 § 2.]

39.35.030 Definitions. For the purposes of this chapter the following words and phrases shall have the following meanings unless the context clearly requires otherwise:

- (1) "Public agency" means every state office, officer, board, commission, committee, bureau, department, and all political subdivisions of the state.
- (2) "Major facility" means any publicly owned or leased building having twenty-five thousand square feet or more of usable floor space.
- (3) "Initial cost" means the moneys required for the capital construction or renovation of a major facility.
- (4) "Renovation" means additions, alterations, or repairs within any twelve month period which exceed fifty percent of the value of a major facility and which will affect any energy system.
- (5) "Economic life" means the projected or anticipated useful life of a major facility as expressed by a term of years.
- (6) "Life-cycle cost" means the cost of a major facility including its initial cost, the cost of the energy consumed over its economic life, and the energy consumption related cost of its operation and maintenance.

(7) "Life-cycle cost analysis" includes, but is not limited to, the following elements:

- (a) The coordination and positioning of a major facility on its physical site;

(b) The amount and type of fenestration employed in a major facility;

(c) The amount of insulation incorporated into the design of a major facility;

(d) The variable occupancy and operating conditions of a major facility; and

(e) An energy-consumption analysis of a major facility.

(8) "Energy systems" means all utilities, including, but not limited to, heating, air-conditioning, ventilating, lighting, and the supplying of domestic hot water.

(9) "Energy-consumption analysis" means the evaluation of all energy systems and components by demand and type of energy including the internal energy load imposed on a major facility by its occupants, equipment, and components, and the external energy load imposed on a major facility by the climatic conditions of its location. An energy consumption analysis of the operation of energy systems of a major facility shall include, but not be limited to, the following elements:

(a) The comparison of three or more system alternatives;

(b) The simulation of each system over the entire range of operation of such facility for a year's operating period; and

(c) The evaluation of the energy consumption of component equipment in each system considering the operation of such components at other than full or rated outputs.

The energy-consumption analysis shall be prepared by a professional engineer or licensed architect who may use computers or such other methods as are capable of producing predictable results. [1975 1st ex.s. c 177 § 3.]

39.35.040 Facility design to include life-cycle cost analysis. On and after September 8, 1975 whenever a public agency determines that any major facility is to be constructed or renovated such agency shall cause to be included in the design phase of such construction or renovation a provision that requires a life-cycle cost analysis to be prepared for such facility. Such analysis shall be approved by the agency prior to the commencement of actual construction or renovation. A public agency may accept the facility design if the agency is satisfied that the life-cycle cost analysis provides for an efficient energy system or systems based on the economic life of the major facility. [1975 1st ex.s. c 177 § 4.]

39.35.900 Severability—1975 1st ex.s. c 177. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1975 1st ex.s. c 177 § 5.]

Chapter 39.36

LIMITATION OF INDEBTEDNESS OF TAXING DISTRICTS

- Sections
- 39.36.010 Definitions.
- 39.36.015 "Value of the taxable property" defined.
- 39.36.020 Limitation of indebtedness prescribed.
- 39.36.030 Computation of indebtedness.

39.36.040 Authorizations in violation of chapter void—Exception as to second class city constructing or renewing bridge over navigable water.

39.36.900 Validation—1969 c 142.

Limitation of state debt: State Constitution Art. 8 § 1 (Amendment 60).

Limitation on levies: State Constitution Art. 7 § 2 (Amendments 55, 59).

39.36.010 Definitions. The term "taxing district" as herein used shall be held to mean and embrace all counties, cities, towns, townships, port districts, school districts, metropolitan park districts or other municipal corporations which now, or may hereafter exist.

The term "the last assessed valuation of the taxable property in such taxing district" as used herein shall be held to mean and embrace the aggregate assessed valuation for such taxing district as placed on the last completed and balanced tax rolls of the county next preceding the date of contracting the debt or incurring the liability. [1917 c 143 § 4; RRS § 5608.]

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. [1970 ex.s. c 42 § 1.]

***Reviser's note:** The following annotations apply to this section and to the various sections amended by chapter 42, Laws of 1970 ex.s. referred to herein as "this 1970 amendatory act" is codified as 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.

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.]

39.36.020 Limitation of indebtedness prescribed. (1) Except as otherwise expressly provided by law or in subsections (2), (3) and (4) of this section, no taxing district shall for any purpose become indebted in any manner to an amount exceeding three-eighths of one percent of the value of the taxable property in such taxing district without the assent of three-fifths of the voters therein voting at an election to be held for that purpose, nor in cases requiring such assent shall the total indebtedness incurred at any time exceed one and one-fourth percent on the value of the taxable property therein.

(2) Counties, cities, towns, and public hospital districts are limited to an indebtedness amount not exceeding three-fourths of one percent of the value of the taxable property in such counties, cities, towns, or public hospital districts without the assent of three-fifths of the voters therein voting at an election held for that purpose.

In cases requiring such assent counties, cities, towns, and public hospital districts are limited to a total indebtedness of two and one-half percent of the value of the taxable property therein.

(3) School districts are limited to an indebtedness amount not exceeding three-eighths of one percent of the value of the taxable property in such district without the assent of three-fifths of the voters therein voting at an election held for that purpose. In cases requiring such assent school districts are limited to a total indebtedness of two and one-half percent of the value of the taxable property therein.

(4) No part of the indebtedness allowed in this chapter shall be incurred for any purpose other than strictly county, city, town, school district, township, port district, metropolitan park district, or other municipal purposes: *Provided*, That a city or town, with such assent, may become indebted to a larger amount, but not exceeding two and one-half percent additional, determined as herein provided, for supplying such city or town with water, artificial light, and sewers, when the works for supplying such water, light, and sewers shall be owned and controlled by the city or town; and a city or town, with such assent, may become indebted to a larger amount, but not exceeding two and one-half percent additional for acquiring or developing open space and park facilities: *Provided further*, That any school district may become indebted to a larger amount but not exceeding two and one-half percent additional for capital outlays.

(5) Such indebtedness may be authorized in any total amount in one or more propositions and the amount of such authorization may exceed the amount of indebtedness which could then lawfully be incurred. Such indebtedness may be incurred in one or more series of bonds from time to time out of such authorization but at no time shall the total general indebtedness of any taxing district exceed the above limitation.

The term "value of the taxable property" as used in this section shall have the meaning set forth in RCW 39.36.015. [1971 ex.s. c 218 § 1; 1971 c 38 § 1; 1970 ex.s. c 42 § 27; 1969 c 142 § 3; 1967 c 107 § 4; 1959 c 227 § 1; 1953 c 163 § 2; 1917 c 143 § 1; RRS § 5605.]

Severability—Effective date—1970 ex.s. c 42: See notes following RCW 39.36.015.

Validating—1953 c 163: "Bonds authorized, issued and sold by any school district prior to the effective date of this act and not in excess of the limitations provided in sections 1 and 2 thereof are hereby approved, ratified and validated, and are a legal and irrevocable obligation of such school district." [1953 c 163 § 3.] This applies to RCW 28A.51.010 and 39.36.020. The effective date of this act was March 18, 1953.

Cemetery districts, limitation upon indebtedness: RCW 68.16.230.

Cities other than first class, limitations upon indebtedness: RCW 35.37.040, 35.37.050.

Counties, limitations upon indebtedness: Chapter 36.67 RCW.

Metropolitan park districts, incurring indebtedness: RCW 35.61.100, 35.61.110.

Municipal corporations, limitations upon indebtedness: State Constitution Art. 8 § 6 (Amendment 27).

Port districts, limitations upon indebtedness: RCW 53.36.030.

School districts, limitations upon indebtedness: RCW 28A.51.010.

Sewer districts, general indebtedness: RCW 56.16.010.

Water districts, limitations upon indebtedness: RCW 57.20.110, 57.20.120.

39.36.030 Computation of indebtedness. Whenever it shall be necessary to compute the indebtedness of a taxing district for bonding or any other indebtedness purposes, taxes levied for the current year and cash on hand received for the purpose of carrying on the business of such taxing district for such current year shall be considered as an asset only as against indebtedness incurred during such current year which is payable from such taxes or cash on hand: *Provided, however,* That all taxes levied for the payment of bonds, warrants or other public debts of such taxing district, shall be deemed a competent and sufficient asset of the taxing district to be considered in calculating the constitutional debt limit or the debt limit prescribed by this chapter for any taxing district: *Provided,* That the provisions of this section shall not apply in computing the debt limit of a taxing district in connection with bonds authorized pursuant to a vote of the electors at an election called prior to March 1, 1917. [1921 c 123 § 1; 1917 c 143 § 2; RRS § 5606.]

39.36.040 Authorizations in violation of chapter void—Exception as to second class city constructing or renewing bridge over navigable water. All orders, authorizations, allowances, contracts, payments or liabilities to pay, made or attempted to be made in violation of this chapter, shall be absolutely void and shall never be the foundation of a claim against a taxing district: *Provided,* That the limitations imposed by this chapter shall not apply to debts contracted by any taxing district prior to March 1, 1917: *Provided, further,* That the limitations imposed by this chapter may be exceeded by cities of the second class for the purpose of constructing, renewing or repairing any bridge or bridges across any navigable waters located therein, and as to such indebtedness incurred for such purpose, the limits upon municipal indebtedness imposed by the state Constitution shall apply. No additional indebtedness shall be incurred by any city of the second class for the purpose last above mentioned without the assent of three-fifths of the qualified voters of such city voting thereon at an election to be held therein for that purpose under and pursuant to the provisions of *Sections 9538 to 9548, inclusive, of Remington's Compiled Statutes of Washington. Any such additional indebtedness so incurred shall not thereafter be taken into consideration in computing the limitation of indebtedness of such city under the provisions of this chapter. [1923 c 45 § 1; 1917 c 143 § 3; RRS § 5607.]

*Reviser's note: "Sections 9538 to 9548, inclusive, of Remington's Compiled Statutes of Washington" were revised by the 1941 code committee and codified as RCW 35.37.030 through 35.37.120.

39.36.900 Validation—1969 c 142. All bonds heretofore issued, or heretofore voted and which may have been or may hereafter be issued, by any taxing district pursuant to any of the foregoing sections as amended or for any of the purposes authorized by any of said sections are hereby validated. [1969 c 142 § 6.]

Reviser's note: This applies to RCW 28A.51.010, 36.67.040 and 39.36.020.

Chapter 39.40 VOTE REQUIRED AT BOND ELECTIONS

Sections

- 39.40.010 Forty percent poll of voters required.
- 39.40.020 Existing election laws to apply.
- 39.40.030 Certification of votes—Canvass.
- 39.40.040 Prior bonds not affected.
- 39.40.900 Severability—1925 c 13.

Cities other than first class, bond elections: RCW 35.37.060, 35.37.070.

County acquisition of land for military purposes, bond election for: Chapter 37.16 RCW.

County roads and bridges, bond elections: Chapter 36.76 RCW.

Fire protection districts, bond elections: RCW 52.16.090.

Irrigation districts, bond elections: Chapter 87.03 RCW.

Port districts, vote required for certain bond issues: RCW 53.36.030.

Public utility districts, bond elections, vote required: RCW 54.24.018.

Sewer districts, bond elections, vote required: RCW 56.16.020.

39.40.010 Forty percent poll of voters required. No general obligation bonds of any county, port district, or metropolitan park district upon which a vote of the people is required under existing laws shall be issued, nor shall they become a lien upon the taxable property within such county or district unless, in addition to all other requirements provided by law in the matter of the issuance of general obligation bonds by such county or district, the total vote cast upon such proposition shall exceed forty percent of the total number of voters voting in such county or district at the general county or state election next preceding such bond election. [1961 ex.s. c 15 § 1; 1959 c 290 § 3; 1925 c 13 § 1; RRS § 5646-1.]

Exceeding debt limitation by municipalities: State Constitution Art. 8 § 6 (Amendment 27).

Vote required for excess levy to retire bonds issued for capital purposes: RCW 84.52.056.

39.40.020 Existing election laws to apply. In all such elections the provisions of existing law with respect to registration, opening and closing of registration books and the duties of officers and the appointment and selection of election officials shall apply. [1925 c 13 § 2; RRS § 5646-2.]

Election laws in general: Title 29 RCW.

39.40.030 Certification of votes—Canvass. The election officials in each of the precincts included within any such district shall, as soon as possible and in no case later than five days after the closing of the polls of any election involving the issuance of bonds, certify to the county auditor of the county within which such district is located the total number of votes cast for and against each separate proposal and the vote shall be canvassed and certified by a canvassing board consisting of the chairman of the board of county commissioners, the county auditor, and the prosecuting attorney who shall declare the result thereof. [1959 c 290 § 4; 1925 c 13 § 3; RRS § 5646-3.]

39.40.040 Prior bonds not affected. This chapter shall not affect the validity or the issuance of any such bonds voted at any lawful election held prior to the taking effect of this chapter. [1925 c 13 § 4; RRS § 5646-4.]

39.40.900 Severability—1925 c 13. If any section or provision of this chapter be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the chapter as a whole, or any section, provision or part thereof not adjudged invalid or unconstitutional. [1925 c 13 § 5; RRS § 5646-5.]

Chapter 39.42 BONDS, NOTES AND OTHER EVIDENCES OF INDEBTEDNESS

Sections

- 39.42.010 Scope of application.
- 39.42.020 Evidences of indebtedness—Issuance—Signature.
- 39.42.030 Evidences of indebtedness—State finance committee to make determinations by resolution.
- 39.42.040 Disposition of proceeds from sale of bonds.
- 39.42.050 Anticipation notes—Issued, when—Payment.
- 39.42.060 Limitation on issuance of evidences of indebtedness—Annual computation of amount required to pay on outstanding debt.
- 39.42.070 Computation of general state revenues—Filing of certificate—Estimate of debt capacity.
- 39.42.080 Obligations allowable under debt limitation.
- 39.42.090 Certificates of indebtedness—Issued, when—Retirement.
- 39.42.100 Evidences of indebtedness—Defects not to affect validity—Copy of resolution authorizing issuance filed—Action to contest before delivery.
- 39.42.110 Evidences of indebtedness—As negotiable instruments, security for deposits.
- 39.42.900 Effective date—Expiration—1971 ex.s. c 184.

39.42.010 Scope of application. This chapter shall apply to all bonds, notes and other evidences of indebtedness of the state authorized by the legislature after *the effective date of this chapter, unless otherwise provided in the authorizing acts. [1971 ex.s. c 184 § 1.]

*Reviser's note: "the effective date of this chapter", see RCW 39.42.900.

39.42.020 Evidences of indebtedness—Issuance—Signature. Bonds, notes or other evidences of indebtedness shall be issued by the state finance committee. They may be issued at one time or in a series from time to time. The maturity date of each series shall be determined by the state finance committee, but in no case shall any bonds mature later than thirty years from the date of issue. All evidences of indebtedness shall be signed in the name of the state by the governor and the treasurer. The facsimile signature of said officials is authorized and said evidences of indebtedness may be issued notwithstanding that any of the officials signing them or whose facsimile signatures appear on such evidences of indebtedness has ceased to hold office at the time of issue or at the time of delivery to the purchaser. [1971 ex.s. c 184 § 2.]

39.42.030 Evidences of indebtedness—Issuance—State finance committee to make determinations

by resolution. The state finance committee shall by resolution determine the amount, date, form, terms, conditions, denominations, maximum interest rate, maturity or maturities, redemption rights, registration privileges, manner of execution, manner of sale, and covenants of all evidences of indebtedness including the funding or refunding of any existing indebtedness. [1971 ex.s. c 184 § 3.]

39.42.040 Disposition of proceeds from sale of bonds. The proceeds of the sale of any bonds shall be used solely for the purposes, including any expense incurred in connection with the issuance and sale of such bonds, specified in the general statute or special act authorizing the issuance of such bonds. [1971 ex.s. c 184 § 4.]

39.42.050 Anticipation notes—Issued, when—Payment. When the state finance committee has decided to issue such bonds or a portion thereof, it may, pending the issuing of such bonds, issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of such bonds, which notes shall be designated as "anticipation notes". Such portion of the proceeds of the sale of such bonds as may be required for such purpose shall be applied to the payment of the principal of and interest on such anticipation notes which have been issued. [1971 ex.s. c 184 § 5.]

39.42.060 Limitation on issuance of evidences of indebtedness—Annual computation of amount required to pay on outstanding debt. No bonds, notes, or other evidences of indebtedness for borrowed money shall be issued by the state which will cause the state to exceed the limitation contained in section 1 of Article VIII of the Washington state Constitution as hereafter amended by vote of the people pursuant to HJR 52, 1971 regular session. It shall be the duty of the state finance committee to compute annually the amount required to pay principal of and interest on outstanding debt. In making such computation, the state finance committee shall include all borrowed money represented by bonds, notes, or other evidences of indebtedness which are secured by the full faith and credit of the state or are required to be paid, directly or indirectly, from general state revenues and which are incurred by the state, any department, authority, public corporation or quasi public corporation of the state, any state university or college, or any other public agency created by the state but not by counties, cities, towns, school districts, or other municipal corporations, but shall not include obligations for the payment of current expenses of state government, nor shall it include debt hereafter incurred pursuant to section 3 of Article VIII of the Washington state Constitution as hereafter amended by vote of the people pursuant to HJR 52, 1971 regular session, nor shall it include indebtedness incurred pursuant to RCW 39.42.080, principal of bond anticipation notes or obligations issued to fund or refund the indebtedness of the Washington state building authority. To the extent necessary because of the constitutional debt limitation, priorities with respect to the issuance or guaranteeing of bonds, notes or other evidences of indebtedness by the state shall be

determined by the state finance committee. [1971 ex.s. c 184 § 6.]

39.42.070 Computation of general state revenues—
Filing of certificate—**Estimate of debt capacity.** On or after *the effective date of this act, the treasurer shall compute general state revenues for the three fiscal years immediately preceding such date and shall determine the arithmetic mean thereof. As soon as is practicable after the close of each fiscal year thereafter, he shall do likewise. In determining the amount of general state revenues, the treasurer shall include all state money received in the treasury from each and every source whatsoever except: (1) fees and revenues derived from the ownership or operation of any undertaking, facility or project; (2) moneys received as gifts, grants, donations, aid or assistance or otherwise from the United States or any department, bureau or corporation thereof, or any person, firm or corporation, public or private, when the terms and conditions of such gift, grant, donation, aid or assistance require the application and disbursement of such moneys otherwise than for the general purposes of the state of Washington; (3) moneys to be paid into and received from retirement system funds, and performance bonds and deposits; (4) moneys to be paid into and received from trust funds including but not limited to moneys received from taxes levied for specific purposes and the several permanent and irreducible funds of the state and the moneys derived therefrom but excluding bond redemption funds; (5) proceeds received from the sale of bonds or other evidences of indebtedness. Upon computing general state revenues, the treasurer shall make and file in the office of the secretary of state, a certificate containing the results of such computations. Copies of said certificate shall be sent to each elected official of the state and each member of the legislature. The treasurer shall, at the same time, advise each elected official and each member of the legislature of the current available debt capacity of the state, and may make estimated projections for one or more years concerning debt capacity. [1971 ex.s. c 184 § 7.]

*Reviser's note: "the effective date of this act", see RCW 39.42.900.

39.42.080 Obligations allowable under debt limitation. The foregoing limitation on the aggregate amount of indebtedness of the state shall not prevent:

(1) The issuance of obligations to refund or replace any such indebtedness existing at any time in an amount not exceeding 1.05 times the amount which, taking into account earnings from the investment of the proceeds of the issue, is required to pay the principal thereof, interest thereon, and any premium payable with respect thereto, and the costs incurred in accomplishing such refunding, as provided in chapter 39.53 RCW, as now or hereafter amended: *Provided*, That any proceeds of the refunding, bonds in excess of those acquired to accomplish such refunding or any obligations acquired with such excess proceeds, shall be applied exclusively for the payment of principal, interest, or call premiums with respect to such refunding obligations;

(2) The issuance of obligations in anticipation of revenues to be received by the state during a period of twelve calendar months next following their issuance;

(3) The issuance of obligations payable solely from revenues of particular public improvements;

(4) A pledge of the full faith, credit, and taxing power of the state to guarantee the payment of any obligation payable from any of revenues received from any of the following sources:

(a) the fees collected by the state as license fees for motor vehicles;

(b) excise taxes collected by the state on the sale, distribution, or use of motor vehicle fuel; and

(c) interest on the permanent common school fund:

Provided, That the legislature shall, at all times, provide sufficient revenues from such sources to pay the principal and interest due on all obligations for which said source of revenue is pledged. [1974 ex.s. c 111 § 1; 1971 ex.s. c 184 § 8.]

Severability—1974 ex.s. c 111: "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 111 § 6.]

39.42.090 Certificates of indebtedness—**Issued, when—****Retirement.** The state finance committee may issue certificates of indebtedness in such sum or sums that may be necessary to meet temporary deficiencies of the treasury; such certificates may be issued only to provide for the appropriations already made by the legislature and such certificates must be retired and the debt discharged other than by refunding within twelve months after the date of issuance. [1971 ex.s. c 184 § 9.]

39.42.100 Evidences of indebtedness—**Defects not to affect validity—****Copy of resolution authorizing issuance filed—****Action to contest before delivery.** Bonds, notes, or other obligations issued and sold by the state of Washington pursuant to and in conformity with this chapter shall not be invalid for any irregularity or defect in the proceedings of the issuance or sale thereof, except as provided in this paragraph, and shall be incontestable in the hands of a bona fide purchaser or holder thereof. Whenever the state finance committee determines to issue bonds, notes or other evidences of indebtedness, it shall file with the treasurer a certified copy of the resolution authorizing their issuance at least thirty days prior to delivery to the purchaser of such bonds, notes, or other evidences of indebtedness. At any time prior to delivery, any person in interest shall have the right to institute an appropriate action or proceeding to contest the validity of the authorized indebtedness, the pledge of revenues for the payment of principal and interest on such indebtedness, the validity of the collection and disposition of revenue necessary to pay the principal and interest on such indebtedness, the expenditure of the proceeds derived from the sale of the evidences of indebtedness for the purposes specified by law, and the validity of all other provisions and proceedings in connection with the authorization and issuance of the evidences of indebtedness. If such action or proceeding shall not have been instituted prior to delivery, then the

validity of the evidences of indebtedness shall be conclusively presumed and no court shall have authority to inquire into such matters. [1971 ex.s. c 184 § 10.]

39.42.110 Evidences of indebtedness—Defects not to affect validity—As negotiable instruments, security for deposits. All evidences of indebtedness issued under the provisions of this chapter shall be fully negotiable instruments and shall be legal investment for all state funds or for funds under state control and all funds of municipal corporations, and shall be legal security for all state, county and municipal deposits. [1971 ex.s. c 184 § 11.]

39.42.900 Effective date—Expiration—1971 ex.s. c 184. This act shall become effective coincident with the effective date of the constitutional amendment to Article VIII, section 1 and to Article VIII, section 3 of the Washington state Constitution as presented for a vote of the people by HJR 52, 1971 regular session. Unless such constitutional amendment shall be approved by the people at the next general election, this chapter shall be null and void. [1971 ex.s. c 184 § 12.]

Chapter 39.44

BONDS—FORM, TERMS OF SALE, PAYMENT, ETC.

Sections

- 39.44.010 Must be serial in form and maturity—Interest—Coupons—Coupon rates—Annual maturities—Ordinances, resolutions.
- 39.44.011 Denominations.
- 39.44.020 Tax levy for interest and principal.
- 39.44.030 Effective rate of interest—Sale—Notice—Bids.
- 39.44.060 Return of deposits.
- 39.44.070 Life of bonds.
- 39.44.080 Revenue bonds of utility excepted.
- 39.44.090 Printing statute or ordinance on bonds dispensed with.
- 39.44.100 Facsimile signatures on bonds and coupons.
- 39.44.101 Facsimile signatures on bonds and coupons—Fraud—Destruction of plates—Penalty.
- 39.44.102 Facsimile signatures on bonds and coupons—Statements and signatures required on registered bonds.
- 39.44.110 Registration—Payment—Assignment.
- 39.44.120 Payment of coupon interest.
- 39.44.130 Registration officers—Fiscal agency.

Cities and towns, local improvement bonds: Chapter 35.45 RCW.

Counties, bonds, form, interest, etc.: Chapter 36.67 RCW.

Counties, bonds to acquire land for military purposes, form, interest, etc.: Chapter 37.08 RCW.

County road bonds, form, interest, etc.: Chapter 36.76 RCW.

Fire protection district bonds, form, interest, duration, etc.: RCW 52.16.100.

Funding bonds, interest rate, form, sale, payment, etc.: Chapter 39.52 RCW.

Irrigation district bonds, form, interest, maturity, etc.: RCW 87.03.200.

Metropolitan municipal corporation, bonds: RCW 35.58.450–35.58.470.

Metropolitan park district bonds, form, terms, etc.: RCW 35.61.170.

Municipal revenue bond act: Chapter 35.41 RCW.

Port district bonds, form, terms, etc.: Chapters 53.40 and 53.44 RCW.

Public utility district bonds, form, terms, etc.: RCW 54.24.018.

School district bonds, form, terms of sale, etc.: Chapter 28A.51 RCW.

School plant facilities construction bonds, form, interest, etc.: RCW 28A.47.130.

Sewer district bonds, form, terms, etc.: RCW 56.16.040.

Validation: Chapter 39.90 RCW.

Water district bonds, form, terms, etc.: RCW 57.20.010.

39.44.010 Must be serial in form and maturity—Interest—Coupons—Coupon rates—Annual maturities—Ordinances, resolutions. Hereafter all general obligation bonds, including refunding bonds, issued under lawful authority by any political subdivision, or municipal or quasi municipal corporation now or hereafter existing under the laws of the state of Washington, hereinafter in this amendatory act called the "issuer", shall be serial in form and maturity and numbered from one upward consecutively. Except for the first interest payment which may be at any time not more than twelve months from date of issue, interest on all such bonds shall be payable semiannually. The interest on coupon bonds may only be evidenced by a single coupon and no more than one coupon rate may be fixed for all bonds maturing on the same date. The various annual maturities of such bonds, except refunding bonds, shall commence not less than two years or more than five years from the date of issue and shall be fixed in the ordinance or resolution authorizing the sale of the same in amounts that will result in a difference of not more than five thousand dollars between the highest and lowest annual payment of principal and interest, excluding the years up to and including the year in which principal payments commence, computed on the anticipated effective interest rate such governing body shall in its discretion determine will be borne by such bonds. The provisions of this section shall not constitute any limitation on the number of coupon rates of interest or the amount of difference between the highest and lowest interest rates that may be specified by bidders: *Provided*, That such governing body may, in its discretion, in the sale proceedings, limit the number of interest rates and the amount of difference between the highest and lowest rates bid. [1965 ex.s. c 74 § 1; 1961 c 141 § 1; 1923 c 151 § 1; RRS § 5583–1.]

Construction—1923 c 151: "All acts and parts of acts in conflict herewith, are hereby repealed: *Provided*, That this act shall not affect the validity nor the procedure necessary for the payment and redemption of any bonds heretofore issued and sold by any such municipal corporation, or any bonds authorized under existing laws, a part of which have been sold." [1923 c 151 § 7.] This applies to RCW 39.44-.010–39.44.080.

39.44.011 Denominations. Hereafter all bonds issued by an issuer may be in such denominations as the governing body of the issuer may in its discretion determine, except that bonds other than bond number one of any issue shall be in a denomination that is a multiple of one hundred dollars. [1965 ex.s. c 74 § 4.]

39.44.020 Tax levy for interest and principal. The officials now or hereafter charged by law with the duty of levying taxes for the payment of said bonds and interest shall, in the manner provided by law, make an annual levy sufficient together with other moneys lawfully available and pledged therefor to meet the payments of principal and interest on said bonds maturing as herein provided. [1975 1st ex.s. c 188 § 6; 1965 ex.s. c 74 § 2; 1923 c 151 § 2; RRS § 5583–2.]

Severability—1975 1st ex.s. c 188: See RCW 36.94.921.

39.44.030 Effective rate of interest—Sale—Notice—Bids. Before any general obligation bonds issued by any county, city, town, school district, port district, or metropolitan park district shall be offered for sale the governing body issuing such bonds shall designate the maximum effective rate of interest said bonds shall bear, which shall not be in excess of that allowed by law. Except as provided in *section 94, chapter 232, Laws of 1969 ex. sess., and *section 107 of this amendatory act when a vote of the electors shall have been taken on the question of the issuance of such bonds and the proposition submitted to the electors shall have specified the maximum effective rate of interest to be borne by said bonds, no increase of such maximum effective rate of interest shall be made by the governing body. All such bonds, including refunding bonds, shall be sold at public sale, and a notice calling for bids for the purchase of said bonds shall be published once a week for four consecutive weeks in the official newspaper of the issuer, and such other notice shall be given as the governing body may direct; or, if there be no official newspaper of the issuer, the publication shall be made in a newspaper of general circulation in the county in which the issuer is located. Such notice shall specify a place, and designate a day and hour, subsequent to the date of the last publication and at least twenty-three days subsequent to the date of the first publication thereof when sealed bids will be received and publicly opened for the purchase of said bonds. A copy of such notice shall, at least three weeks prior to the date fixed for the sale, be mailed to the state finance committee, Olympia, Washington. The notice shall specify the maturity schedule and the maximum effective rate of interest such bonds shall bear, and shall require bidders to submit a bid specifying (1) the lowest rate or rates of interest and premium, if any, above par, at which such bidder will purchase said bonds; or (2) the lowest rate or rates of interest at which the bidder will purchase said bonds at par. The bonds shall be sold to the bidder offering to purchase the same at the lowest net interest cost to the issuer over the life thereof, subject to the right of the governing body to reject any and all bids. None of such bonds shall be sold at less than par and accrued interest, nor shall any discount or commission be allowed or paid to the purchaser or purchasers of such bonds. All bids shall be sealed and, except the bid of the state of Washington, if one is received, shall be accompanied by a good faith deposit of five percent, either in cash or by cashier's or certified check made payable to the treasurer of the issuer, of the amount of the principal par value of such bonds which shall be promptly returned if the bid is not accepted; and if the successful bidder shall fail or neglect to complete the purchase of said bonds by the time specified in the notice of sale for the delivery of said bonds, the amount of his deposit shall be forfeited to the issuer, and in that event the governing body may accept the bid of the one making the next best bid if such bidder agrees to purchase said bonds under the terms provided in his bid, or if all bids be rejected such governing body, if it decides to

reoffer such bonds for sale, shall readvertise said bonds for sale in the same manner as herein provided for the original advertisement. If there be two or more equal bids and such bids are the best bids received, the governing body shall determine by lot which bid will be accepted. [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.]

***Reviser's note:** (1) "section 94, chapter 232, Laws of 1969 ex. sess." referred to herein appears in the footnote to this section. (See "Validation—Saving—1969 ex.s. c 232" below.)

(2) The reference to "section 107 of this amendatory act" appears to be erroneous. The "section 107" referred to in Substitute Senate Bill No. 146 was deleted by subsequent amendment during passage of the measure and section 109 (a repealing section) was renumbered as section 107.

Effective date—1970 ex.s. c 56: Due to the emergency clause contained in section 109, the effective date of 1970 ex.s. c 56 was February 23, 1970.

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, 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.]

39.44.060 Return of deposits. If a bid be accepted the deposits of all other bidders shall be thereupon returned; if no bid be accepted the deposits of all, except the two highest bidders, shall be returned forthwith; if all bids be rejected, then all deposits shall be returned forthwith. [1923 c 151 § 4; RRS § 5583-4.]

39.44.070 Life of bonds. Notwithstanding the provisions of any charter to the contrary, bonds issued under RCW 39.44.010 through 39.44.080 may be issued to run for a period up to forty years from the date of the issue and shall, as near as practicable, be issued for a period which shall not exceed the life of the improvement to be acquired by the use of the bonds. [1967 c 107 § 5; 1923 c 151 § 5; RRS § 5583-5.]

39.44.080 Revenue bonds of utility excepted. RCW 39.44.010 through 39.44.080 shall not apply to public utility bonds payable wholly from the earnings of such utility. [1923 c 151 § 6; RRS § 5583-6.]

39.44.090 Printing statute or ordinance on bonds dispensed with. It shall not be necessary hereafter that any bonds issued by any county, city or town have printed, engraved or lithographed on any page or part thereof a copy of the chapter, statutes or sections of statutes of the state of Washington, or of any ordinance by authority of which the said bonds are issued, or a copy of the statement of the result of any election: *Provided*, This section shall not apply to any local improvement district bonds. [1939 c 180 § 1; RRS § 5591-1.]

39.44.100 Facsimile signatures on bonds and coupons. On all bonds hereafter issued by the state or any agency thereof or by any county, city, town, municipal corporation, junior taxing district, school district or other political subdivision of the state, the printed, engraved or lithographed facsimile signatures of the officers required by law to sign the bonds or interest coupons thereon shall be sufficient signature on such bonds or coupons: *Provided*, That such facsimile signatures shall not be used on the bonds of issues of less than one hundred thousand dollars par value and may always be used on interest coupons.

Whenever such facsimile signature reproduction of the signature of any officer is used in place of the personal signature of such officer, the issuing authority shall specify in a written order or requisition to the printer, engraver, or lithographer, the number of bonds or coupons upon which such facsimile signature is to be printed, engraved, or lithographed, and the manner of numbering the bonds or coupons upon which such signature shall be placed. Within ninety days after the completion of the printing, engraving, or lithographing of such bonds or coupons, the plate or plates used for the purpose of affixing the facsimile signature shall be destroyed and it shall be the duty of the issuing authority, within ninety days after receipt of the completed bonds or coupons, to ascertain that such plate or plates have been destroyed. [1961 c 141 § 3; 1955 c 375 § 1; 1941 c 52 § 1; Rem. Supp. 1941 § 5583-1a.]

39.44.101 Facsimile signatures on bonds and coupons—Fraud—Destruction of plates—Penalty. Every printer, engraver, or lithographer, who with the intent to defraud, prints, engraves, or lithographs a facsimile signature upon any bond or coupon without written order of the issuing authority, or fails to destroy such plate or plates containing the facsimile signature upon

direction of such issuing authority, shall be guilty of a felony. [1955 c 375 § 2.]

Fraud, forgery: Chapter 9A.60 RCW.

39.44.102 Facsimile signatures on bonds and coupons—Statements and signatures required on registered bonds. Where any bond so issued requires registration by the county treasurer, that bond shall bear a statement on the back thereof showing the name of the person to whom sold, date of issue, the number and series of the bond, and shall be signed by the county treasurer in his own name or by a deputy county treasurer in his own name. [1955 c 375 § 3.]

39.44.110 Registration—Payment—Assignment. Upon the presentation at the office of the officer or agent hereinafter provided for, any bond that has heretofore been or may hereafter be issued by any county, city, town, port, school district or other municipal corporation in this state, may, if so provided in the proceedings authorizing the issuance of the same, be registered as to principal in the name of the owner upon the books of such municipality to be kept in said office, such registration to be noted on the reverse of the bond by such officer or agent. The principal of any bond so registered shall be payable only to the payee, his legal representative, successors or assigns, and such bond shall be transferable to another registered holder or back to bearer only upon presentation to such officer or agent, with a written assignment duly acknowledged or proved. The name of the assignee shall be written upon any bond so transferred and in the books so kept in the office of such officer or agent. [1961 c 141 § 4; 1915 c 91 § 1; RRS § 5494.]

39.44.120 Payment of coupon interest. If so provided in the proceedings authorizing the issuance of any such bonds, upon the registration thereof as to principal, or at any time thereafter, the coupons thereto attached, evidencing all interest to be paid thereon to the date of maturity, may be surrendered to the officer or agent hereinafter provided. Such coupons shall be canceled by such officer or agent, who shall sign a statement endorsed upon such bond of the cancellation of all unmatured coupons and the registration of such bond. Thereafter the interest evidenced by such canceled coupons shall be paid at the times provided therein to the registered holder of such bond in lawful money of the United States of America mailed to his address. [1961 c 141 § 5; 1915 c 91 § 2; RRS § 5495.]

39.44.130 Registration officers—Fiscal agency. The duties herein prescribed as to the registration of bonds of any city or town shall be performed by the treasurer thereof, and as to those of any county, port or school district by the county treasurer of the county in which such port or school district lies; but any county, city, town, port or school district may designate by resolution any other officer for the performance of such duties, and any county, city, town, port or school district may designate by resolution its legally designated fiscal agency or agencies for the performance of such duties,

after making arrangements with such fiscal agency therefor, which arrangements may include provision for the payment by the bondholder of a fee not exceeding twenty-five cents for each registration. [1971 ex.s. c 79 § 1; 1915 c 91 § 3; RRS § 5496.]

Fiscal agency: Chapter 43.80 RCW.

Chapter 39.48 BONDS SOLD TO GOVERNMENT AT PRIVATE SALE

Sections

- 39.48.010 Authority conferred.
- 39.48.020 Amortization—Requirements relaxed.
- 39.48.030 "Issuer" defined.
- 39.48.040 Chapter optional.

39.48.010 Authority conferred. Bonds and securities of all kinds heretofore or hereafter authorized, issued by any issuing corporation or district (hereinafter called the "issuer" and as hereinafter specified), whether such bonds and securities be issued for such issuer itself or for any other taxing or assessment district within its limits, and whether payable in whole or in part out of and from general taxes or payable in whole or in part out of and from the earnings to be derived from any utility, system, construction, work, or works, belonging to or operated by any such issuer, or payable in whole or in part out of and from "local" or "benefit" assessments upon lands within any assessment district or assessment subdivision within any such issuer, may be sold to the United States government or to any department, corporation or agency thereof by private sale without giving any prior notice thereof by publication or otherwise and in such manner as the governing authority of such issuer may provide: *Provided*, Only that bonds or other securities sold at private sale under the authority of this chapter shall bear interest at a rate or rates as authorized by the issuer and that all bonds and securities sold and issued under the authority of this chapter shall be sold, if now required by existing law, at not less than par and accrued interest. [1970 ex.s. c 56 § 59; 1969 ex.s. c 232 § 76; 1933 ex.s. c 30 § 1; RRS § 5583-11.]

Effective date—Purpose—1970 ex.s. c 56: See notes following RCW 39.44.030.

Validation—Saving—Severability—1969 ex.s. c 232: See notes following RCW 39.44.030.

39.48.020 Amortization—Requirements relaxed. It shall be proper to provide with respect to any bonds now required to be amortized as provided by RCW 39.44.010 through 39.44.080, that such amortized annual maturities shall commence to be payable at any time on or before five years from the date of said bonds, and that any bonds, or any part thereof, issued under the authority of this chapter, shall be redeemable prior to their fixed maturities, as provided by the governing board or authority of any such issuer. [1933 ex.s. c 30 § 2; RRS § 5583-12.]

39.48.030 "Issuer" defined. The issuing corporations, districts, and subdivisions hereinbefore referred to and described as "issuer", shall include any county, city,

town, school district, port district, metropolitan park district, taxing district, assessment district or any public corporation or municipal corporation authorized by existing law to issue bonds, securities or other evidences of indebtedness for itself or for any other taxing or assessment district therein or department thereof. [1933 ex.s. c 30 § 3; RRS § 5583-13.]

39.48.040 Chapter optional. It shall be optional with any such issuer, at its discretion, to exercise all or any of the powers conferred by this chapter in connection with the adoption and exercise by any such issuer of the provisions and powers granted by existing law. [1933 ex.s. c 30 § 4; RRS § 5583-14.]

Chapter 39.52 FUNDING INDEBTEDNESS IN COUNTIES, CITIES AND TOWNS

Sections

- 39.52.010 Issuance of funding bonds authorized.
- 39.52.015 Validation of prior bond issues.
- 39.52.020 Form, interest rate, sale or exchange of bonds.
- 39.52.030 Bond issue—Notice—Publication.
- 39.52.035 Tax levy—Purpose.
- 39.52.040 Registration.
- 39.52.050 "Corporate authorities" defined.

Cities and towns, ratification and funding of indebtedness: Chapter 35.40 RCW.

Metropolitan municipal corporations, funding and refunding bonds: RCW 35.58.470.

Port districts, funding and refunding indebtedness: Chapter 53.44 RCW.

Public utility districts, funding and refunding bonds: RCW 54.24.090.

School districts, refunding bonds: RCW 28A.51.180.

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, however, unless such general municipal bonds shall have been previously authorized at an election held in the manner prescribed by section 8006 of Remington & Ballinger's Annotated Codes and Statutes of Washington for the issuance of general municipal utility bonds. The notice of said election, in describing said bonds or warrants, need only refer to the bonds or warrants sought to be so funded by

naming the utility or utilities in aid of which the bonds or warrants were issued and shall state the total amount sought to be so funded: *Provided, however*, That 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. [1917 c 145 § 1; 1895 c 170 § 1; RRS § 5617.]

Reviser's note: Remington and Ballinger's section 8006 as amended by 1941 c 147 § 1 is codified as RCW 80.40.070.

39.52.015 Validation of prior bond issues. That all bonds heretofore voted or issued, and which may have been or may hereafter be issued by any county, city or town, for any of the purposes authorized by the preceding section as hereby amended, including general fund bonds issued for the purpose of refunding special utility fund bonds or warrants, shall be validated and have the same force and effect as though said section had been in full force and effect at the time said bonds were either authorized or issued. [1917 c 145 § 2; RRS § 5618.]

39.52.020 Form, interest rate, sale or exchange of bonds. Funding bonds authorized to be issued by this chapter shall be in denominations of not less than one hundred dollars, nor more than one thousand dollars, and shall be signed by the following corporate authorities: When issued by a county, the chairman of the board of county commissioners, countersigned by the county treasurer and attested by the county auditor, who shall affix his official seal; when issued by a city or town, by its mayor, countersigned by its treasurer and attested by its clerk, who shall affix his official seal. They shall bear interest at a rate or rates as authorized by the corporate authorities, payable semiannually, which interest shall be evidenced by proper coupons attached to each bond. Such corporate authorities shall, by ordinance or resolution, provide for the manner of issuing and the form of said bonds, and the time or times when the same shall be made payable; but no bonds issued under this chapter shall be issued for a longer period than twenty years, and when they shall be made payable at different periods within said twenty years, they shall be divided into series not to exceed twenty in number, but there shall be as many series as there are different times of payment, and all bonds included in each series shall be made payable at the same time. The principal and interest may be made payable at any place in the United States designated by the corporate authorities of such county, city or town. Such bonds shall not be issued to an aggregate amount in excess of the warrants or other outstanding indebtedness proposed to be funded thereby. They may be exchanged at not less than their par value for such warrants or other outstanding indebtedness, or may be sold at not less than their par value, and the proceeds used exclusively for the purpose of retiring and canceling such warrants and interest thereon or other indebtedness: *Provided*, That nothing in this chapter contained shall be deemed to authorize the issuing of any funding bonds which, other than that proposed to be funded under the provisions of this chapter, shall exceed any constitutional limitation of indebtedness, or any indebtedness which might be incurred with the assent of

three-fifths of the voters of such county, city or town voting at an election to be held for that purpose. [1970 ex.s. c 56 § 60; 1969 ex.s. c 232 § 31; 1895 c 170 § 2; RRS § 5619.]

Effective date—Purpose—1970 ex.s. c 56: See notes following RCW 39.44.030.

Validation—Saving—Severability—1969 ex.s. c 232: See notes following RCW 39.44.030.

Bonds, form, terms of sale, payment, etc.: Chapter 39.44 RCW.

39.52.030 Bond issue—Notice—Publication. Bonds may be issued without notice under the provisions of this chapter for the purpose of funding or refunding outstanding warrants in cases where the issuance of such bonds shall have been previously authorized by the voters of such county, city or town, when exchanged at not less than par value, or for the purpose of funding or refunding outstanding bonds, when exchanged at not less than par value, but before any other bonds shall be issued under the provisions of this chapter, such corporate authorities shall cause a notice of the proposed issuance of such bonds to be given by publication in a daily or weekly newspaper of general circulation published in the county proposing to issue such bonds, or in which county such city or town is situated, at least once a week for four consecutive weeks. Such notice shall state for what purpose and the total amount for which it is so proposed to issue bonds, and if to be divided into series, then into how many series the same are to be divided, and the amount of and period for which each series is to run, also the hour and day for considering bids for such bonds, and asking bidders to name the price and rate of interest at which they will purchase such bonds, and if such bonds are to be divided into series then to name such price and rate for each series of such bonds, separately; and at the time named in such notice it shall be the duty of the corporate authorities to meet with the treasurer of the county, city, or town proposing to issue such bonds, at his office, and with him open said bids, and shall sell said bonds to the person or persons making the most advantageous offer therefor: *Provided, however*, That said bonds shall never be sold or disposed of below par, and such corporate authorities shall have the right to reject any and all bids, and if all said bids shall be rejected, such corporate authorities shall proceed to readvertise the sale of said bonds in the manner herein provided. [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.]

39.52.035 Tax levy—Purpose. The corporate authorities of any such county, city or town shall provide annually by ordinance or resolution for the levy and extension on the tax rolls of such county, city or town, and for the collection thereof, of a direct annual tax in addition to all other county, city or town taxes to be levied according to law, which shall be sufficient to meet the interest on all of said bonds promptly as the same matures, and also sufficient to fully pay each series of bonds as the same matures: *Provided*, That such ordinance or resolution shall not be repealed until the levy

therein provided for shall be fully paid, or the bonds both principal and interest shall be paid or canceled. [1895 c 170 § 4; RRS § 5621. Formerly RCW 39.52-.030, part.]

39.52.040 Registration. The treasurer shall keep a register of the bonds issued under the provisions of this chapter, wherein he shall enter the series of each bond, its number, date of issuance, amount, date of maturity, name and post office address of purchaser and date of cancellation. [1895 c 170 § 5; RRS § 5622.]

39.52.050 "Corporate authorities" defined. The words "corporate authorities", used in this chapter, shall be held to mean the county commissioners, common council or other managing body of any county, city or town. [1895 c 170 § 6; RRS § 5623.]

Chapter 39.53 REFUNDING BOND ACT

Sections

39.53.010	Definitions.
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39.53.030	Bonds may be exchanged for outstanding bonds or sold.
39.53.040	What bonds may be refunded—Advance refunding, redemption times for refunding and refunded bonds—Redemption premiums.
39.53.050	Refunding bonds, principal amount—Disposition of reserves held to secure the bonds to be refunded.
39.53.060	Application of proceeds of sale of advance refunding bonds and other funds—Investment in government obligations—Incidental expenses.
39.53.070	Application of proceeds of sale of advance refunding bonds and other funds—Contracts for safekeeping and application—Use to pay and secure advance refunding bonds—Pledge of revenues—Duty to provide sufficient money to accomplish refunding.
39.53.080	Pledge of revenues to payment of advance refunding bonds when amounts sufficient to pay revenue bonds to be refunded are irrevocably set aside.
39.53.090	Annual maturities of general obligation bonds issued to refund voted general obligation bonds.
39.53.100	Use of deposit moneys and investments in computing indebtedness.
39.53.110	Refunding and other bonds may be issued in combination.
39.53.120	Refunding bonds to be issued in accordance with laws applicable to type of bonds being refunded.
39.53.130	Amendment of power contracts pursuant to refunding of certain bond issues.
39.53.140	Issuance of general obligation bonds to refund special revenue or limited obligations.
39.53.900	Short title.
39.53.910	Additional authority—Effect as to other laws.
39.53.920	Severability—1965 ex.s. c 138.

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 or a special fund but excluding any obligation constituting an indebtedness within the meaning of the constitutional debt limitation and any obligation payable solely from special assessments or special assessments and a guaranty fund.

(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. [1973 1st ex.s. c 25 § 1; 1965 ex.s. c 138 § 2.]

39.53.020 Issuance authorized—Purposes—Saving to public body, criteria. The governing body of any public body may by ordinance provide for the issuance of bonds without an election to refund outstanding bonds heretofore or hereafter issued by such public body or its predecessor, only (1) in order to pay or discharge all or any part of such outstanding series or issue of bonds, including any interest thereon, in arrears or about to become due and for which sufficient funds are not available, or (2) in order to effect a saving to the public body: *Provided*, That refunding bonds shall not be issued

unless the state finance committee or the public body authorized to issue refunding bonds pursuant to chapter 39.53 RCW finds that such saving will be effected by the refunding. To determine whether or not a saving will be effected, consideration shall be given to the interest to fixed maturities of the refunding bonds and the bonds to be refunded, the costs of issuance of the refunding bonds, including any sale discount, the redemption premiums, if any, to be paid, and the known earned income from the investment of the refunding bond proceeds pending redemption of the bonds to be refunded. [1974 ex.s. c 111 § 2; 1965 ex.s. c 138 § 3.]

Severability—1974 ex.s. c 111: See note following RCW 39.42.080.

39.53.030 Bonds may be exchanged for outstanding bonds or sold. Any bonds issued for refunding purposes may be delivered in exchange for the outstanding bonds being refunded or may be sold in such manner and at such price as the governing body may in its discretion determine advisable. [1973 1st ex.s. c 25 § 2; 1965 ex.s. c 138 § 4.]

39.53.040 What bonds may be refunded—Advance refunding, redemption times for refunding and refunded bonds—Redemption premiums. Bonds may be refunded hereunder or under any other law of this state which authorizes the issuance of refunding bonds when the holders thereof voluntarily surrender them for exchange or payment, or, if they mature or are subject to redemption prior to maturity within fifteen years from the date of the refunding bonds. In any advance refunding plan under this chapter the governing body shall provide irrevocably in the ordinance authorizing the issuance of the advance refunding bonds for the redemption of the bonds to be refunded not later than six months from the date they are first subject to redemption at par or fifteen years from the date of issuance of the refunding bonds, whichever is sooner.

The ordinance authorizing the issuance of advance refunding bonds pursuant to this chapter shall contain a provision that such bonds shall be subject to redemption not later than five years from date of such bonds or six months after the first date on which the bonds to be refunded may be redeemed, whichever is later. If more than one issue or series of bonds are being refunded by a single issue or series of advance refunding bonds, such advance refunding bonds must be subject to redemption not later than five years from date of issue or six months after the first date on which the series or issue of bonds being refunded having the latest first redemption date may be redeemed. The governing body may fix any redemption premium or premiums as it may in its discretion determine advisable. [1973 1st ex.s. c 25 § 3; 1965 ex.s. c 138 § 5.]

39.53.050 Refunding bonds, principal amount—Disposition of reserves held to secure the bonds to be refunded. Refunding bonds may be issued in a principal amount in excess of the principal amount of the bonds to be refunded in an amount deemed reasonably required to effect such refunding except voted general obligation

bonds. The principal amount of the refunding bonds may be less than or the same as the principal amount of the bonds being refunded so long as provision is duly and sufficiently made for the retirement or redemption of such bonds to be refunded. Any reserves held to secure the bonds to be refunded may be applied at the time the bonds to be refunded are paid to the redemption or retirement of such bonds, or if other available funds are sufficient and used to retire and redeem such bonds, such reserves may be pledged as security for the payment of the refunding bonds. [1974 ex.s. c 111 § 3; 1965 ex.s. c 138 § 6.]

Severability—1974 ex.s. c 111: See note following RCW 39.42.080.

39.53.060 Application of proceeds of sale of advance refunding bonds and other funds—Investment in government obligations—Incidental expenses. Prior to the application of the proceeds derived from the sale of advance refunding bonds to the purposes for which such bonds shall have been issued, such proceeds, together with any other funds the governing body may set aside for the payment of the bonds to be refunded, may be invested and reinvested only in government obligations maturing or having guaranteed redemption prices at the option of the holder at such time or times as may be required to provide funds sufficient to pay principal, interest and redemption premiums, if any, in accordance with the advance refunding plan. To the extent incidental expenses have been capitalized, such bond proceeds may be used to defray such expenses. [1973 1st ex.s. c 25 § 4; 1965 ex.s. c 138 § 7.]

39.53.070 Application of proceeds of sale of advance refunding bonds and other funds—Contracts for safekeeping and application—Use to pay and secure advance refunding bonds—Pledge of revenues—Duty to provide sufficient money to accomplish refunding. The governing body may contract with respect to the safekeeping and application of the advance refunding bond proceeds and other funds included therewith and the income therefrom including the right to appoint a trustee which may be any trust company or state or national bank having powers of a trust company within or without the state of Washington. The governing body may provide in the refunding plan that until such moneys are required to redeem or retire the general obligation or revenue bonds to be refunded, the refunding bond proceeds and other funds, and the income therefrom shall be used to pay and secure the payment of the principal of and interest on the advance refunding bonds. The governing body may additionally pledge for the payment of such revenue refunding bonds any revenues which might legally be pledged for the payment of revenue bonds of the issuer of the type being refunded. Provisions must be made by the governing body for moneys sufficient in amount to accomplish the refunding as scheduled. [1973 1st ex.s. c 25 § 5; 1965 ex.s. c 138 § 8.]

39.53.080 Pledge of revenues to payment of advance refunding bonds when amounts sufficient to pay revenue bonds to be refunded are irrevocably set aside. When a

Public body has irrevocably set aside for and pledged to the payment of revenue bonds to be refunded advance refunding bond proceeds and other moneys in amounts which together with known earned income from the investment thereof are sufficient in amount to pay the principal of and interest and any redemption premiums on such revenue bonds as the same become due and to accomplish the refunding as scheduled, the governing body may provide that the advance refunding revenue bonds shall be payable from any source which, either at the time of the issuance of the advance refunding bonds or the revenue bonds to be refunded, might legally be or have been pledged for the payment of the revenue bonds refunded to the extent it may legally do so, notwithstanding the pledge of such revenues for the payment of the outstanding revenue bonds being refunded. [1965 ex.s. c 138 § 9.]

39.53.090 Annual maturities of general obligation bonds issued to refund voted general obligation bonds. The various annual maturities of general obligation bonds issued to refund voted general obligation bonds shall not extend over a longer period of time than the bonds to be refunded. Such maturities may be changed in amount or shortened in term if the estimated respective annual principal and interest requirements of the refunding bonds, computed upon the anticipated effective interest rate the governing body shall in its discretion determine will be borne by such bonds, will not exceed the respective annual principal and interest requirements of the bonds being refunded: *Provided*, That the issuer may increase the principal amount of annual maturities for the purpose of rounding out maturities to the nearest five thousand dollars. [1965 ex.s. c 138 § 10.]

39.53.100 Use of deposit moneys and investments in computing indebtedness. In computing indebtedness for the purpose of any constitutional or statutory debt limitation there shall be deducted from the amount of outstanding indebtedness the amounts of money and investments credited to or on deposit for general obligation bond retirement. [1973 1st ex.s. c 25 § 6; 1965 ex.s. c 138 § 11.]

39.53.110 Refunding and other bonds may be issued in combination. Bonds for refunding and bonds for any other purpose or purposes authorized may be issued separately or issued in combination in one or more series or issues by the same issuer. [1965 ex.s. c 138 § 12.]

39.53.120 Refunding bonds to be issued in accordance with laws applicable to type of bonds being refunded. Except as specifically provided in this chapter, refunding bonds issued hereunder shall be issued in accordance with the provisions of law applicable to the type of bonds of the issuer being refunded, either at the time of the issuance of the refunding bonds or the bonds to be refunded. [1965 ex.s. c 138 § 13.]

39.53.130 Amendment of power contracts pursuant to refunding of certain bond issues. If bonds are to be issued

under this chapter for refunding of any bonds issued specifically to finance any electric power and energy project or facility and there are contracts in existence for the sale of electric power and energy generated by such project or facility wherein the cost of power to a purchaser specifically includes a portion of the debt service on the bonds to be refunded, such power contracts shall be amended to reflect in each year during the remaining terms of such contracts that portion of the savings to be realized from such refunding during each such year equal to the percentage of power output from such project or facility purchased by the purchaser under such power contracts. Nothing in this chapter shall be construed to alter, modify or change any such power contracts without the mutual agreement of the parties thereto. [1965 ex.s. c 138 § 15.]

39.53.140 Issuance of general obligation bonds to refund special revenue or limited obligations. The state may issue general obligation bonds to refund any special revenue or limited obligations of the state or its agencies at or prior to the date they mature or are subject to redemption. The payment of such refunding general obligation bonds may be additionally secured by a pledge of the revenues pledged to the payment of the special revenue or limited obligations to be refunded.

If the payment of such special revenue obligations to be refunded as general obligation bonds of the state is secured by (1) fees collected by the state as license fees for motor vehicles, or (2) excise taxes collected by the state on the sale, distribution or use of motor vehicle fuel, or (3) interest on the permanent school fund, then the state shall also pledge to the payment of such refunding bonds the same fees, excise taxes, or interest that were pledged to the payment of the special revenue obligations being refunded. [1974 ex.s. c 111 § 4; 1973 1st ex.s. c 25 § 7.]

Severability—1974 ex.s. c 111: See note following RCW 39.42.080.

39.53.900 Short title. This chapter shall be known as the "Refunding Bond Act." [1965 ex.s. c 138 § 1.]

39.53.910 Additional authority—Effect as to other laws. The authority of a public body to issue refunding bonds pursuant to this chapter is additional to any existing authority to issue such bonds and nothing in this chapter shall prevent the issuance of such bonds pursuant to any other law, and this chapter shall not be construed to amend any existing law authorizing the issuance of refunding bonds by a public body. [1965 ex.s. c 138 § 14.]

39.53.920 Severability—1965 ex.s. c 138. If any provision of this chapter, or its application to any person or circumstance is held invalid, the remainder of the chapter, or the application of the provision to other persons or circumstances is not affected. [1965 ex.s. c 138 § 16.]

Chapter 39.56 WARRANTS

Sections

- 39.56.010 Legal rate on state warrants.
39.56.020 Rate on municipal warrants.
39.56.030 Issuing officer to fix rate.
39.56.040 Cancellation of municipal warrants.

Interest on judgments: RCW 4.56.110.

Usurious rates of interest: Chapter 19.52 RCW.

39.56.010 Legal rate on state warrants. All state warrants shall bear interest at a rate not greater than eight percent per annum unless a less rate be specified therein, and shall be paid by the treasurer in the order of their registration and shall cease to draw interest at the expiration of five days from and after the date of the first publication of any call made by the treasurer for the payment of warrants. [1971 ex.s. c 88 § 1; 1899 c 80 § 3; RRS § 7301. Prior: 1895 c 136 § 3.]

Reviser's note: 1899 c 80 is codified as RCW 4.56.110 (interest on judgments), RCW 19.52.010–19.52.030 (rates of interest, usury), and RCW 39.56.010–39.56.030 (this chapter).

Severability—1971 ex.s. c 88: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 88 § 6.] This applies to RCW 39.56.010, 43.08.070, 43.08.080 and 43.84.120.

39.56.020 Rate on municipal warrants. All county, city, town and school warrants, and all warrants or other evidences of indebtedness, drawn upon or payable from any public funds, shall bear interest at a rate or rates as authorized by the issuing authority. [1970 ex.s. c 56 § 106; 1899 c 80 § 4; RRS § 7302. Prior: 1895 c 136 § 3.]

Effective date—Purpose—1970 ex.s. c 56: See notes following RCW 39.44.030.

Cities and towns, local improvement district warrants, interest rate: RCW 35.45.130.

39.56.030 Issuing officer to fix rate. It shall be the duty of every public officer issuing public warrants to make monthly investigation to ascertain the market value of the current warrants issued by him, and he shall, so far as practicable, fix the rate of interest (not in any event, however, exceeding the maximum rate hereinbefore established therefor) on the warrants issued by him during the ensuing month so that the par value shall be the market value thereof. [1899 c 80 § 5; RRS § 7303.]

39.56.040 Cancellation of municipal warrants. Registered or interest bearing warrants of any municipal corporation not presented within one year of the date of their call, or other warrants not presented within one year of their issue, shall be canceled by passage of a resolution of the governing body of the municipal corporation, and upon notice of the passage of such resolution the auditor of the municipal corporation and the treasurer of the municipal corporation shall transfer all records of such warrants so as to leave the funds as if such warrants had never been drawn. [1975 1st ex.s. c 131 § 1.]

[Title 39—p 32]

Chapter 39.58 PUBLIC FUNDS—DEPOSITS AND INVESTMENTS—PUBLIC DEPOSITARIES

Sections

- 39.58.010 Definitions.
39.58.020 Public deposits—Protection against loss.
39.58.030 Public deposit protection commission—State finance committee constitutes.
39.58.040 General powers of commission.
39.58.050 Collateral for deposits—Segregation—Eligible securities.
39.58.060 Losses—Procedure for payment.
39.58.070 Subrogation of commission to depositor's rights—Sums received from distribution of assets, payment.
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 depositaries—Certification of segregation.
39.58.103 Notice to commission of reduced capital, surplus, and profits.
39.58.105 Investigation of bank applying to become public depository—Report.
39.58.108 Newly chartered banks—Requirements to become qualified depository.
39.58.110 Exempted institutions.
39.58.120 Interest rates.
39.58.130 Investment deposits.
39.58.140 Liability of treasurers.

Surplus funds in state treasury, investment program: Chapter 43.86A RCW.

39.58.010 Definitions. In this chapter, unless the context otherwise requires:

(1) "Public deposit" means moneys of the state or of any county, city or town, or other political subdivision of the state or any commission, committee, board or officer thereof or any court of the state deposited in any qualified public depository, including moneys held as trustee, agent, or bailee by the state, any county, city or town, or other political subdivision of the state, or any commission, committee, board or office thereof or any court of the state, when deposited in any qualified public depository;

(2) "Qualified public depository" means a state bank or trust company, national banking association, or any branch of a bank engaged in the banking business in this state in accordance with RCW 30.04.300 which is located in this state and which receives or holds public deposits and segregates eligible collateral for public deposits as described in RCW 39.58.050 as now or hereafter amended;

(3) "Loss" means issuance of an order of supervisory authority restraining a qualified public depository from making payments of deposit liabilities or the appointment of 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 collateral which is eligible as security for public deposits pursuant to applicable state law;

(6) The "maximum liability" of a qualified public depository means a sum equal to five percent of (a) all public deposits held by the qualified public depository on

the then most recent call 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 made under this chapter;

(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 bank 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. [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 chapter 39.58 RCW, the amendments by 1969 ex.s. c 193 to RCW 35.38.010-35.38.040, 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 to the repeal of RCW 35.38.070-35.38.110, 36.48.030, 36.48.100-36.48.150, 43.85.050, and 43.85.080-43.85.120.

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.]

The foregoing annotations apply to this chapter, the amendments by 1969 ex.s. c 193 to RCW 35.38.010-35.38.040, 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 to the repeal of RCW 35.38.070-35.38.110, 36.48.030, 36.48.100-36.48.150, 43.85.050, and 43.85.080-43.85.120.

City depositaries: Chapter 35.38 RCW.

County depositaries: Chapter 36.48 RCW.

State depositaries: Chapter 43.85 RCW.

39.58.020 Public deposits—Protection against loss. On and after August 11, 1969, all public deposits in qualified public depositaries, including investment deposits and accrued interest thereon, shall be protected against loss, as provided in this chapter. [1973 c 126 § 10; 1969 ex.s. c 193 § 2.]

39.58.030 Public deposit protection commission—State finance committee constitutes. The Washington public deposit protection commission shall be the state finance committee. [1969 ex.s. c 193 § 3.]

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 depositary to furnish such information dealing with public deposits and the exact status of its capital, surplus, and undivided profits as the commission shall request. Any public depositary 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 depositary and shall be excluded from the right to receive or hold public deposits

until such time as the commission shall acknowledge that such depositary 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 banks as public depositaries, 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 depositary to repay public deposits in full; (6) in case loss occurs in more than one qualified public depositary, to determine the allocation and time of payment of any sums due to public depositors under this chapter. [1975 1st ex.s. c 77 § 2; 1969 ex.s. c 193 § 4.]

39.58.050 Collateral for deposits—Segregation—Eligible securities. (1) Every qualified public depositary 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 under this chapter. Such collateral may be segregated by deposit in the trust department of the depositary 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 face value or market value as determined by the commission. (3) The depositary 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 depositary bank without restriction.

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;

(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 the 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;

(f) In addition to the securities enumerated in subsections (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.

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. [1975 1st ex.s. c 77 § 3; 1973 c 126 § 11; 1969 ex.s. c 193 § 5.]

39.58.060 Losses—Procedure for payment. When the commission determines that a loss has occurred, it shall as soon as possible make payment to the proper public officers of all funds subject to such loss, pursuant to the following procedures: (1) For the purposes of determining the sums to be paid, the supervisor of banking or receiver shall, within twenty days after issuance of a restraining order or taking possession of any qualified public depository, ascertain the amount of public funds on deposit therein as disclosed by its records and the amount thereof covered by deposit insurance and certify the amounts thereof to the commission and each such public depositor; (2) within ten days after receipt of such certification, each such public depositor shall furnish to the commission verified statements of its deposits in such depository as disclosed by its records; (3) upon receipt of such certificate and statements, the commission shall ascertain and fix the amount of such public deposits, net after deduction of any deposit insurance, and assess the same against all then qualified public depositories, as follows: First, against the depository in which the loss occurred, to the extent of the full value of collateral segregated pursuant to this chapter; second, against all other then qualified public depositories in proportion to their maximum liability which existed at the date of loss; (4) assessments made by the commission shall be payable on the second business day following demand, and in case of the failure of any qualified public depository so to pay, the commission shall forthwith take possession of the securities segregated as collateral by such depository pursuant to this chapter and liquidate the same for the purpose of paying such assessment; (5) upon receipt of such assessment payments, the commission shall reimburse the public depositors of the depository in which the loss occurred to the extent of the depository's net deposit liability to them. [1973 c 126 § 12; 1969 ex.s. c 193 § 6.]

39.58.070 Subrogation of commission to depositor's rights—Sums received from distribution of assets, payment. Upon payment to any public depositor, the commission shall be subrogated to all of such depositor's right, title and interest against the depository in which the loss occurred and shall share in any distribution of its assets ratably with other depositors. Any sums

received from any distribution shall be paid to the public depositors to the extent of any unpaid net deposit liability and the balance remaining shall be paid to the qualified public depositories against which assessments were made, pro rata in proportion to the assessments actually paid by each such depository: *Provided*, That the depository in which the loss occurred shall not share in any such distribution of the balance remaining. If the commission incurs expense in enforcing any such claim, the amount thereof shall be paid as a liquidation expense of the depository in which the loss occurred. [1973 c 126 § 13; 1969 ex.s. c 193 § 7.]

39.58.080 Deposit of public funds in qualified public depository required. Except as provided in RCW 39.58.110, no public deposit shall be made except in a qualified public depository located in this state. [1969 ex.s. c 193 § 8.]

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 deposits 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 deposit defined in RCW 39.58.010. [1969 ex.s. c 193 § 9.]

39.58.100 Reports of public depositories—Certification of segregation. On each call report date, each qualified public depository shall render to the commission a written report, certified under oath, indicating the total amount of public deposits held by it and the amount and nature of the eligible collateral segregated and designated therefor in accordance with this chapter. The commission may instruct the supervisor of banking to certify as to segregation of securities by public depositories. [1969 ex.s. c 193 § 10.]

39.58.103 Notice to commission of reduced capital, surplus, and profits. Each public depository shall within five working days of the event notify the commission in writing when the aggregate of the capital, surplus, and undivided profits of such depository has been reduced by an amount equal to or greater than ten percent of the amount shown as the capital accounts on the last report submitted to the commission as required by RCW 39.58.100. [1975 1st ex.s. c 77 § 4.]

39.58.105 Investigation of bank applying to become public depository—Report. The commission may require the state auditor or the supervisor of banking to thoroughly investigate and report to it concerning the condition of any bank which makes application to become a qualified public depository, and may also as often as it deems necessary require such investigation and report concerning the condition of any bank which has been designated as such depository. The expense of any of the foregoing investigations or reports shall be

borne by the depository examined. In lieu of such investigation or report, the commission may rely upon information made available to it or the supervisor of banking by the office of the comptroller of the currency, the federal deposit insurance corporation, or the federal reserve board.

The supervisor of banking shall in addition advise the commission of any action the supervisor has directed any qualified public depository to take which would result in a reduction, equal to or greater than ten percent, of the aggregate of the capital, surplus, and undivided profits of such depository. [1975 1st ex.s. c 77 § 5.]

39.58.108 Newly chartered banks—Requirements to become qualified depository. Newly chartered banks in the state of Washington may become qualified depositories 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 newly chartered 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. [1975 1st ex.s. c 77 § 6.]

39.58.110 Exempted institutions. Mutual savings banks and building or savings and loan associations located in this state may continue to hold and receive deposits of public funds in accordance with and subject to the limitations of statutes applicable to such institutions, without segregating collateral or otherwise complying with the provisions of this chapter. [1969 ex.s. c 193 § 11.]

39.58.120 Interest rates. Time deposits issued pursuant to this chapter shall bear interest at a rate not in excess of the maximum rate permitted by any applicable governmental regulation. [1974 ex.s. c 50 § 1; 1969 ex.s. c 193 § 12.]

39.58.130 Investment deposits. 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 bank or trust company exceed at any one time in the aggregate the total of the capital, surplus, and undivided profits of such bank or trust company. [1969 ex.s. c 193 § 13.]

39.58.140 Liability of treasurers. When deposits are made in accordance with this chapter, a treasurer shall not be liable for any loss thereof resulting from the failure or default of any depository without fault or neglect

on his part or on the part of his assistants or clerks. [1969 ex.s. c 193 § 29.]

Liability of state treasurer: RCW 43.85.070.

Chapter 39.60

INVESTMENT OF PUBLIC FUNDS IN BONDS, NOTES, ETC.—COLLATERAL

Sections

- 39.60.010 Investment of public and trust funds authorized.
- 39.60.020 Exchange of securities for federal agency bonds.
- 39.60.030 Obligations eligible as collateral security.
- 39.60.040 Insured shares, deposits or accounts as collateral—Partially guaranteed obligations.
- 39.60.050 Investment of public and trust funds in notes, bonds or debentures authorized—Requirements.

Bonds and warrants of state and municipal corporations as investment and collateral for public funds:

ferry system bonds: RCW 47.60.100.

highway construction bonds: RCW 47.10.050, 47.10.190, 47.10.320, 47.10.450, 47.10.710.

metropolitan municipal corporation bonds: RCW 35.58.510.

public utility district bonds and warrants: RCW 54.24.120.

school emergency construction bonds: RCW 28A.47.450.

school plant facilities, general obligation bonds: RCW 28A.47.180.

state warrants: RCW 43.84.120.

toll bridge bonds: RCW 47.56.150, 47.58.070, 47.60.100.

Investments in bonds and warrants of state and municipal corporations authorized for:

city and town pension funds: RCW 35.39.040.

cities of first class, employees' retirement fund: RCW 41.28.080.

current state funds: RCW 43.84.080.

insurers: RCW 48.13.040.

judges' retirement fund: RCW 2.12.070.

metropolitan municipal corporation funds: RCW 35.58.520.

mutual savings banks: RCW 32.20.050, 32.20.070, 32.20.110, 32.20.120, 32.20.130.

permanent school fund: State Constitution Art. 16 § 5 (Amendment 44).

savings and loan associations: RCW 33.24.030, 33.24.050, 33.24.080.

state employees' retirement funds: RCW 41.40.072.

state-wide city employees' retirement fund: RCW 41.44.100.

state patrol retirement fund: RCW 43.43.170.

teachers' retirement fund: RCW 41.32.201.

volunteer firemen's relief and pension fund: RCW 41.24.030.

workmen's compensation funds: RCW 51.44.100.

Investments in federal bonds and securities authorized for:

cities and towns: RCW 35.39.030.

counties: RCW 36.33.180.

current state funds: RCW 43.84.080.

insurers: RCW 48.13.040.

mutual savings banks: RCW 32.20.030.

savings and loan associations: RCW 33.24.020.

school building construction fund: RCW 28A.47.210.

school district building fund: RCW 28A.58.435.

school districts, first class, insurance fund: RCW 28A.59.185.

state employees' retirement funds: RCW 41.40.072.

state-wide city employees' retirement fund: RCW 41.44.100.

teachers' retirement funds: RCW 41.32.201.

workmen's compensation funds: RCW 51.44.100.

Public funds may be invested in savings and loan associations: RCW 33.52.010.

39.60.010 Investment of public and trust funds authorized. Notwithstanding the provisions of any other statute of the state of Washington to the contrary, it shall be lawful for the state of Washington and any of its departments, institutions and agencies, municipalities, districts, and any other political subdivision of the state, or any political or public corporation of the state, or for

any insurance company, savings and loan association, or for any bank, trust company or other financial institution, operating under the laws of the state of Washington, or for any executor, administrator, guardian or conservator, trustee or other fiduciary to invest its funds or the moneys in its custody or possession, eligible for investment, in notes or bonds secured by mortgage which the Federal Housing Administrator has insured or has made a commitment to insure in obligations of national mortgage associations, in debentures issued by the Federal Housing Administrator, and in the bonds of the Home Owner's Loan Corporation, a corporation organized under and by virtue of the authority granted in H.R. 5240, designated as the Home Owner's Loan Act of 1933, passed by the congress of the United States and approved June 13, 1933, and in bonds of any other corporation which is or hereafter may be created by the United States, as a governmental agency or instrumentality. [1939 c 32 § 1; 1935 c 11 § 1; 1933 ex.s. c 37 § 1; RRS § 5545-1.]

Severability—1933 ex.s. c 37: "If any section, subsection, sentence, clause or phrase of this act for any reason shall be held to be unconstitutional, such holding shall not affect the validity of the remaining portion of this act. The legislature hereby declares that it would have passed this act in each section, subsection, sentence, clause and phrase thereof, separately and irrespective of the fact that any one or more of the sections, subsections, sentences, clauses or phrases be unconstitutional." [1933 ex.s. c 37 § 4.] This applies to RCW 39.60-.010-39.60.030.

39.60.020 Exchange of securities for federal agency bonds. Notwithstanding the provisions of any other statute of the state of Washington to the contrary, it shall be also lawful for the state of Washington and any of its departments, institutions and agencies, municipalities, districts, and any other political subdivisions of the state, or any political or public corporation of the state, or for any insurance company, savings and loan association, building and loan association, or for any bank, trust company or other financial institution, operating under the laws of the state of Washington, or for any executor, administrator, guardian or conservator, trustee or other fiduciary, to exchange any mortgages, contracts, judgments or liens owned or held by it, for the bonds of the Home Owners' Loan Corporation, a corporation organized under and by virtue of the authority granted in H.R. 5240, designated as The Home Owners' Loan Act of 1933, passed by the congress of the United States and approved June 13, 1933, or for the bonds of any other corporation which is or hereafter may be created by the United States as a governmental agency or instrumentality; and to accept said bonds at their par value in any such exchange. [1933 ex.s. c 37 § 2; RRS § 5545-2.]

39.60.030 Obligations eligible as collateral security. Wherever, by statute of this state, collateral is required as security for the deposit of public or other funds; or deposits are required to be made with any public official or department; or an investment of capital or surplus, or a reserve or other fund is required to be maintained consisting of designated securities, the bonds and other securities herein made eligible for investment shall also

be eligible for such purpose. [1939 c 32 § 2; 1935 c 11 § 2; 1933 ex.s. c 37 § 3; RRS § 5545-3.]

39.60.040 Insured shares, deposits or accounts as collateral—Partially guaranteed obligations. The obligations issued pursuant to said Federal Home Loan Bank Act and to said Title IV of the National Housing Act as such acts are now or hereafter amended, and the shares, deposits or accounts of any institution which has the insurance protection provided by Title IV of the National Housing Act, as now or hereafter amended, may be used at face value or withdrawal value, and bonds or other interest bearing obligations as to which the payment of some but less than the full principal and interest is guaranteed by the United States of America or any agency thereof may be used to the extent of the portion so guaranteed, wherever, by statute of this state or otherwise, collateral is required as security for the deposit of public or other funds, or deposits are required to be made with any public official or department, or an investment of capital or surplus, or a reserve or other fund, is required to be maintained consisting of designated security, or wherever by statute of this state or otherwise, any surety, whether personal, corporate, or otherwise, or any collateral or security, is required or permitted for any purpose, including without limitation on the generality of the foregoing, any bond, recognizance, or undertaking. [1967 ex.s. c 48 § 1; 1941 c 249 § 2; Rem. Supp. 1941 § 3791-2.]

39.60.050 Investment of public and trust funds in notes, bonds or debentures authorized—Requirements. Notwithstanding the provisions of any other statute of the state of Washington to the contrary, it shall be lawful for the state of Washington and any of its departments, institutions and agencies, municipalities, districts, and any other political subdivision, or any political or public corporation of the state, or for any executor, administrator, guardian, or conservator, trustee or other fiduciary, to invest its funds or the moneys in its custody or possession, eligible for investment, in notes, bonds, or debentures of savings and loan associations, banks, mutual savings banks, savings and loan service corporations operating with approval of the federal home loan bank, and corporate mortgage companies: *Provided*, That the notes, bonds or debentures are rated not less than "A" by a nationally recognized rating agency, or are insured or guaranteed by an agency of the federal government or by private insurer authorized to do business in the state: *Provided further*, That the notes, bonds and debentures insured or guaranteed by a private insurer shall also be backed by a pool of mortgages equal to the amount of the notes, bonds or debentures. [1970 ex.s. c 93 § 1.]

Severability—1970 ex.s. c 93: "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." [1970 ex.s. c 93 § 4.] This applies to RCW 39.60.050 and 35.45.150.

Investment in local improvement district notes: RCW 35.45.150.

Chapter 39.62
UNIFORM FACSIMILE SIGNATURE OF PUBLIC OFFICIALS ACT

Sections

39.62.010	Definitions.
39.62.020	Facsimile signature—Authorized—Legal effect.
39.62.030	Facsimile seal—Authorized—Legal effect.
39.62.040	Unauthorized use—Penalty.
39.62.900	Construction—Uniformity.
39.62.910	Short title.
39.62.920	Severability—1969 c 86.

39.62.010 Definitions. As used in this chapter:

(1) "Public security" means a bond, note, certificate of indebtedness, or other obligation for the payment of money, issued by this state or by any of its departments, agencies, counties, cities, towns, municipal corporations, junior taxing districts, school districts, or other instrumentalities or by any of its political subdivisions.

(2) "Instrument of payment" means a check, draft, warrant, or order for the payment, delivery, or transfer of funds.

(3) "Authorized officer" means any official of this state or any of its departments, agencies, counties, cities, towns, municipal corporations, junior taxing districts, school districts, or other instrumentalities or any of its political subdivisions whose signature to a public security or instrument of payment is required or permitted.

(4) "Facsimile signature" means a reproduction by engraving, imprinting, stamping, or other means of the manual signature of an authorized officer. [1969 c 86 § 1.]

39.62.020 Facsimile signature—Authorized—Legal effect. Any authorized officer, after filing with the secretary of state his manual signature certified by him under oath, may execute or cause to be executed with a facsimile signature in lieu of his manual signature:

(1) Any public security: *Provided*, That at least one signature required or permitted to be placed thereon shall be manually subscribed, and

(2) Any instrument of payment.
Upon compliance with this chapter by the authorized officer, his facsimile signature has the same legal effect as his manual signature. [1969 c 86 § 2.]

39.62.030 Facsimile seal—Authorized—Legal effect. When the seal of this state or any of its departments, agencies, counties, cities, towns, municipal corporations, junior taxing districts, school districts, or other instrumentalities or of any of its political subdivisions is required in the execution of a public security or instrument of payment, the authorized officer may cause the seal to be printed, engraved, stamped or otherwise placed in facsimile thereon. The facsimile seal has the same legal effect as the impression of the seal. [1969 c 86 § 3.]

39.62.040 Unauthorized use—Penalty. Any person who with intent to defraud uses on a public security or an instrument of payment:

(1) A facsimile signature, or any reproduction of it, of any authorized officer, or

(2) Any facsimile seal, or any reproduction of it, of this state or any of its departments, agencies, counties, cities, towns, municipal corporations, junior taxing districts, school districts, or other instrumentalities or of any of its political subdivisions is guilty of a felony. [1969 c 86 § 4.]

39.62.900 Construction—Uniformity. This chapter shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it. [1969 c 86 § 5.]

39.62.910 Short title. This act may be cited as the uniform facsimile signature of public officials act. [1969 c 86 § 6.]

39.62.920 Severability—1969 c 86. If any provision of this 1969 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1969 c 86 § 7.]

Chapter 39.64
TAXING DISTRICT RELIEF

Sections

39.64.005	Short title.
39.64.010	Purpose of chapter.
39.64.020	Definitions.
39.64.030	Exercise of powers granted.
39.64.040	Petition in bankruptcy.
39.64.050	Resolution of authorization.
39.64.060	Resolution consenting to readjustment.
39.64.070	Plan of readjustment.
39.64.080	Powers under plan of readjustment.
39.64.090	Validation of prior bankruptcy proceedings.
39.64.900	Construction—Severability—1935 c 143.

39.64.005 Short title. This chapter may be cited as the taxing district relief act. [1935 c 143 § 1; RRS § 5608-1.]

39.64.010 Purpose of chapter. The purpose of this chapter is to facilitate and permit taxing districts which are unable to meet their debts either in their present amount and/or at the time they fall due, to obtain relief by the readjustment of such debts as provided for by the act of congress hereinafter referred to, by supplementing the powers of those taxing districts for which refunding of debts is provided for by existing statutes, and by providing a method of refunding of debts for those taxing districts for which no method of refunding such debts has heretofore been provided, and by other provisions appropriate to such purposes.

This chapter shall not be construed as in anywise limiting the powers of the federal courts to grant relief as provided for in said act of congress. [1935 c 143 § 2; RRS § 5608-2.]

39.64.020 Definitions. For the purposes of this chapter a "taxing district" is defined to be a "taxing district" as described in section 80 of chapter IX of the act of congress entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved July 1, 1898, as amended, to wit:

"Any municipality or other political subdivision of any state, including (but not hereby limiting the generality of the foregoing) any county, city, borough, village, parish, town, or township, unincorporated tax or special assessment district, and any school, drainage, irrigation, reclamation, levee, sewer, or paving, sanitary, port, improvement or other district (hereinafter referred to as a 'taxing district')."

Said act of congress and acts amendatory thereof and supplementary thereto, as the same may be amended from time to time, are herein referred to as the "Federal bankruptcy act." [1935 c 143 § 3; RRS § 5608-3.]

39.64.030 Exercise of powers granted. All powers herein granted to taxing districts in state of Washington may be exercised by such districts. If a taxing district has no officers of its own, such powers may be exercised in its behalf by the officer or officers, board, council or commission having the power to contract in behalf of such district or to levy special assessments or special taxes within such district. [1935 c 143 § 4; RRS § 5608-4.]

39.64.040 Petition in bankruptcy. Any taxing district in the state of Washington is hereby authorized to file the petition mentioned in section 80 of chapter IX of the federal bankruptcy act. [1935 c 143 § 5; RRS § 5608-5.]

39.64.050 Resolution of authorization. Before the filing of any petition referred to in RCW 39.64.040, such taxing district shall adopt a resolution authorizing the filing thereof and authorizing its duly and regularly elected or appointed attorney or special counsel duly appointed for such purpose to file the same and to represent it in the proceedings with respect thereto in the competent United States district court. [1935 c 143 § 6; RRS § 5608-6.]

39.64.060 Resolution consenting to readjustment. No final decree or order of such United States district court confirming a plan of readjustment shall be effective for the purpose of binding such taxing district unless and until such taxing district files with such court a certified copy of a resolution of such taxing district, adopted by it or by the officer or officers, board, council or commission referred to in RCW 39.64.030, consenting to the plan of readjustment set forth or referred to in such final decree or order. [1935 c 143 § 7; RRS § 5608-7.]

39.64.070 Plan of readjustment. Such taxing district is hereby authorized and empowered to take any and all action necessary to carry out any plan of readjustment contemplated in said petition, or as the same may be modified from time to time, notwithstanding any other provisions of law. In case of the refunding of debts of irrigation districts, diking or drainage improvement districts, general debts of cities, or debts of other taxing districts for the refunding of which provision is already made under existing statutes, such refunding shall be had and done as provided for in such existing statutes, except that the tenor and character of the refunding

bonds and the assessments levied to meet such bonds may be modified to conform to the capacity of the taxing district, or the individual lots, tracts, or parcels of real property therein, to meet and carry the charges, both direct and contingent, against them, as found and set forth in the plan of readjustment and decree of court; and except also as such existing provisions of law may be otherwise supplemented by such plan of readjustment or the provisions of this chapter. [1935 c 143 § 8; RRS § 5608-8.]

39.64.080 Powers under plan of readjustment. Such taxing district shall have power to consummate the plan of readjustment, as adopted by the court's decree and approved by it as aforesaid, and if such plan, as approved by such decree, so requires, may, for such purpose, exercise any of the following powers:

(1) Cancel in whole or in part any assessments or any interest or penalties assessed thereon which may be outstanding and a lien upon any property in such taxing district, as and when such assessments are replaced by the readjusted or revised assessments provided for in the plan of readjustment approved by such decree.

(2) Issue refunding bonds to refund bonds theretofore issued by such taxing district. Such refunding bonds shall have such denominations, rates of interest and maturities as shall be provided in such plan of readjustment and shall be payable by special assessments or by general taxes, according to the nature of the taxing district, in the manner provided in such plan of readjustment and decree.

(3) Apportion and levy new assessments or taxes appropriate in time or times of payment to provide funds for the payment of principal and interest of such refunding bonds, and of all expenses incurred by such taxing district in filing the petition mentioned in RCW 39.64.040, and any and all other expenses necessary or incidental to the consummation of the plan of readjustment.

In the case of special assessment districts for the refunding of whose debts no procedure is provided by existing laws, such assessments shall be equitably apportioned and levied upon each lot, tract or parcel of real property within such taxing district, due consideration being given to the relative extent to which the original apportionments upon the various lots, tracts or parcels of real property within such taxing district have already been paid and due consideration also being given to the capacity of the respective lots, tracts or parcels of real property to carry such charges against them. Before levying or apportioning such assessment such taxing district or the officer or officers, board, council or commission mentioned in RCW 39.64.030 shall hold a hearing with reference thereto, notice of which hearing shall be published once a week for four consecutive weeks in the newspaper designated for the publication of legal notices by the legislative body of the city or town, or by the board of county commissioners of the county within which such taxing district or any part thereof is located, or in any newspaper published in the city, town or county within which such taxing district or any part thereof is located and of general circulation within such

taxing district. At such hearing every owner of real property within such taxing district shall be given an opportunity to be heard with respect to the apportionment and levy of such assessment.

(4) In the case of special assessment districts, of cities or towns, provide that if any of the real property within such taxing district shall not, on foreclosure of the lien of such new assessment for delinquent assessments and penalties and interest thereon, be sold for a sufficient amount to pay such delinquent assessments, penalties and interest, or if any real property assessed was not subject to assessment, or if any assessment or installment or installments thereof shall have been eliminated by foreclosure of a tax lien or made void in any other manner, such taxing district shall cause a supplemental assessment sufficient in amount to make up such deficiency to be made on the real property within such taxing district, including real property upon which any such assessment or any installment or installments thereof shall have been so eliminated or made void. Such supplemental assessment shall be apportioned to the various lots, tracts and parcels of real property within such taxing district in proportion to the amounts apportioned thereto in the assessment originally made under such plan of readjustment.

(5) Provide that refunding bonds may, at the option of the holders thereof, be converted into warrants of such denominations and bearing such rate of interest as may be provided in the plan of readjustment, and that the new assessments mentioned in subdivision (3) and the supplemental assessments mentioned in subdivision (4) of this section may be paid in refunding bonds or warrants of such taxing district without regard to the serial numbers thereof, or in money, at the option of the person paying such assessments, such refunding bonds and warrants to be received at their par value in payment of such assessments. In such case such refunding bonds and warrants shall bear the following legend: "This bond (or warrant) shall be accepted at its face value in payment of assessments (including interest and penalties thereon) levied to pay the principal and interest of the series of bonds and warrants of which this bond (or warrant) is one without regard to the serial number appearing upon the face hereof."

(6) Provide that all sums of money already paid to the treasurer of such taxing district or other authorized officer in payment, in whole or in part, of any assessment levied by or for such taxing district or of interest or penalties thereon, shall be transferred by such treasurer or other authorized officer to a new account and made applicable to the payment of refunding bonds and warrants to be issued under such plan of readjustment.

(7) Provide that such treasurer or other authorized officer shall have authority to use funds in his possession not required for payment of current interest of such bonds and warrants, to buy such bonds and warrants in the open market through tenders or by call at the lowest prices obtainable at or below par and accrued interest, without preference of one bond or warrant over another because of its serial number, or for any other cause other than the date and hour of such tender or other offer and the amount which the owner of such bond or warrant

agrees to accept for it. In such case such refunding bonds and warrants shall bear the following legend: "This bond (or warrant) may be retired by tender or by call without regard to the serial number appearing upon the face hereof."

(8) Provide that if, after the payment of all interest on refunding bonds and warrants issued under any plan of readjustment adopted pursuant to this chapter and chapter IX of the federal bankruptcy act and the retirement of such bonds and warrants, there shall be remaining in the hands of the treasurer or other authorized officer of the taxing district which issued such bonds and warrants money applicable under the provisions of this chapter to the payment of such interest, bonds and warrants, such money shall be applied by such treasurer or other authorized officer to the maintenance, repair and replacement of the improvements originally financed by the bonds readjusted under this chapter and the federal bankruptcy act.

(9) The above enumeration of powers shall not be deemed to exclude powers not herein mentioned that may be necessary for or incidental to the accomplishment of the purposes hereof. [1935 c 143 § 9; RRS § 5608-9.]

39.64.090 Validation of prior bankruptcy proceedings. In the event that any taxing district in the state of Washington, before this chapter takes effect, shall have filed or purported or attempted to file a petition under the provisions of chapter IX of the federal bankruptcy act, or shall have taken or purported or attempted to take any other proceedings under or in contemplation of proceedings under the provisions of said chapter IX, then and in every such case all acts and proceedings of such taxing district, in connection with such petition or proceedings, are hereby, to all intents and purposes, declared as legal and valid as though taken after the *effective date of this chapter. [1935 c 143 § 10; RRS § 5608-10.]

*Reviser's note: The "effective date of this chapter" was March 21, 1935.

39.64.900 Construction—Severability—1935 c 143. This chapter and all its provisions shall be liberally construed to the end that the purposes hereof may be made effective. If any section, part or provision of this chapter shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the chapter as a whole, or of any section, provision or part thereof not adjudged invalid or unconstitutional. [1935 c 143 § 11; RRS § 5608-11.]

**Chapter 39.72
LOST OR DESTROYED EVIDENCE OF
INDEBTEDNESS**

Sections	
39.72.010	Local government indebtedness—Issuance of duplicate instrument.
39.72.020	Local government indebtedness—Records to be kept—Cancellation of originals.

39.72.010 Local government indebtedness——**Issuance of duplicate instrument.** In case of the loss or destruction of a warrant for the payment of money, or any bond or other instrument or evidence of indebtedness, issued by any county, city or town, district or other political subdivision or municipal corporation of the state of Washington, hereinafter referred to as a municipal corporation, or by any department or agency of such municipal corporation, such municipal corporation may cause a duplicate to be issued in lieu thereof, subject to the same requirements and conditions, and according to the same procedure, as prescribed for the issuance of duplicate state instruments in RCW 43.08.064 and 43.08.066 as now or hereafter amended: *Provided*, That the requirements of RCW 43.08.066(2) shall not be applicable to instruments received by employees of the above issuers for the payment of salary or wages or as other compensation for work performed nor shall those requirements be applicable to instruments received by former employees or their beneficiaries for the payment of pension benefits. [1975-'76 2nd ex.s. c 77 § 1; 1965 ex.s. c 61 § 4.]

Lost or destroyed evidence of indebtedness issued by state: RCW 43.08.064–43.08.068.

39.72.020 Local government indebtedness——**Records to be kept—**—**Cancellation of originals.** When a municipal corporation issues a duplicate instrument, as authorized in this chapter, the issuing officer of such municipal corporation shall keep a full and complete record of all warrants, bonds or other instruments alleged to have been lost or destroyed, which were issued by such municipal corporation, and of the issue of any duplicate therefor; and upon the issuance of any duplicate such officer shall enter upon his books the cancellation of the original instrument and immediately notify the treasurer of the county, city or other municipal corporation, the state auditor, and all trustees and paying agencies authorized to redeem such instruments on behalf of the municipal corporation, of such cancellation. The treasurer shall keep a similar list of all warrants, bonds or other instruments so canceled. [1965 ex.s. c 61 § 5.]

Chapter 39.90 VALIDATION OF BONDS AND FINANCING PROCEEDINGS

Sections

- 39.90.010 Definition.
- 39.90.020 Validation of bonds, proceedings for issuance, sales, etc.
- 39.90.030 Validation of proceedings to finance or aid in financing.
- 39.90.050 Revenue bonds—Sale or issuance with greater interest rate than that specified authorized.
- 39.90.060 Validation of debts, contracts and obligations regardless of interest rates.

Cities and towns, sewerage system bonds validated: RCW 35.67.194.

Cities and towns, validating indebtedness: Chapter 35.40 RCW.

City and county armory sites: Chapter 36.64 RCW.

Counties: Chapter 36.67 RCW.

County road bonds: RCW 36.76.080.

Funding bonds, validation: RCW 39.52.015.

Irrigation district bonds, validating: See note following RCW 87.19.005.

Metropolitan park districts, validating bonds: See note following RCW 35.61.010.

Municipal utilities, validating bond proceedings: See notes following RCW 35.92.010.

School districts, validating bonds proceedings: RCW 28A.51.010, 28A.51.020, and note following RCW 39.36.020.

School districts, validating indebtedness: Chapter 28A.52 RCW.

Sewer districts, validating bond proceedings: Chapter 56.16 RCW.

Third class cities, validating bonds and proceedings: See note following RCW 35.24.440.

39.90.010 Definition. As used in this chapter, the term "public body" means any city, town, district or other governmental agency created by or under the laws of this state. [1947 c 242 § 1; Rem. Supp. 1947 § 5616–20.]

39.90.020 Validation of bonds, proceedings for issuance, sales, etc. All bonds heretofore issued for the purpose of financing or aiding in the financing of any work, undertaking, or project by any public body, including all proceedings for the authorization and issuance of such bonds, and the sale, execution, and delivery thereof, are hereby validated, ratified, approved, and confirmed, notwithstanding any lack of power (other than constitutional) of such public body, or the governing body or commission or officers thereof, to authorize and issue such bonds, or to sell, execute, or deliver the same, and notwithstanding any defects or irregularities (other than constitutional), including the failure to publish notices of elections, in such proceedings, or in such sale, execution or delivery, and notwithstanding that such governing body or commission or officers may not have been elected, appointed or qualified for the offices they purported to hold; and such bonds are and shall be binding, legal, valid, and enforceable obligations of such public body. [1947 c 242 § 2; Rem. Supp. 1947 § 5616–21.]

39.90.030 Validation of proceedings to finance or aid in financing. All proceedings which have been taken prior to the date this chapter takes effect, for the purpose of financing or aiding in the financing of any work, undertaking, or project by any public body, including all proceedings for the authorization and issuance of bonds and for the sale, execution, and delivery thereof, are hereby validated, ratified, approved, and confirmed, notwithstanding any lack of power (other than constitutional) of such public body, or the governing body or commission or officers thereof, to authorize and issue such bonds, or to sell, execute, or deliver the same, and notwithstanding any defects or irregularities (other than constitutional) in such proceedings. [1947 c 242 § 3; Rem. Supp. 1947 § 5616–22.]

Reviser's note: The effective date of this chapter was March 19, 1947.

39.90.050 Revenue bonds——**Sale or issuance with greater interest rate than that specified authorized.** All revenue 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. [1970 ex.s. c 66 § 6.]

Effective date—1970 ex.s. c 66: The effective date of chapter 66, Laws of 1970 ex.s. was May 14, 1970, see preface to 1970 session laws.

39.90.060 Validation of debts, contracts and obligations regardless of interest rates. All debts, contracts and obligations heretofore made or incurred by or in favor of the state, state agencies, state colleges and universities, and the political subdivisions, municipal corporations and quasi municipal corporations of this state, are hereby declared to be legal and valid and of full force and effect from the date thereof, regardless of the interest rate borne by any such debts, contracts and obligations. [1970 ex.s. c 66 § 7.]

TITLE 40

PUBLIC DOCUMENTS, RECORDS AND PUBLICATIONS

Chapters

- 40.04 Public documents.
- 40.06 State publications distribution center.
- 40.10 Microfilming of records to provide continuity of civil government.
- 40.14 Preservation and destruction of public records.
- 40.16 Penal provisions.
- 40.20 Reproduced records for governments and business.

Historical materials, preservation: Chapter 27.48 RCW.

Minutes of governmental agencies open to public inspection: RCW 42.32.030.

Newspapers: Chapter 19.56 RCW.

Public documents as evidence: Chapter 5.44 RCW.

Publication of legal notices: Chapter 65.16 RCW.

Recording, registration and legal publication: Title 65 RCW.

Records and exhibits of superior court, destruction, reproduction: RCW 36.23.065, 36.23.067, 36.23.070.

State records, secretary of state as custodian: RCW 43.07.040.

Uniform business records as evidence act: Chapter 5.45 RCW.

Uniform photographic copies of business and public records as evidence act: Chapter 5.46 RCW.

Chapter 40.04 PUBLIC DOCUMENTS

Sections

- 40.04.010 Definition.
- 40.04.020 Executive and administrative reports—Distribution, exchange—Duties of state librarian and public printer.
- 40.04.030 Session laws, legislative journals, supreme court and court of appeals reports—Duties of law librarian, public printer, publisher.
- 40.04.040 Session laws—Distribution, sale, exchange—Duties of law librarian and county auditor—Surplus copies, sale, price.
- 40.04.090 Legislative journals—Distribution, sale, exchange—Duties of law librarian—Surplus sets, sale, price.
- 40.04.100 Supreme court and court of appeals reports—Distribution, exchange—Duties of law librarian.
- 40.04.110 Supreme court and court of appeals reports—Purchase from publisher—Duties of supreme court, law librarian.

Attorney general to give written opinions: RCW 43.10.030.

Revised Code of Washington, publication: Chapter 1.08 RCW.

Session laws, publication, etc.: Chapter 44.20 RCW.

Supreme court reports, publication: Chapter 2.32, RCW 43.78.070.

40.04.010 Definition. The term "public documents" as used in this chapter shall include the publications and reports of all state officers, or of any commission or commissions, board or boards, council, committee, or institution, or of any person or persons authorized or

required by law to publish or render reports. [1941 c 150 § 1; Rem. Supp. 1941 § 8217-1.]

40.04.020 Executive and administrative reports—Distribution, exchange—Duties of state librarian and public printer. It shall be the duty of the public printer to deliver to the state librarian one hundred twenty-five copies of each publication or report of every such state officer, commission or commissions, board or boards, council, committee, or institution, or of any person or persons authorized by law to print such publication. The public printer shall also retain two hundred additional copies of all such publications which he shall arrange and bind in sets, each volume of which shall be adequately labeled and contain the title, "Washington Public Documents." The state librarian is authorized and directed to make such distribution of each publication and of the sets of public documents as will in his judgment be most informative and beneficial to the state officers and public generally. The state librarian is also authorized to make such exchanges thereof, within and without the state, as to him seems fit and proper.

Every state publication, not printed by the public printer, whether in printed or mimeographed form, shall be deposited in triplicate with the state library. [1941 c 150 § 2; Rem. Supp. 1941 § 8217-2.]

40.04.030 Session laws, legislative journals, supreme court and court of appeals reports—Duties of law librarian, public printer, publisher. The state law librarian shall receive from the public printer, whose duty it shall be to deliver to him, all bound volumes of the session laws, and the house and senate journals as the same are published. He shall also receive from the publisher of the supreme court reports and the court of appeals reports of the state of Washington such copies as are purchased by the supreme court for the use of the state. [1971 c 42 § 2; 1941 c 150 § 3; Rem. Supp. 1941 § 8217-3.]

40.04.040 Session laws—Distribution, sale, exchange—Duties of law librarian and county auditor—Surplus copies, sale, price. Session laws shall be distributed, sold and/or exchanged by the state law librarian as follows:

(1) Copies shall be given as follows: One to each United States senator and representative in congress from this state; six to the Library of Congress; one to each United States executive department as defined by section 1, title 5, of the United States Code; three to the United States supreme court library; three to the library

of the circuit court of appeals of the ninth circuit; one to each United States district court room within this state; one to each office and branch office of the United States district attorneys in this state; one to each state official whose office is created by the Constitution; one to the judge advocate's office at Fort Lewis; one to each member of the legislature, session law indexer, secretary and assistant secretary of the senate, chief clerk and the assistant chief clerk of the house of representatives, the minute clerk and sergeant-at-arms of the two branches of the legislature of the sessions of which they occupied the offices and positions mentioned; one copy each to the Olympia representatives of the Associated Press and the United Press; two copies to the law library of the University of Puget Sound law school; two copies to the law library of Gonzaga University law school; and two copies to the law libraries of any accredited law schools as are hereafter established in this state.

(2) Copies, for official use only, shall be distributed as follows: One to each state department and to each division thereof; one to each state official whose office is created by the Constitution, except the governor who shall receive three copies; one each to the adjutant general, the state historical society, the state bar association, and to each state institution; one copy for each assistant attorney general who maintains his office in the attorney general's suite, and one additional copy for his stenographer's room; one copy to each prosecuting attorney and one for each of his deputies.

Sufficient copies shall be furnished for the use of the supreme court and the state law library as from time to time are needed. Eight copies shall be distributed to the University of Washington law library; one copy each to the offices of the president and the board of regents of the University of Washington, the dean of the University of Washington school of law, and to the University of Washington library; one copy to the library of each of the colleges of education (formerly called the normal schools); one copy each to the president of the Washington State University and to the Washington State University library. Six copies shall be sent to the King county law library, and one copy to each of the county law libraries organized pursuant to law in the counties of the first, second and third class; one copy to each public library in cities of the first class, and one copy to the municipal reference branch of the Seattle public library.

At the convening of each session of the legislature the state law librarian shall deliver to the chief clerk of the house of representatives twenty copies, and to the secretary of the senate, ten copies, of the laws of the preceding general session and of any intervening session for the use of the legislators during the ensuing session but which shall be returned to the state law library at the expiration of the legislative session.

It shall be the duty of each county auditor biennially to submit to the state law librarian a list of county officers, including the prosecuting attorney and his regular full time deputies and the justices of the peace and superior court rooms regularly used by a justice of the peace or superior court judge, and the correct number of bound copies of the session laws necessary for the official

use only of such officers and court rooms will be sent, transportation collect, to said county auditor who shall be responsible for the distribution thereof to the county officials entitled to receive them.

(3) Surplus copies of the session laws shall be sold and delivered by the state law librarian, in which case the price of the bound volumes shall be four dollars each. All moneys received from the sale of such bound volumes of session laws shall be paid into the state treasury for the general fund.

(4) The state law librarian is authorized to exchange bound copies of the session laws for similar laws or legal materials of other states, territories and governments, and to make such other and further distribution of the bound volumes as in his judgment seems proper. [1973 c 33 § 1; 1969 c 6 § 8; 1941 c 150 § 4; Rem. Supp. 1941 § 8217-4. Formerly RCW 40.04.040 through 40.04.080.]

Distribution of temporary edition of session laws: RCW 44.20.040.
Publication of session laws: RCW 44.20.050.

40.04.090 Legislative journals—Distribution, sale, exchange—Duties of law librarian—Surplus sets, sale, price. The house and senate journals shall be distributed and/or sold by the state law librarian as follows:

(1) Sets shall be distributed as follows: One set to each member of the legislature, secretary and assistant secretary of the senate, chief clerk and assistant to the chief clerk of the house of representatives, and to each minute clerk and sergeant-at-arms of the two branches of the legislature of which they occupy the offices and positions mentioned. One to each official whose office is created by the Constitution, and one to each state department director; three copies to the University of Washington law library; two copies to the University of Washington library; one to the King county law library; one to the Washington State University library; one to the library of each of the colleges of education (formerly called the normal schools); one to the law library of Gonzaga University law school; one to the law library of the University of Puget Sound law school; one to the law libraries of any accredited law school as hereafter established in this state; and one to each free public library in the state which requests it.

(2) A set of the house and senate journals of the preceding general session, and of any intervening special session, shall be placed on the desk of each legislator for his use during the ensuing session, which shall be returned to the state law library at the expiration of the legislative session; and sufficient sets shall be retained for the use of the state law library.

(3) Surplus sets of the house and senate journals shall be sold and delivered by the state law librarian, in which case the price shall be fifteen dollars for those of the general sessions, and ten dollars for those of the special sessions, when separately bound, and the proceeds therefrom shall be paid to the state treasurer for the general fund.

(4) The state law librarian is authorized to exchange copies of the house and senate journals for similar journals of other states, territories, and/or governments, or for other legal materials, and to make such other and

further distribution of them as in his judgment seems proper. [1973 c 33 § 2; 1941 c 150 § 5; Rem. Supp. 1941 § 8217-5.]

40.04.100 Supreme court and court of appeals reports—Distribution, exchange—Duties of law librarian. The supreme court reports and the court of appeals reports shall be distributed by the state law librarian as follows:

(1) Each supreme court justice and court of appeals judge is entitled to receive one copy of each volume containing an opinion signed by him.

(2) The state law librarian shall retain such copies as are necessary of each for the benefit of the state law library, the supreme court and its subsidiary offices; and the court of appeals and its subsidiary offices; he shall provide one copy each for the official use of the attorney general and for each assistant attorney general maintaining his office in the attorney general's suite; three copies for the office of prosecuting attorney, in class A counties; two copies for such office in first class counties, and one copy for each other prosecuting attorney; one for each United States district court room and every superior court room in this state if regularly used by a judge of such courts; one copy for the use of each state department maintaining a separate office at the state capitol; one copy to the office of program planning and fiscal management, and one copy to the division of inheritance tax and escheats; one copy each to the United States supreme court, to the United States district attorney's offices at Seattle and Spokane, to the office of the United States attorney general, the library of the circuit court of appeals of the ninth circuit, the Seattle public library, the Tacoma public library, the Spokane public library, the University of Washington library, and the Washington State University library; three copies to the Library of Congress; and, for educational purposes, twelve copies to the University of Washington law library, two copies to the University of Puget Sound law library, and two copies to the Gonzaga University law school library and to such other accredited law school libraries as are hereafter established in this state; six copies to the King county law library; and one copy to each county law library organized pursuant to law in class AA counties, class A counties and in counties of the first, second and third class.

(3) The state law librarian is likewise authorized to exchange copies of the supreme court reports and the court of appeals reports for similar reports of other states, territories, and/or governments, or for other legal materials, and to make such other and further distribution as in his judgment seems proper. [1973 c 33 § 3; 1971 c 42 § 3; 1941 c 150 § 6; Rem. Supp. 1941 § 8217-6.]

Commission to supervise publication of supreme court reports: RCW 2.32.160.

Publication of supreme court reports by public printer: RCW 43.78.070.

40.04.110 Supreme court and court of appeals reports—Purchase from publisher—Duties of supreme court, law librarian. On the publication of each

volume of reports the supreme court must purchase for the use of the state, from the publisher to whom the contract is awarded, three hundred copies of each volume of supreme court and court of appeals reports, and such additional copies as the court may deem to be necessary, at the price named in the contract, and deliver the same to the law librarian of the state law library, who shall distribute same as required by the provisions of RCW 40.04.100. [1971 c 42 § 4; 1941 c 150 § 7; Rem. Supp. 1941 § 8217-7.]

Chapter 40.06

STATE PUBLICATIONS DISTRIBUTION CENTER

Sections

40.06.010	Definitions.
40.06.020	Center created as division of state library—Depository library system—Rules and regulations.
40.06.030	Deposits by state agencies.
40.06.040	Inter-library depository contracts.
40.06.050	Center to publish list and other printed matter.
40.06.060	Agencies to furnish lists to center.
40.06.070	Exemptions.
40.06.900	Effective date—1963 c 233.

40.06.010 Definitions. As used in this chapter:

(1) "Print" includes all forms of printing and duplicating, regardless of format or purpose, with the exception of correspondence and interoffice memoranda.

(2) "Public document" means the annual and biennial reports required by law or by the governor which are bound in sets and titled Washington public documents.

(3) "State agency" includes every state office, officer, department, division, bureau, board, commission and agency of the state, and, where applicable, all subdivisions of each.

(4) "State publication" includes any document, compilation, journal, law, resolution, bluebook, statute, code, register, pamphlet, list, book, proceedings, minutes, report, memorandum, hearing, legislative bill, leaflet, order, regulation, directory, periodical or magazine issued in print by the state, the legislature, constitutional officers, or any state department, committee or other state agency supported wholly or in part by state funds. [1963 c 233 § 1.]

40.06.020 Center created as division of state library—Depository library system—Rules and regulations. There is hereby created as a division of the state library, and under the direction of the state librarian, a state publications distribution center. The center shall promote the establishment of an orderly depository library system. To this end the state library commission shall make such rules and regulations as may be deemed necessary to carry out the provisions of this chapter. [1963 c 233 § 2.]

40.06.030 Deposits by state agencies. Every state agency may upon release deposit at least three copies of each of its state publications with the state library for record and depository purposes. Additional copies, in quantities as certified to the agencies by the state library and as required to meet the needs of the depository library system, shall also be deposited. Upon consent of

the issuing state agency such state publications as are printed by the public printer shall be delivered directly to the center. [1963 c 233 § 3.]

40.06.040 Inter-library depository contracts. The center shall enter into depository contracts with any municipal or county free library, state college or state university library, the library of any privately incorporated college or university in this state, the library of congress and the midwest inter-library center, and other state libraries. The requirements for eligibility to contract as a depository library shall be established by the state library commission upon recommendations of the state librarian. The standards shall include and take into consideration the type of library, available housing and space for the publications, the number and qualifications of personnel, and availability for public use. [1963 c 233 § 4.]

40.06.050 Center to publish list and other printed matter. The center shall publish and distribute regularly a list of available state publications, and may publish and distribute such other descriptive printed matter as will facilitate the distribution of state publications. [1963 c 233 § 5.]

40.06.060 Agencies to furnish lists to center. Upon request by the center, issuing state agencies shall furnish the center with a complete list of its current state publications and a copy of its mailing and/or exchange lists. [1963 c 233 § 6.]

40.06.070 Exemptions. This chapter shall not apply to nor affect the duties concerning publications distributed by, or officers of:

- (1) The state law library;
- (2) The statute law committee and the code reviser; and
- (3) The secretary of state in connection with his duties under RCW 44.20.030 and 44.20.040. [1963 c 233 § 7.]

40.06.900 Effective date—1963 c 233. The effective date of this chapter shall be July 1, 1963. [1963 c 233 § 8.]

Chapter 40.10

MICROFILMING OF RECORDS TO PROVIDE CONTINUITY OF CIVIL GOVERNMENT

Sections

- 40.10.010 Essential records—Designation—List—Security and protection—Reproduction.
40.10.020 Reproduction of records—Storage, safeguarding of reproductions—Fees—Destruction of originals not authorized.

40.10.010 Essential records—Designation—List—Security and protection—Reproduction. In order to provide for the continuity and preservation of civil government, each elected and appointed officer of the state shall designate those public documents which are essential records of his office and needed in an

emergency and for the reestablishment of normal operations after any such emergency. A list of such records shall be forwarded to the state archivist and director of the department of emergency services on forms prescribed by the state archivist. This list shall be reviewed at least annually by the elected or appointed officer to insure its completeness. Any changes or revisions following this review shall be forwarded to the state archivist and the director of the department of emergency services. Each such elected and appointed officer of state government shall insure that the security of essential records of his office is by the most economical means commensurate with adequate protection. Protection of essential records may be by vaulting, planned or natural dispersal of copies, or any other method approved by the state archivist and the director of the department of emergency services. Reproductions of essential records may be by photo copy, magnetic tape, microfilm or other method approved by the state archivist. Local government offices may coordinate the protection of their essential records with the state archivist and director of the department of emergency services as necessary to provide continuity of local government under emergency conditions. [1973 c 54 § 1; 1963 c 241 § 1.]

Severability—1973 c 54: "If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 c 54 § 6.] This applies to the 1973 amendments to RCW 40.10.010, 40.10.020, 40.14.040, 40.14.060 and 40.14.070.

40.10.020 Reproduction of records—Storage, safeguarding of reproductions—Fees—Destruction of originals not authorized. The state archivist is authorized to reproduce those documents designated as essential records by the several elected and appointed officials of the state and local government by microfilm or other miniature photographic process and to assist and cooperate in the storage and safeguarding of such reproductions in such place as is recommended by the director of the department of emergency services. The state archivist is authorized to charge the several departments of the state and local government the actual cost incurred in reproducing, storing and safeguarding such documents: *Provided*, That nothing herein shall authorize the destruction of the originals of such documents after reproduction thereof. [1973 c 54 § 2; 1963 c 241 § 2.]

Chapter 40.14

PRESERVATION AND DESTRUCTION OF PUBLIC RECORDS

Sections

- 40.14.010 Definition and classification of public records.
40.14.020 Division of archives and records management—State archivist—Powers and duties—Duties of public officials.
40.14.030 Transfer to state archives—Certified copies, cost.
40.14.040 Records officers—Designation—Powers and duties.
40.14.050 Records committee—Composition, travel expenses, meetings, powers and duties—Retention schedules.
40.14.060 Destruction, disposition of public records, office files and memoranda.

- 40.14.070 Destruction of local government records—Preservation for historical interest—Local records committee, duties.
- 40.14.080 Chapter not to affect other laws.
- 40.14.100 Legislative records—Defined.
- 40.14.110 Legislative records—Contribution of papers by legislators and employees.
- 40.14.120 Legislative records—"Clerk", "secretary" defined.
- 40.14.130 Legislative records—Duties of legislative officials, employees and state archivist—Delivery of records—Custody—Availability.
- 40.14.140 Legislative records—Party caucuses to be advised—Information and instructions.
- 40.14.150 Legislative records—Use for research.
- 40.14.160 Legislative records—Rules for access to records.
- 40.14.170 Legislative records—Sound recordings.
- 40.14.180 Legislative records—Construction—Confidentiality of bill drafting records.

40.14.010 Definition and classification of public records. As used in this chapter, the term "public records" shall include any paper, correspondence, form, book, photograph, film, sound recording, map drawing, or other document, regardless of physical form or characteristics, and including all copies thereof, that have been made by or received by any agency of the state of Washington in connection with the transaction of public business, and legislative records as described in RCW 40.14.100.

For the purposes of this chapter, public records shall be classified as follows:

(1) Official public records shall include all original vouchers, receipts and other documents necessary to isolate and prove the validity of every transaction relating to the receipt, use and disposition of all public property and public income from all sources whatsoever; all agreements and contracts to which the state of Washington or any agency thereof may be a party; all fidelity, surety and performance bonds; all claims filed against the state of Washington or any agency thereof; all records or documents required by law to be filed with or kept by any agency of the state of Washington; all legislative records as defined in RCW 40.14.100; and all other documents or records determined by the records committee, hereinafter created, to be official public records.

(2) Office files and memoranda shall include all records, correspondence, exhibits, books, booklets, drawings, maps, blank forms, or documents not above defined and classified as official public records; all duplicate copies of official public records filed with any agency of the state of Washington; all documents and reports made for the internal administration of the office to which they pertain but not required by law to be filed or kept with such agency; and all other documents or records, determined by the records committee, hereinafter created, to be office files and memoranda. [1971 ex.s. c 102 § 1; 1957 c 246 § 1.]

40.14.020 Division of archives and records management—State archivist—Powers and duties—Duties of public officials. All public records shall be and remain the property of the state of Washington. They shall be delivered by outgoing officials and employees to their successors and shall be preserved, stored, transferred, destroyed or disposed of, and otherwise managed,

only in accordance with the provisions of this chapter. In order to insure the proper management and safeguarding of public records, the division of archives of the department of general administration is designated as the division of archives and records management, and, under the administration of the state archivist, who shall have reasonable access to all public records, wherever kept, for purposes of information, surveying, or cataloguing, shall undertake the following functions, duties, and responsibilities:

(1) To manage the archives of the state of Washington;

(2) To centralize the archives of the state of Washington, to make them available for reference and scholarship, and to insure their proper preservation;

(3) To inspect, inventory, catalog, and arrange retention and transfer schedules on all record files of all state departments and other agencies of state government;

(4) To insure the maintenance and security of all state public records and to establish safeguards against unauthorized removal or destruction;

(5) To establish and operate such state record centers as may from time to time be authorized by appropriation, for the purpose of preserving, servicing, screening and protecting all state public records which must be preserved temporarily or permanently, but which need not be retained in office space and equipment;

(6) To gather and disseminate to interested agencies information on all phases of records management and current practices, methods, procedures and devices for efficient and economical management of records;

(7) To operate a central microfilming bureau which will microfilm, at cost, records approved for filming by the head of the office of origin and the archivist; to approve microfilming projects undertaken by state departments and all other agencies of state government; and to maintain proper standards for this work;

(8) To maintain necessary facilities for the review of records approved for destruction and for their economical disposition by sale or burning; directly to supervise such destruction of public records as shall be authorized by the terms of this chapter. [1957 c 246 § 2.]

40.14.030 Transfer to state archives—Certified copies, cost. All public records, not required in the current operation of the office where they are made or kept, and all records of every agency, commission, committee, or any other activity of state government which may be abolished or discontinued, shall be transferred to the state archives so that the valuable historical records of the state may be centralized, made more widely available, and insured permanent preservation: *Provided*, That this section shall have no application to public records approved for destruction under the subsequent provisions of this chapter.

When so transferred, copies of the public records concerned shall be made and certified by the archivist, which certification shall have the same force and effect as though made by the officer originally in charge of them. Fees may be charged to cover the cost of reproduction. In turning over the archives of his office, the officer in charge thereof, or his successor, thereby loses

none of his rights of access to them, without charge, whenever necessary. [1957 c 246 § 3.]

Columbia River boundary compact, transfer of records to division of archives: RCW 43.58.070.

40.14.040 Records officers—Designation—Powers and duties. Each department or other agency of the state government shall designate a records officer to supervise its records program and to represent the office in all contacts with the records committee, hereinafter created, and the division of archives and records management. The records officer shall:

(1) Coordinate all aspects of the records management program.

(2) Inventory, or manage the inventory, of all public records at least once during a biennium for disposition scheduling and transfer action, in accordance with procedures prescribed by the state archivist and state records committee: *Provided*, That essential records shall be inventoried and processed in accordance with chapter 40.10 RCW at least annually.

(3) Consult with any other personnel responsible for maintenance of specific records within his state organization regarding records retention and transfer recommendations.

(4) Analyze records inventory data, examine and compare divisional or unit inventories for duplication of records, and recommend to the state archivist and state records committee minimal retentions for all copies commensurate with legal, financial and administrative needs.

(5) Approve all records inventory and destruction requests which are submitted to the state records committee.

(6) Review established records retention schedules at least annually to insure that they are complete and current.

(7) Exercise internal control over the acquisition of filming and file equipment.

(8) Report annually all savings resulting from records disposition actions to his management, the state archivist and the office of program planning and fiscal management.

If a particular agency or department does not wish to transfer records at a time previously scheduled therefor, the records officer shall, within thirty days, notify the archivist and request a change in such previously set schedule, including his reasons therefor. [1973 c 54 § 3; 1957 c 246 § 4.]

40.14.050 Records committee—Composition, travel expenses, meetings, powers and duties—Retention schedules. There is created a committee, to be known as the records committee, composed of the archivist, an appointee of the state auditor, and an appointee of the attorney general. Committee members shall serve without additional salary, but shall be entitled to travel expenses incurred in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. Such expenses shall be paid from the appropriations made for operation of their respective departments or offices.

The records committee shall meet at least once every quarter or oftener as business dictates. Action by the committee shall be by majority vote and records shall be kept of all committee business.

It shall be the duty of the records committee to approve, modify or disapprove the recommendations on retention schedules of all files of public records and to act upon requests to destroy any public records: *Provided*, That any modification of a request or recommendation must be approved by the head of the agency originating the request or recommendation.

The division of archives and records management shall provide forms, approved by the records committee, upon which it shall prepare recommendations to the committee in cooperation with the records officer of the department or other agency whose records are involved. [1975-'76 2nd ex.s. c 34 § 83; 1957 c 246 § 5.]

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

40.14.060 Destruction, disposition of public records, office files and memoranda. Official public records shall not be destroyed until they are either photographed, microphotographed, photostated, or reproduced on film, or until they are seven years old, except on a showing of the department of origin, as approved by the records committee, that the retention of such records for a minimum of seven years is both unnecessary and uneconomical, particularly where lesser federal retention periods for records generated by the state under federal programs are involved: *Provided*, That any lesser term of retention than seven years must have the additional approval of the director of the budget, the state auditor and the attorney general, except where records have federal retention guidelines the state records committee may adjust the retention period accordingly: *Provided, further*, That an automatic reduction of retention periods from ten to seven years as provided for in this 1973 amendatory section for official public records shall not be made as to records on existing record retention schedules but the same shall be reviewed individually by the state records committee for approval or disapproval of the change to a retention period of seven years.

Recommendations for the destruction or disposition of office files and memoranda shall be submitted to the records committee upon approved forms prepared by the records officer of the agency concerned and the archivist. The committee shall determine the period of time that any office file or memorandum shall be preserved and may authorize the division of archives and records management to arrange for its destruction or disposition. [1973 c 54 § 4; 1957 c 246 § 6.]

40.14.070 Destruction of local government records—Preservation for historical interest—Local records committee, duties. County, municipal, and other local government agencies may request authority to destroy noncurrent public records having no further administrative or legal value by submitting to the division of archives and records management, lists of such records, in triplicate, on forms prepared by the division. The archivist and the chief examiner of the division of

municipal corporations of the office of the state auditor and a representative appointed by the attorney general shall constitute a committee to be known as the local records committee which shall review such lists, and may veto the destruction of any or all items contained therein.

A local government agency, as an alternative to submitting lists, may elect to establish a records control program based on recurring disposition schedules recommended by the agency to the local records committee. The schedules are to be submitted on forms provided by the division of archives and records management to the local records committee, which may either veto, approve, or amend the schedule. Approval of such schedule or amended schedule shall be by unanimous vote of the local records committee. Upon such approval, the schedule shall constitute authority for the local government agency to destroy the records listed thereon, after the required retention period, on a recurring basis until the schedule is either amended or revised by the committee.

No public record other than office files and memoranda of any local government agency shall be destroyed until it is either photographed, microphotographed, photostated, or reproduced on film, or until it is seven years old, and except as otherwise provided by law no public record shall be destroyed until approved for destruction by the local records committee: *Provided*, That where records have federal retention guidelines the local records committee may adjust the retention period accordingly: *Provided further*, That an automatic reduction of retention periods from ten to seven years as provided for in this 1973 amendatory section for official public records shall not be made as to records on existing record retention schedules but the same shall be reviewed individually by the local records committee for approval or disapproval of the change to a retention period of seven years.

The state archivist may furnish appropriate information, suggestions, and guidelines to local government agencies for their assistance in the preparation of lists and schedules or any other matter relating to the retention, preservation, or destruction of records under this chapter. The local records committee may adopt appropriate regulations establishing procedures to be followed in such matters.

Records of county, municipal, or other local government agencies, designated by the archivist as of primarily historical interest, may be transferred to a recognized depository agency selected by the archivist, in order to relieve local offices of the burden of housing them, to insure their preservation, and to make them available for reference or study. [1973 c 54 § 5; 1971 ex.s. c 10 § 1; 1957 c 246 § 7.]

Destruction and reproduction of court records: RCW 36.23.065 through 36.23.070.

40.14.080 Chapter not to affect other laws. The provisions of this chapter shall not be construed as repealing or modifying any other acts or parts of acts authorizing the destruction of public records save for those specifically named in *section 9 of this act; nor shall this

chapter affect the provisions of RCW 40.04.020 requiring the deposit of all state publications in the state library. [1957 c 246 § 8.]

**Reviser's note: "section 9 of this act" refers to 1957 c 246 § 9 which repealed RCW 40.08.010 through 40.08.050 and 40.12.010 through 40.12.110.*

40.14.100 Legislative records—Defined. As used in RCW 40.14.010 and 40.14.100 through 40.14.180, unless the context requires otherwise, "legislative records" shall be defined as correspondence, amendments, reports, and minutes of meetings made by or submitted to legislative committees or subcommittees and transcripts or other records of hearings or supplementary written testimony or data thereof filed with committees or subcommittees in connection with the exercise of legislative or investigatory functions, but does not include the records of an official act of the legislature kept by the secretary of state, bills and their copies, published materials, digests, or multi-copied matter which are routinely retained and otherwise available at the state library or in a public repository, or reports or correspondence made or received by or in any way under the personal control of the individual members of the legislature. [1971 ex.s. c 102 § 2.]

40.14.110 Legislative records—Contribution of papers by legislators and employees. Nothing in RCW 40.14.010 and 40.14.100 through 40.14.180 shall prohibit a legislator or legislative employee from contributing his personal papers to any private library, public library, or the state archives. The state archivist is authorized to receive papers of legislators and legislative employees and is directed to encourage the donation of such personal records to the state. The state archivist is authorized to establish such guidelines and procedures for the collection of personal papers and correspondence relating to the legislature as he sees fit. Legislators and legislative employees are encouraged to contribute their personal papers to the state for preservation. [1971 ex.s. c 102 § 3.]

40.14.120 Legislative records—"Clerk", "secretary" defined. As used in RCW 40.14.010 and 40.14.100 through 40.14.180 "clerk" means clerk of the Washington state house of representatives and "secretary" means the secretary of the Washington state senate. [1971 ex.s. c 102 § 4.]

40.14.130 Legislative records—Duties of legislative officials, employees and state archivist—Delivery of records—Custody—Availability. The legislative committee chairman, subcommittee chairman, committee member, or employed personnel of the state legislature having possession of legislative records that are not required for the regular performance of official duties shall, within ten days after the adjournment sine die of a regular or special session, deliver all such legislative records to the clerk of the house or the secretary of the senate.

The clerk of the house and the secretary of the senate are charged to include requirements and responsibilities

for keeping committee minutes and records as part of their instructions to committee chairmen and employees.

The clerk or the secretary, with the assistance of the state archivist, shall classify and arrange the legislative records delivered to the clerk or secretary in a manner that he considers best suited to carry out the efficient and economical utilization, maintenance, preservation, and disposition of the records. The clerk or the secretary may deliver to the state archivist all legislative records in his possession when such records have been classified and arranged and are no longer needed by either house. The state archivist shall thereafter be custodian of the records so delivered, but shall deliver such records back to either the clerk or secretary upon his request.

The chairman, member, or employee of a legislative interim committee responsible for maintaining the legislative records of that committee shall, on a scheduled basis agreed upon by the chairman, member, or employee of the legislative interim committee, deliver to the clerk or secretary all legislative records in his possession, as long as such records are not required for the regular performance of official duties. He shall also deliver to the clerk or secretary all records of an interim committee within ten days after the committee ceases to function. [1971 ex.s. c 102 § 5.]

40.14.140 Legislative records—Party caucuses to be advised—Information and instructions. It shall be the duty of the clerk and the secretary to advise the party caucuses in each house concerning the necessity to keep public records. The state archivist or his representative shall work with the clerk and secretary to provide information and instructions on the best method for keeping legislative records. [1971 ex.s. c 102 § 6.]

40.14.150 Legislative records—Use for research. Committee records may be used by legislative employees for research at the discretion of the clerk or the secretary. [1971 ex.s. c 102 § 7.]

40.14.160 Legislative records—Rules for access to records. The clerk or the secretary shall, with advice of the state archivist, prescribe rules for access to records more than three years old when such records have been delivered to the state archives for preservation and maintenance. [1971 ex.s. c 102 § 8.]

40.14.170 Legislative records—Sound recordings. Any sound recording of debate in the house or senate made by legislative employees shall be preserved by the chief clerk of the house and by the secretary of the senate, respectively, for two years from the end of the session at which made, and thereafter shall be transmitted to the state archivist. The chief clerk and the secretary shall catalogue or index the recordings in their custody according to a uniform system, in order to allow easy access to the debate on specific questions before either house, and shall make available to any court of record, at the cost of reproduction, such portions of the recordings as the court may request. [1971 ex.s. c 102 § 9.]

40.14.180 Legislative records—Construction—Confidentiality of bill drafting records. The provisions of RCW 40.14.010 and 40.14.100 through 40.14.180 shall not be construed as repealing or modifying any other acts or parts of acts authorizing the retention or destruction of public records nor shall RCW 40.14.010 and 40.14.100 through 40.14.180 affect the provisions of RCW 40.04.020 requiring the deposit of all state publications in the state library nor shall it affect the confidentiality of the bill drafting records of the code reviser's office. [1971 ex.s. c 102 § 10.]

Chapter 40.16 PENAL PROVISIONS

Sections

- 40.16.010 Injury to public record.
- 40.16.020 Injury to and misappropriation of record.
- 40.16.030 Offering false instrument for filing or record.

Fraud: Chapter 9A.60 RCW.

Misconduct of public officers: Chapter 42.20 RCW.

Public works accounts and records, penalty for falsifying: RCW 39.04.110.

40.16.010 Injury to public record. Every person who shall wilfully and unlawfully remove, alter, mutilate, destroy, conceal or obliterate a record, map, book, paper, document or other thing filed or deposited in a public office, or with any public officer, by authority of law, shall be punished by imprisonment in the state penitentiary for not more than five years, or by a fine of not more than one thousand dollars, or by both. [1909 c 249 § 95; RRS § 2347.]

40.16.020 Injury to and misappropriation of record. Every officer who shall mutilate, destroy, conceal, erase, obliterate or falsify any record or paper appertaining to his office, or who shall fraudulently appropriate to his own use or to the use of another person, or secrete with intent to appropriate to such use, any money, evidence of debt or other property intrusted to him by virtue of his office, shall be punished by imprisonment in the state penitentiary for not more than ten years, or by a fine of not more than five thousand dollars, or by both. [1909 c 249 § 96; RRS § 2348.]

40.16.030 Offering false instrument for filing or record. Every person who shall knowingly procure or offer any false or forged instrument to be filed, registered or recorded in any public office, which instrument, if genuine, might be filed, registered or recorded in such office under any law of this state or of the United States, shall be punished by imprisonment in the state penitentiary for not more than five years, or by a fine of not more than five thousand dollars, or by both. [1909 c 249 § 97; RRS § 2349.]

Chapter 40.20 REPRODUCED RECORDS FOR GOVERNMENTS AND BUSINESS

Sections

- 40.20.010 "Business" defined.

40.20.020 Reproduction by film or photograph.

40.20.030 Use as original.

Court records, destruction and reproduction: RCW 36.23.065 through 36.23.070.

Photographic recodation of plats and documents: RCW 65.04.040.

Uniform business records as evidence act: Chapter 5.45 RCW.

Uniform photographic copies of business and public records as evidence act: Chapter 5.46 RCW.

40.20.010 "Business" defined. For the purpose of this chapter, the term "business" shall mean and include business, industry, profession, occupation and calling of every kind. [1949 c 223 § 3; Rem. Supp. 1949 § 1257-6.]

40.20.020 Reproduction by film or photograph. The head of any business or the head of any state, county or municipal department, commission, bureau or board may cause any or all records required or authorized by law to be made or kept by such official, department, commission, bureau, board or business to be photographed, microphotographed, photostated or reproduced on film for all purposes of recording documents, plats, files or papers, or copying or reproducing such records. Such film or reproducing material shall be of permanent material and the device used to reproduce such records on such film or material shall be such as to accurately reproduce and perpetuate the original records in all details, and shall be approved for the intended purpose: *Provided*, That the forms committee shall approve such material for state records use: *Provided, further*, That the state auditor shall approve such material for use by local governmental subdivisions. [1973 c 95 § 1; 1949 c 223 § 1; Rem. Supp. 1949 § 1257-4.]

40.20.030 Use as original. Such photostatic copy, photograph, microphotograph or photographic film record, or copy of the original records shall be deemed to be an original record for all purposes, and shall be admissible in evidence in all courts or administrative agencies. A facsimile, exemplification or certified copy thereof shall, for all purposes recited herein, be deemed to be a transcript, exemplification or certified copy of the original. [1949 c 223 § 2; Rem. Supp. 1949 § 1257-5.]

REVISED CODE OF WASHINGTON

1976 Edition

CERTIFICATE

The 1976 edition of the Revised Code of Washington, published officially by the Statute Law Committee, is, in accordance with the provisions of RCW 1.08.037, certified to comply with the current specifications of the committee.

(signed)

**Robert L. Charette, Chairman,
STATUTE LAW COMMITTEE**

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