

**VOLUME 9**  
**1995 RCW SUPPLEMENT**

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**1994**  
**REVISED CODE OF WASHINGTON**

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**Published under the authority of chapter 1.08 RCW.**

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**I. SCOPE OF SUPPLEMENT**

This volume supplements the 1994 edition of The Revised Code of Washington by adding the following materials:

1. All laws of a general and permanent nature enacted in the 1995 regular session (adjourned sine die April 23, 1995), the 1995 first special session (adjourned May 23, 1995), and the 1995 second special session (adjourned May 25, 1995) of the fifty-fourth legislature.
2. Appropriate supplementation of the various tables and the general index.

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**REVISED CODE OF WASHINGTON**  
**1995 Supplement**

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**CERTIFICATE**

This 1995 supplement of the 1994 edition of the Revised Code of Washington, published officially by the Statute Law Committee, is, in accordance with RCW 1.08.037, certified to comply with the current specifications of the committee.



MARY F. GALLAGHER DILLEY, Chairman,  
STATUTE LAW COMMITTEE

















**Codification Tables: 1995 Regular Session Laws—RCW**

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**Codification Tables: 1995 Regular Session Laws—RCW**

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630		70.94.431
631		70.105.080
632		70.132.050
633		70.138.040
634		86.16.081
635		90.03.600
636		90.48.144
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1104		<i>Contingency</i>
1105		<i>Sev.</i>
		43.05.904



**Codification Tables: 1995 2nd Special Session Laws—RCW**

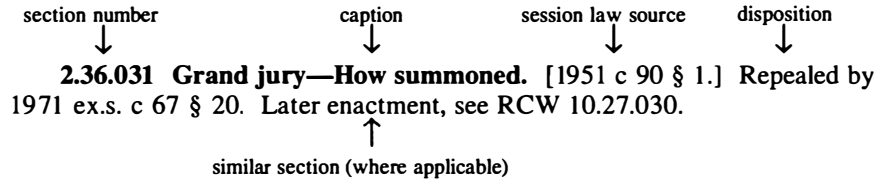
**1995 2ND SPECIAL SESSION LAWS**

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	2	43.03.012			
	3	43.03.013			
2	1	<i>Temporary</i>			
3	1	46.68.041			
	2	<i>Eff. date</i> n46.68.041			
4	1	9.46.0277			
5	1	82.08.0315			
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6	1	82.04.260			
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8	1	82.08.02535			
	2	<i>Eff. date</i> n82.08.02535			
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	4	<i>Eff. date</i> n82.04.365			
12	1	82.04.260			
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13	1	<i>Intent</i> n84.55.012			
	2	84.55.012			
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14	1-	<i>Par. veto</i>			
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	518	88.46.922			
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	520	90.56.515			
	521	<i>Uncod.</i>			
	522	<i>Uncod.</i>			
	523	<i>Leg. rev.</i>			
	524	<i>Repealer</i>			
	525	90.56.510			
	526	<i>Uncod.</i>			
	527	43.10.101			
	528	47.78.010			
	529	<i>Vetoed</i>			
	530	70.94.531			
	531	<i>Vetoed</i>			
	532	<i>Vetoed</i>			
	533	<i>Uncod.</i>			
	534	<i>Uncod.</i>			
	535	<i>Uncod.</i>			
	536	<i>Exp. date</i> n43.105.017			
	537	<i>Vetoed</i>			
	538	82.44.150			
	539	<i>Vetoed</i>			
	540	<i>Vetoed</i>			
	541	81.104.030			
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557		<i>Vetoed</i>			
			558		47.60.645
			559		<i>Vetoed</i>
			560		<i>Vetoed</i>
			561		<i>Sev.</i> n43.105.017
			562		<i>Eff. dates</i> n43.105.017
			15	1	<i>Uncod.</i>
				2	47.10.834
				3	47.10.836
				4	47.10.837
				5	47.10.838
				6	47.10.839
				7	47.10.841
				8	<i>Repealer</i>
				9	<i>Sev.</i> n47.10.834
				10	<i>Em.</i> n47.10.834
			16	1-	<i>Par. veto</i>
			819		<i>Omnibus</i> <i>Approp. Act</i> <i>(Uncod.)</i>
			820		<i>Sev.</i>
			821		<i>Em.</i>
			17	1	43.99K.010
				2	43.99K.020
				3	43.99K.030
				4	43.99K.040
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				7	39.52.020
				8	<i>Sev.</i> 43.99K.900
				9	<i>Leg. dir.</i>
			18	1-	<i>Par. veto</i>
			909		<i>Omnibus</i> <i>Approp. Act</i> <i>(Uncod.)</i>
			910		19.118.110
			911		41.06.150
			912		43.08.250
			913		70.47.030
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			915		86.26.007
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			917		<i>Vetoed</i>
			918		43.155.050
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				3	47.46.040
				4	47.46.050
				5	<i>Em.</i> n47.46.010



# DISPOSITION OF FORMER RCW SECTIONS

This table contains a numerical list of RCW sections no longer appearing in the code because of the repeal, expiration, decodification, or recodification of the sections. Each entry gives the affected RCW number, its caption, and the section's session law source and disposition. The text of the section can be found by referring to the session law source citation contained in brackets.



## Title 1 GENERAL PROVISIONS

### Chapter 1.30

#### LAW REVISION COMMISSION

**1.30.010 Legislative declaration.** [1982 c 183 § 1.] Repealed by 1995 c 269 § 101, effective July 1, 1995.

**1.30.020 Commission created—Membership.** [1982 c 183 § 2.] Repealed by 1995 c 269 § 101, effective July 1, 1995.

**1.30.030 Members' terms—Expiration—Vacancies.** [1982 c 183 § 3.] Repealed by 1995 c 269 § 101, effective July 1, 1995.

**1.30.040 Duties of commission.** [1987 c 505 § 2; 1982 c 183 § 4.] Repealed by 1995 c 269 § 101, effective July 1, 1995.

**1.30.050 Chairman—Adoption of rules.** [1982 c 183 § 5.] Repealed by 1995 c 269 § 101, effective July 1, 1995.

**1.30.060 Coordination of commission activities.** [1982 c 183 § 9.] Repealed by 1995 c 269 § 101, effective July 1, 1995.

## Title 2 COURTS OF RECORD

### Chapter 2.32

#### COURT CLERKS, REPORTERS, AND BAILIFFS

**2.32.075 Fees—Stenographer, court reporter costs.** [1961 c 304 § 5.] Repealed by 1995 c 292 § 22.

### Chapter 2.52

#### JUDICIAL COUNCIL

**2.52.010 Council created—How constituted.** [1994 c 32 § 1; 1987 c 322 § 1; 1977 ex.s. c 112 § 1; 1973 c 18 § 1; 1971 c 40 § 1; 1967 c 124 § 1; 1961 c 271 § 1; 1955 c 40 § 1; 1925 ex.s. c 45 § 1; RRS § 10959-1.] Repealed by 1995 c 269 § 201, effective July 1, 1995.

**2.52.020 Terms—Vacancies.** [1925 ex.s. c 45 § 2; RRS § 10959-2.] Repealed by 1995 c 269 § 201, effective July 1, 1995.

**2.52.030 Officers—Personnel.** [1987 c 322 § 2; 1925 ex.s. c 45 § 3; RRS § 10959-3.] Repealed by 1995 c 269 § 201, effective July 1, 1995.

**2.52.035 Staff.** [1987 c 322 § 4.] Repealed by 1995 c 269 § 201, effective July 1, 1995.

**2.52.040 Meetings.** [1977 ex.s. c 112 § 2; 1925 ex.s. c 45 § 4; RRS § 10959-4.] Repealed by 1995 c 269 § 201, effective July 1, 1995.

**2.52.050 Duties.** [1987 c 322 § 3; 1981 c 260 § 1. Prior: 1977 ex.s. c 112 § 3; 1977 c 75 § 2; 1925 ex.s. c 45 § 5; RRS § 10959-5.] Repealed by 1995 c 269 § 201, effective July 1, 1995.

## Title 9 CRIMES AND PUNISHMENTS (See also Washington Criminal Code, Title 9A RCW)

### Chapter 9.91

#### MISCELLANEOUS CRIMES

**9.91.090 Fraudulent destruction of insured property.** [1992 c 7 § 17; 1981 c 203 § 4; 1909 c 249 § 384; RRS § 2636. Formerly codified as RCW 9.45.110.] Repealed by 1995 c 285 § 37, effective July 1, 1995.

## Title 9A WASHINGTON CRIMINAL CODE (See also Crimes and Punishments, Title 9 RCW)

### Chapter 9A.82

#### CRIMINAL PROFITEERING ACT (Formerly: Racketeering)

**9A.82.903 Repealed acts—Effective July 1, 1995.** [1985 c 455 § 22.] Repealed by 1995 c 285 § 37, effective July 1, 1995.

## Title 10 CRIMINAL PROCEDURE

### Chapter 10.64

#### JUDGMENTS AND SENTENCES

**10.64.130 Incarceration costs.** [1993 c 355 § 1.] Repealed by 1995 c 221 § 2.

**Title 11**  
**PROBATE AND TRUST LAW**

Chapter 11.95  
**POWERS OF APPOINTMENT**

**11.95.050** Releases—Filing with secretary of state—Fee. [1985 c 30 § 35. Prior: 1955 c 160 § 5. Formerly RCW 64.24.050.] Repealed by 1995 c 91 § 2.

**Title 15**  
**AGRICULTURE AND MARKETING**

Chapter 15.53  
**COMMERCIAL FEED**

**15.53.9036** Procedure for denial, etc., of registration. [1989 c 175 § 51; 1975 1st ex.s. c 257 § 6; 1965 ex.s. c 31 § 15.] Repealed by 1995 c 374 § 46, effective June 30, 1995.

**15.53.905** Repeal of prior law. [1965 ex.s. c 31 § 25.] Decodified pursuant to 1995 c 374 § 47, effective June 30, 1995.

**15.53.9052** Continuation of rules adopted under prior law. [1965 ex.s. c 31 § 22.] Decodified pursuant to 1995 c 374 § 47, effective June 30, 1995.

Chapter 15.58  
**WASHINGTON PESTICIDE CONTROL ACT**

**15.58.410** Moneys to be paid into state treasury. [1971 ex.s. c 190 § 41.] Repealed by 1995 c 374 § 68, effective June 30, 1995.

**Title 18**  
**BUSINESSES AND PROFESSIONS**

Chapter 18.30  
**DENTURISTS**

**18.30.070** Board—Powers and duties. [1995 c 1 § 8 (Initiative Measure No. 607, approved November 8, 1994).] Repealed by 1995 c 198 § 25, effective May 1, 1995.

Chapter 18.130  
**REGULATION OF HEALTH PROFESSIONS—UNIFORM DISCIPLINARY ACT**

**18.130.320** Provider investments and referrals—Conflict of interest standards. [1993 c 492 § 408.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

Savings—1995 c 265: See note following RCW 70.47.015.

**18.130.330** Malpractice insurance coverage mandate—Rules—Report. [1994 c 102 § 1; 1993 c 492 § 412.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

Savings—1995 c 265: See note following RCW 70.47.015.

Chapter 18.145  
**COURT REPORTING PRACTICE ACT**  
(Formerly: Shorthand reporting practice act)

**18.145.060** Advisory board—Participation in disciplinary investigations. [1989 c 382 § 7.] Repealed by 1995 c 27 § 14; and repealed by 1995 c 269 § 505, effective July 1, 1995.

**Title 19**  
**BUSINESS REGULATIONS—  
MISCELLANEOUS**

Chapter 19.85  
**REGULATORY FAIRNESS ACT**

**19.85.060** Small business economic impact statement—When not required. [1989 c 374 § 5.] Repealed by 1995 c 403 § 405.

**Title 21**  
**SECURITIES AND INVESTMENTS**

Chapter 21.17  
**UNIFORM ACT FOR SIMPLIFICATION OF FIDUCIARY SECURITY TRANSFERS**

**21.17.010** Definitions. [1961 c 150 § 1.] Repealed by 1995 c 48 § 52.

**21.17.020** Registration in the name of a fiduciary. [1961 c 150 § 2.] Repealed by 1995 c 48 § 52.

**21.17.030** Assignment by a fiduciary. [1961 c 150 § 3.] Repealed by 1995 c 48 § 52.

**21.17.040** Evidence of appointment or incumbency. [1961 c 150 § 4.] Repealed by 1995 c 48 § 52.

**21.17.050** Adverse claims. [1961 c 150 § 5.] Repealed by 1995 c 48 § 52.

**21.17.060** Nonliability of corporation and transfer agent. [1961 c 150 § 6.] Repealed by 1995 c 48 § 52.

**21.17.070** Nonliability of third persons. [1961 c 150 § 7.] Repealed by 1995 c 48 § 52.

**21.17.080** Territorial application. [1967 c 208 § 1; 1961 c 150 § 8.] Repealed by 1995 c 48 § 52.

**21.17.090** Tax obligations. [1961 c 150 § 9.] Repealed by 1995 c 48 § 52.

**21.17.900** Uniformity of interpretation. [1961 c 150 § 10.] Repealed by 1995 c 48 § 52.

**21.17.910** Short title. [1961 c 150 § 11.] Repealed by 1995 c 48 § 52.

**Title 27**  
**LIBRARIES, MUSEUMS, AND  
HISTORICAL ACTIVITIES**

Chapter 27.14  
**LIBRARY DISTRICT LOCAL IMPROVEMENT DISTRICTS**

**27.14.010** Definitions. [1961 c 162 § 1.] Repealed by 1995 c 368 § 9.

**27.14.015** "Owner," "reputed owner"—Sufficiency of signatures. [1963 c 80 § 5.] Repealed by 1995 c 368 § 9.

**27.14.020** Petition or resolution method authorized—Procedure—Assessments. [1963 c 80 § 1; 1961 c 162 § 2.] Repealed by 1995 c 368 § 9.

**27.14.030** Resolution of intention—Publication—Notice to property owners. [1963 c 80 § 2; 1961 c 162 § 3.] Repealed by 1995 c 368 § 9.



**27.14.035 Hearing—Boundaries—Protests—Divestment of jurisdiction—Powers and duties pursuant to finding for formation.** [1963 c 80 § 3.] Repealed by 1995 c 368 § 9.

**27.14.040 Subsequent proceedings to be in accordance with sewer district law.** [1963 c 80 § 4; 1961 c 162 § 4.] Repealed by 1995 c 368 § 9.

**27.14.050 Chapter may be used in conjunction with regional agreements.** [1961 c 162 § 5.] Repealed by 1995 c 368 § 9.

#### Chapter 27.34

### STATE HISTORICAL SOCIETIES—HISTORIC PRESERVATION

**27.34.300 Bicentennial celebration of maritime accomplishments—Advisory committee.** [1989 c 82 § 2.] Repealed by 1995 c 269 § 601, effective July 1, 1995.

#### Chapter 27.60

### 1989 WASHINGTON CENTENNIAL

**27.60.010 Intent—Commemoration of centennial encouraged.** [1982 c 90 § 1.] Repealed by 1995 c 269 § 701, effective July 1, 1995.

**27.60.020 1989 Washington centennial commission created.** [1985 c 291 § 1; 1984 c 120 § 1; 1982 c 90 § 2.] Repealed by 1995 c 269 § 701, effective July 1, 1995.

**27.60.030 Travel expenses.** [1982 c 90 § 3.] Repealed by 1995 c 269 § 701, effective July 1, 1995.

**27.60.040 Duties of commission—Program for centennial.** [1987 c 195 § 1; 1985 c 291 § 2; 1982 c 90 § 4.] Repealed by 1995 c 269 § 701, effective July 1, 1995.

**27.60.050 Staff for the commission.** [1982 c 90 § 5.] Repealed by 1995 c 269 § 701, effective July 1, 1995.

**27.60.070 Program to observe anniversaries of adoption of federal and state Constitutions.** [1985 c 291 § 4.] Repealed by 1995 c 269 § 701, effective July 1, 1995.

**27.60.090 Use of logos, emblems, slogans, etc., adopted by commission—Limitations—Penalties.** [1986 c 157 § 2.] Repealed by 1995 c 269 § 701, effective July 1, 1995.

**27.60.900 Termination of commission.** [1989 c 82 § 3; 1985 c 268 § 3; 1982 c 90 § 6.] Repealed by 1995 c 269 § 701, effective July 1, 1995.

## Title 28A

### COMMON SCHOOL PROVISIONS

#### Chapter 28A.170

### SUBSTANCE ABUSE AWARENESS PROGRAM

**28A.170.010 Program established—Goals.** [1987 c 518 § 205. Formerly RCW 28A.120.030.] Repealed by 1995 c 335 § 203.

**28A.170.020 Rules—Grants—Program areas eligible for funding.** [1990 c 33 § 153; 1989 c 233 § 5; 1987 c 518 § 206. Formerly RCW 28A.120.032.] Repealed by 1995 c 335 § 203.

**28A.170.030 Application for funding—Procedure.** [1987 c 518 § 207. Formerly RCW 28A.120.034.] Repealed by 1995 c 335 § 203.

**28A.170.040 Application for continued funding—Contents.** [1990 c 33 § 154; 1987 c 518 § 208. Formerly RCW 28A.120.036.] Repealed by 1995 c 335 § 203.

**28A.170.060 Information about programs and penalties—Duties of superintendent of public instruction.** [1994 c 245 § 5; 1989 c 271 § 113; 1987 c 518 § 210. Formerly RCW 28A.120.040.] Repealed by 1995 c 335 § 203.

**28A.170.070 Conflict with federal laws—RCW 28A.170.020 through 28A.170.060.** [1990 c 33 § 155; 1987 c 518 § 211. Formerly RCW 28A.120.050.] Repealed by 1995 c 335 § 203.

**28A.170.100 Promotion of parent and community involvement—Program review.** [1991 c 116 § 24; 1990 c 33 § 159; 1989 c 271 § 313. Formerly RCW 28A.120.086.] Repealed by 1995 c 335 § 605.

#### Chapter 28A.175

### DROPOUT PREVENTION AND RETRIEVAL PROGRAM

**28A.175.020 Intent.** [1987 c 518 § 213. Formerly RCW 28A.120.060.] Repealed by 1995 c 335 § 402.

**28A.175.030 Grants for program development—Distribution of funds.** [1990 c 33 § 160; 1989 c 209 § 1; 1987 c 518 § 214. Formerly RCW 28A.120.062.] Repealed by 1995 c 335 § 402.

**28A.175.040 Priorities in awarding grants—Grants to cooperatives—Limitation on total amount of grants.** [1990 c 33 § 161; 1989 c 209 § 2; 1987 c 518 § 215. Formerly RCW 28A.120.064.] Repealed by 1995 c 335 § 402.

**28A.175.050 Rules.** [1990 c 33 § 162; 1987 c 518 § 217. Formerly RCW 28A.120.068.] Repealed by 1995 c 335 § 402.

**28A.175.060 Task force—Members—Purpose.** [1987 c 518 § 218. Formerly RCW 28A.120.070.] Repealed by 1995 c 335 § 203.

**28A.175.070 Information about programs—Duties of superintendent of public instruction.** [1994 c 245 § 6; 1987 c 518 § 219. Formerly RCW 28A.120.072.] Repealed by 1995 c 335 § 307.

**28A.175.080 High school programs encouraged.** [1989 c 233 § 7. Formerly RCW 28A.120.090.] Repealed by 1995 c 335 § 605.

#### Chapter 28A.180

### TRANSITIONAL BILINGUAL INSTRUCTION PROGRAM

**28A.180.050 Transitional bilingual instruction program—Advisory committee participation.** [1984 c 124 § 4; 1979 c 95 § 4. Formerly RCW 28A.58.806.] Repealed by 1995 c 335 § 605.

**28A.180.070 Transitional bilingual instruction program—School districts may enrich.** [1990 c 33 § 166; 1984 c 124 § 6. Formerly RCW 28A.58.809.] Repealed by 1995 c 335 § 605.

#### Chapter 28A.205

### EDUCATION CENTERS

(Formerly: Educational clinics)

**28A.205.060 Report to legislature by superintendent of public instruction—Contents—Update.** [1993 c 211 § 5; 1985 c 434 § 2. Formerly RCW 28A.97.110.] Repealed by 1995 c 335 § 508.

#### Chapter 28A.210

### HEALTH—SCREENING AND REQUIREMENTS

**28A.210.005 Transfer of duties to the department of health.** [1989 1st ex.s. c 9 § 239. Formerly RCW 28A.31.005.] Repealed by 1995 c 335 § 307.

**28A.210.050 Sight-saving equipment.** [1969 ex.s. c 223 § 28A.31.060. Prior: 1941 c 251 § 1; Rem. Supp. 1941 § 4689-4. Formerly RCW 28A.31.060, 28.31.060.] Repealed by 1995 c 335 § 203.

#### Chapter 28A.215

### EARLY CHILDHOOD, PRESCHOOLS, AND BEFORE-AND-AFTER SCHOOL CARE

**28A.215.300 Voluntary accreditation for preschools—Intent.** [1986 c 150 § 1. Formerly RCW 28A.34.100.] Repealed by 1995 c 335 § 307.

**28A.215.310 Definition of preschool.** [1990 c 33 § 216; 1986 c 150 § 2. Formerly RCW 28A.34.110.] Repealed by 1995 c 335 § 307.

**28A.215.320 Standards for accreditation—Option to establish advisory committee.** [1986 c 150 § 3. Formerly RCW 28A.34.120.] Repealed by 1995 c 335 § 307.

**28A.215.330 Voluntary accreditation of preschools—Prohibited practices by public or nonpublic entities.** [1990 c 33 § 217; 1986 c 150 § 4. Formerly RCW 28A.34.130.] Repealed by 1995 c 335 § 307.

#### Chapter 28A.225

##### COMPULSORY SCHOOL ATTENDANCE AND ADMISSION

**28A.225.040 School district superintendent to provide teacher with census—Report of truants, incorrigibles.** [1990 c 33 § 221; 1969 ex.s. c 223 § 28A.27.030. Prior: 1909 c 97 p 367 § 6; RRS § 5077; prior: 1907 c 231 § 6; 1905 c 162 § 6; 1903 c 48 §§ 2, 3, 4. Formerly RCW 28A.27.030, 28.27.030.] Repealed by 1995 c 312 § 86.

**28A.225.050 Attendance enforcement officers—Authority—Record and report.** [1990 c 33 § 222; 1986 c 132 § 4; 1975 1st ex.s. c 275 § 56; 1971 c 48 § 9; 1969 ex.s. c 176 § 105; 1969 ex.s. c 223 § 28A.27.040. Prior: 1909 c 97 p 365 § 4; RRS § 5075; prior: 1907 c 231 § 4; 1905 c 162 § 4. Formerly RCW 28A.27.040, 28.27.040, 28.27.050 and 28.27.060.] Repealed by 1995 c 312 § 86.

**28A.225.070 Annual notice of chapter provisions by ESD superintendent—Superintendent's report—Penalty for false or failure to report.** [1990 c 33 § 224; 1975 1st ex.s. c 275 § 57; 1969 ex.s. c 176 § 106; 1969 ex.s. c 223 § 28A.27.080. Prior: 1909 c 97 p 367 § 9; RRS § 5080; prior: 1907 c 231 § 9. Formerly RCW 28A.27.080, 28.27.080, and 28.87.040.] Repealed by 1995 c 312 § 86.

**28A.225.100 Penalty for nonperformance of duty—Disposition of fines.** [1990 c 33 § 227; 1987 c 202 § 190; 1975 1st ex.s. c 275 § 58; 1970 ex.s. c 15 § 14. Prior: 1969 ex.s. c 199 § 53; 1969 ex.s. c 176 § 107; 1969 ex.s. c 223 § 28A.27.102; prior: 1909 p 368 § 10; RRS § 5081; 1907 c 231 § 10; 1905 c 162 § 10; 1903 c 48 § 7. Formerly RCW 28A.27.102, 28.27.102, 28.27.100, part.] Repealed by 1995 c 312 § 86.

**28A.225.120 Prosecuting attorney or attorney for district to act for complainant.** [1990 c 33 § 229; 1986 c 132 § 6; 1979 ex.s. c 201 § 7; 1969 ex.s. c 223 § 28A.27.110. Prior: 1909 c 97 p 367 § 8; RRS § 5079; prior: 1901 c 177 § 19; 1899 c 142 § 25; 1897 c 118 § 177; 1890 p 382 § 83. Formerly RCW 28A.27.110, 28.27.110.] Repealed by 1995 c 312 § 86.

**28A.225.130 Courts have concurrent jurisdiction.** [1990 c 33 § 230; 1987 c 202 § 192; 1969 ex.s. c 223 § 28A.27.120. Prior: 1909 c 97 p 367 § 7; RRS § 5078; prior: 1907 c 231 § 7; 1905 c 162 § 7. Formerly RCW 28A.27.120, 28.27.120.] Repealed by 1995 c 312 § 86.

**28A.225.150 Reports by school district attendance officers—Compilation of information and reports.** [1992 c 205 § 205; 1990 c 33 § 232; 1986 c 132 § 7. Formerly RCW 28A.27.140.] Repealed by 1995 c 312 § 86.

**28A.225.180 Children on United States reservations, admission to schools—Census by school district superintendent of contiguous district.** [1990 c 33 § 233; 1969 ex.s. c 223 § 28A.58.215. Prior: 1925 ex.s. c 93 § 3; RRS § 4680-3. Formerly RCW 28A.58.215, 28.58.215.] Repealed by 1995 c 335 § 508.

**28A.225.190 Reimbursing district for educating children of employees of municipal light plant.** [1969 ex.s. c 223 § 28A.58.220. Prior: 1929 c 77 § 1; RRS § 4680-5. Formerly RCW 28A.58.220, 28.58.220.] Repealed by 1995 c 335 § 203.

**28A.225.320 Information on student transfers—Reports.** [1990 1st ex.s. c 9 § 210.] Repealed by 1995 c 335 § 508.

#### Chapter 28A.234

##### GOVERNOR'S COUNCIL ON ENVIRONMENTAL EDUCATION

**28A.234.010 Fish and wildlife management—Environmental education—Funding—Support.** [1993 sp.s. c 4 § 15.] Repealed by 1995 c 335 § 307.

#### Chapter 28A.240

##### SCHOOL-BASED MANAGEMENT

**28A.240.010 Pilot projects in school-based management—Superintendent's duties.** [1990 c 33 § 248; 1985 c 422 § 2. Formerly RCW 28A.03.423.] Repealed by 1995 c 335 § 402.

**28A.240.020 Pilot projects in school-based management—Legislative findings and intent.** [1985 c 422 § 1. Formerly RCW 28A.58.081.] Repealed by 1995 c 335 § 402.

**28A.240.030 Pilot projects in school-based management—School site councils required—School improvement plan.** [1990 c 33 § 249; 1985 c 422 § 3. Formerly RCW 28A.58.082.] Repealed by 1995 c 335 § 402.

#### Chapter 28A.300

##### SUPERINTENDENT OF PUBLIC INSTRUCTION

**28A.300.110 Model curriculum programs or curriculum guidelines—Development—Review.** [1990 c 33 § 255; 1987 1st ex.s. c 2 § 208; 1987 c 197 § 1; 1984 c 278 § 5. Formerly RCW 28A.03.425.] Repealed by 1995 c 335 § 402.

**28A.300.180 Minority teacher recruitment program—Grants.** [1989 c 146 § 3. Formerly RCW 28A.67.270.] Repealed by 1995 c 335 § 402.

**28A.300.200 Teacher exchange programs.** [1991 c 128 § 13; 1990 c 243 § 9.] Repealed by 1995 c 335 § 402.

**28A.300.210 Energy conservation—Report to legislature.** [1991 c 201 § 18.] Repealed by 1995 c 335 § 508.

#### Chapter 28A.305

##### STATE BOARD OF EDUCATION

**28A.305.230 Program standards for professional programs—Instruction in child abuse issues encouraged.** [1985 c 419 § 1. Formerly RCW 28A.04.165.] Repealed by 1995 c 222 § 2.

**28A.305.240 Professional development preparation—Enhancement of agreements between schools or school districts and institutions of higher education.** [1990 c 33 § 268; 1987 c 525 § 217. Formerly RCW 28A.04.176.] Repealed by 1995 c 222 § 2.

**28A.305.245 Teacher preparation program faculty—Instruction in K-12 classrooms.** [1991 c 259 § 3.] Repealed by 1995 c 222 § 2.

**28A.305.250 Review of interstate reciprocity provisions for consistency with professional educator requirements—Advice to governor and legislature.** [1990 c 33 § 269; 1989 c 11 § 4; 1987 c 525 § 226. Formerly RCW 28A.04.178.] Repealed by 1995 c 222 § 2.

#### Chapter 28A.310

##### EDUCATIONAL SERVICE DISTRICTS

**28A.310.380 Funds combined into district general expense fund—Distribution formula when county part of more than one district—Distribution if change of district boundaries.** [1975 1st ex.s. c 275 § 32; 1971 ex.s. c 282 § 23; 1969 ex.s. c 176 § 16. Formerly RCW 28A.21.160, 28.19.575.] Repealed by 1995 c 335 § 113.

#### Chapter 28A.335

##### SCHOOL DISTRICTS' PROPERTY

**28A.335.310 Affordable housing—Inventory of suitable property.** [1993 c 461 § 3.] Repealed by 1995 c 335 § 508.

#### Chapter 28A.340

##### SMALL HIGH SCHOOL COOPERATIVE PROJECTS

**28A.340.050 Report to the superintendent of public instruction—Report to the legislature.** [1990 c 33 § 370; 1988 c 268 § 7. Formerly RCW 28A.100.088.] Repealed by 1995 c 335 § 508.

**Chapter 28A.400****EMPLOYEES**

**28A.400.150** Officials and employees to deliver books, papers and moneys to successors. [1990 c 33 § 380; 1969 ex.s. c 223 § 28A.58.170. Prior: 1909 c 97 p 288 § 10; RRS § 4785; prior: 1897 c 118 § 60; 1890 p 386 § 69. Formerly RCW 28A.58.170, 28.58.170.] Repealed by 1995 c 335 § 703.

**Chapter 28A.405****CERTIFICATED EMPLOYEES**

**28A.405.010** Qualifications—Certificate or permit required. [1969 ex.s. c 223 § 28A.67.010. Prior: 1909 c 97 p 306 § 1; RRS § 4844; prior: 1907 c 240 § 6; 1897 c 118 § 51; 1891 c 127 § 14; 1890 p 369 § 37; 1886 p 18 § 47; 1873 p 430 § 15. Formerly RCW 28A.67.010, 28.67.010.] Recodified as RCW 28A.410.025 pursuant to 1995 c 335 § 305.

**28A.405.025** Qualifications—Coursework on issues of abuse. [1990 c 90 § 1.] Recodified as RCW 28A.410.035 pursuant to 1995 c 335 § 305.

**28A.405.150** Minimum standards for evaluations—Superintendent of public instruction to develop minimum procedural standards and programs—Establishment and implementation of programs—Reports. [1990 c 33 § 388; 1988 c 241 § 1; 1986 c 73 § 1; 1985 c 420 § 7. Formerly RCW 28A.67.225.] Repealed by 1995 c 335 § 203.

**28A.405.160** Implementation of minimum standards and model evaluation programs—Superintendent of public instruction to assist. [1990 c 33 § 389; 1985 c 420 § 8. Formerly RCW 28A.67.230.] Repealed by 1995 c 335 § 203.

**Chapter 28A.410****CERTIFICATION**

**28A.410.030** Individual assessment for candidates for initial certification—Rules—Fees. [1993 c 336 § 801; 1991 c 116 § 21; 1987 c 525 § 203. Formerly RCW 28A.70.010.] Repealed by 1995 c 222 § 2.

**Chapter 28A.415****INSTITUTES, WORKSHOPS, AND TRAINING**

(Formerly: Teachers' institutes, workshops, and other in-service training)

**28A.415.050** In-service training programs—Instruction on teaching skills to children to resist and report abuse. [1985 c 419 § 2. Formerly RCW 28A.71.220.] Repealed by 1995 c 335 § 605.

**28A.415.110** Cooperating teachers. [1991 c 258 § 3.] Repealed by 1995 c 335 § 402.

**28A.415.115** Salary stipends for cooperating teachers. [1991 c 258 § 4.] Repealed by 1995 c 335 § 402.

**28A.415.120** Application of RCW 28A.415.110 and 28A.415.115. [1991 c 258 § 5.] Repealed by 1995 c 335 § 405.

**28A.415.220** Teachers recruiting future teachers program. [1993 c 217 § 1; 1991 c 252 § 1. Formerly RCW 28A.300.260.] Repealed by 1995 c 335 § 402.

**28A.415.290** Administrator internship task force. [1993 c 336 § 406.] Repealed by 1995 c 222 § 2; and repealed by 1995 c 335 § 203.

**Chapter 28A.600****STUDENTS**

**28A.600.425** Fair start program—Definitions. [1992 c 196 § 2.] Repealed by 1995 c 335 § 402.

**28A.600.430** Fair start program—Established—Distribution of funds—Cooperative administration by two or more school districts—Administration by educational service district. [1992 c 196 § 3.] Repealed by 1995 c 335 § 402.

**28A.600.435** Fair start program—Information required from districts accepting funds—Written interagency agreements. [1992 c 196 § 4.] Repealed by 1995 c 335 § 402.

**28A.600.440** Fair start program—Prevention and intervention services—Information regarding health care. [1992 c 196 § 5.] Repealed by 1995 c 335 § 402.

**28A.600.445** Fair start program—Rules. [1992 c 196 § 6.] Repealed by 1995 c 335 § 402.

**28A.600.450** Fair start program—Information to districts on use of funds or establishment of interagency agreements. [1992 c 196 § 7.] Repealed by 1995 c 335 § 402.

**Chapter 28A.610****PROJECT EVEN START**

**28A.610.010** Intent—Short title. [1995 c 335 § 301; 1990 c 33 § 505; 1987 c 518 § 104. Formerly RCW 28A.130.010.] Recodified as RCW 28B.06.010 pursuant to 1995 c 335 § 306.

**28A.610.020** Definitions. [1995 c 335 § 302; 1990 c 33 § 506; 1987 c 518 § 105. Formerly RCW 28A.130.012.] Recodified as RCW 28B.06.020 pursuant to 1995 c 335 § 306.

**28A.610.030** Adult literacy program—Basic skills instruction—Credit toward work and training requirement—Rules. [1995 c 335 § 303; 1990 c 33 § 507; 1987 c 518 § 106. Formerly RCW 28A.130.014.] Recodified as RCW 28B.06.030 pursuant to 1995 c 335 § 306.

**28A.610.040** Preference for existing programs before developing new programs. [1987 c 518 § 107. Formerly RCW 28A.130.016.] Recodified as RCW 28B.06.040 pursuant to 1995 c 335 § 306.

**28A.610.050** Reports to legislature. [1987 c 518 § 108. Formerly RCW 28A.130.018.] Recodified as RCW 28B.06.050 pursuant to 1995 c 335 § 306.

**Chapter 28A.615****SCHOOL INVOLVEMENT PROGRAMS**

**28A.615.060** Six-plus-sixty volunteer program—Grants—Advisory committee. [1989 c 310 § 1. Formerly RCW 28A.03.550.] Repealed by 1995 c 335 § 402.

**Chapter 28A.625****AWARDS**

**28A.625.300** Grants—Advisory committee—Information clearinghouse. [1985 c 349 § 4. Formerly RCW 28A.67.115.] Repealed by 1995 c 335 § 402.

**Chapter 28A.630****TEMPORARY PROVISIONS—SPECIAL PROJECTS**

**28A.630.070** All kids can learn incentive grants—Created. [1990 c 148 § 2.] Repealed by 1995 c 335 § 402.

**28A.630.075** All kids can learn incentive grants—Terms. [1990 c 148 § 3.] Repealed by 1995 c 335 § 402.

**28A.630.090** Expiration dates—1987 c 401. [1990 c 33 § 524; 1987 c 401 § 11. Formerly RCW 28A.100.025.] Repealed by 1995 c 335 § 203.

**28A.630.091** Severability—1987 c 401. [1987 c 401 § 13. Formerly RCW 28A.100.026.] Repealed by 1995 c 335 § 203.

**28A.630.300** Legislative findings—Intent. [1987 c 349 § 1. Formerly RCW 28A.125.010.] Repealed by 1995 c 335 § 402.

**28A.630.320** Grant program—Application procedure. [1990 c 33 § 534; 1987 c 349 § 3. Formerly RCW 28A.125.030.] Repealed by 1995 c 335 § 402.

**28A.630.330** Rules. [1990 c 33 § 535; 1987 c 349 § 4. Formerly RCW 28A.125.040.] Repealed by 1995 c 335 § 402.

**28A.630.390 Severability—1987 c 349.** [1987 c 349 § 7. Formerly RCW 28A.125.900.] Repealed by 1995 c 335 § 402.

**28A.630.750 Findings—Purpose.** [1991 c 346 § 1.] Repealed by 1995 c 335 § 203.

**28A.630.753 Short title.** [1991 c 346 § 2.] Repealed by 1995 c 335 § 203.

**28A.630.756 Definitions.** [1991 c 346 § 3.] Repealed by 1995 c 335 § 203.

**28A.630.759 Project DREAM.** [1991 c 346 § 4.] Repealed by 1995 c 335 § 203.

**28A.630.762 Districts' responsibilities.** [1991 c 346 § 5.] Repealed by 1995 c 335 § 203.

**28A.630.765 Adult advisors.** [1991 c 346 § 6.] Repealed by 1995 c 335 § 203.

**28A.630.768 Students' responsibilities.** [1991 c 346 § 7.] Repealed by 1995 c 335 § 203.

**28A.630.771 Reporting requirements.** [1991 c 346 § 8.] Repealed by 1995 c 335 § 203.

**28A.630.774 Superintendent's duties.** [1991 c 346 § 9.] Repealed by 1995 c 335 § 203.

**28A.630.777 Collection and dissemination of information.** [1991 c 346 § 10.] Repealed by 1995 c 335 § 203.

**28A.630.780 Technical support from state agencies.** [1991 c 346 § 11.] Repealed by 1995 c 335 § 203.

**28A.630.783 Rules.** [1991 c 346 § 12.] Repealed by 1995 c 335 § 203.

**28A.630.786 Contingency.** [1991 c 346 § 13.] Repealed by 1995 c 335 § 203.

**28A.630.789 Severability—1991 c 346.** [1991 c 346 § 14.] Repealed by 1995 c 335 § 203.

**28A.630.800 Career ladders—Legislative intent to investigate.** [1985 c 349 § 3. Formerly RCW 28A.67.120.] Repealed by 1995 c 335 § 203.

## Title 28B

### HIGHER EDUCATION

#### Chapter 28B.15

##### COLLEGE AND UNIVERSITY FEES

**28B.15.202 Tuition and fees—University of Washington and Washington State University—Building fees—Services and activities fee.** [1993 sp.s. c 18 § 8; 1993 c 379 § 202; 1992 c 231 § 7; 1985 c 390 § 19; 1982 1st ex.s. c 37 § 18; 1981 c 257 § 6.] Repealed by 1995 1st sp.s. c 9 § 13. Later enactment, see RCW 28B.15.067 and 28B.15.069.

**28B.15.402 Tuition and fees—Regional universities and The Evergreen State College—Building fees—Services and activities fees.** [1993 sp.s. c 18 § 11; 1993 c 379 § 203; 1992 c 231 § 10; 1989 c 245 § 1; 1985 c 390 § 24; 1982 1st ex.s. c 37 § 19; 1981 c 257 § 7.] Repealed by 1995 1st sp.s. c 9 § 13. Later enactment, see RCW 28B.15.067 and 28B.15.069.

**28B.15.502 Tuition and fees—Community colleges—Building fees—Services and activities fees—Fees for summer school and certain courses.** [1993 sp.s. c 18 § 12; 1993 c 379 § 204; 1992 c 231 § 11; 1991 c 353 § 2; 1985 c 390 § 25; 1982 1st ex.s. c 37 § 10; 1981 c 257 § 8.] Repealed by 1995 1st sp.s. c 9 § 13. Later enactment, see RCW 28B.15.067 and 28B.15.069.

#### Chapter 28B.35

##### REGIONAL UNIVERSITIES

**28B.35.380 Extension departments.** [1977 ex.s. c 169 § 60. Prior: 1975 1st ex.s. c 275 § 147; 1969 ex.s. c 176 § 155; 1969 ex.s. c 223 § 28B.40.380; prior: 1965 c 139 § 23; 1917 c 128 § 5; RRS § 4617. Formerly RCW 28B.40.380, part; 28.81.100, 28.71.080, 28.81.050, part.] Repealed by 1995 c 222 § 2.

#### Chapter 28B.40

##### THE EVERGREEN STATE COLLEGE

**28B.40.380 Extension departments.** [1977 ex.s. c 169 § 80; 1975 1st ex.s. c 275 § 147; 1969 ex.s. c 176 § 155; 1969 ex.s. c 223 § 28B.40.380. Prior: 1965 c 139 § 23; 1917 c 128 § 5; RRS § 4617. Formerly RCW 28.81.100, 28.71.080, 28.81.050, part.] Repealed by 1995 c 222 § 2.

#### Chapter 28B.80

##### HIGHER EDUCATION COORDINATING BOARD

(Formerly: Council for postsecondary education in the state of Washington)

**28B.80.550 Advisory committee on access to education for students with disabilities.** [1991 c 228 § 7.] Repealed by 1995 c 269 § 901, effective July 1, 1995.

**28B.80.555 Advisory committee—Duties.** [1991 c 228 § 8.] Repealed by 1995 c 269 § 901, effective July 1, 1995.

#### Chapter 28B.102

##### FUTURE TEACHERS CONDITIONAL SCHOLARSHIP PROGRAM

**28B.102.900 Conditional scholarships authorized until June 30, 1995.** [1994 c 126 § 4; 1987 c 437 § 9.] Repealed by 1995 c 217 § 2.

## Title 29

### ELECTIONS

#### Chapter 29.19

##### PRESIDENTIAL PREFERENCE PRIMARY

**29.19.040 Ballot—Arrangement and form.** [1989 c 4 § 4 (Initiative Measure No. 99).] Repealed by 1995 1st sp.s. c 20 § 6.

**29.19.050 Primary procedures—Ballot requests.** [1989 c 4 § 5 (Initiative Measure No. 99).] Repealed by 1995 1st sp.s. c 20 § 6.

**29.19.060 Allocation of delegates—Commitment—Vacancies.** [1989 c 4 § 6 (Initiative Measure No. 99).] Repealed by 1995 1st sp.s. c 20 § 6.

#### Chapter 29.51

##### POLLING PLACE REGULATIONS DURING VOTING HOURS

**29.51.170 Write-in voting—Declaration of candidacy—Validity of vote.** [1995 c 158 § 2; 1988 c 181 § 5; 1973 1st ex.s. c 121 § 1; 1967 ex.s. c 109 § 28; 1965 ex.s. c 101 § 14; 1965 c 9 § 29.51.170. Prior: (i) 1931 c 14 § 1; 1909 c 82 § 12; RRS § 5213. (ii) 1933 c 85 § 2; RRS § 5213-2. (iii) 1905 c 39 § 1, part; 1889 p 405 § 15, part; RRS § 5272, part.] Recodified as RCW 29.62.180 pursuant to 1995 c 158 § 3.

#### Chapter 29.62

##### CANVASSING THE RETURNS

**29.62.140 Canvass in commission form cities.** [1965 c 9 § 29.62.140. Prior: 1943 c 25 § 2, part; 1911 c 116 § 7, part; Rem. Supp. 1943 § 9096, part. See also RCW 29.04.010 and 29.13.040.] Repealed by 1995 c 139 § 4.

## Title 34 ADMINISTRATIVE LAW

### Chapter 34.05

#### ADMINISTRATIVE PROCEDURE ACT

**34.05.355 Concise explanatory statement.** [1994 c 249 § 8; 1988 c 288 § 310.] Repealed by 1995 c 403 § 305.

### Chapter 34.12

#### OFFICE OF ADMINISTRATIVE HEARINGS

**34.12.042 Exclusion of certain hearings by utilities and transportation commission.** [1982 c 189 § 13.] Repealed by 1995 c 331 § 4.

## Title 35 CITIES AND TOWNS

### Chapter 35.23

#### SECOND CLASS CITIES

**35.23.310 Ordinances—Publication—Summary—Copy as evidence—Public notice of hearings and meeting agendas.** [1994 c 273 § 8; 1988 c 168 § 2; 1965 c 7 § 35.23.310. Prior: (i) 1907 c 241 § 57, part; 1890 p 158 § 47; RRS § 9060, part. (ii) 1907 c 241 § 58, part; 1890 p 158 § 48; RRS § 9061, part.] Repealed by 1994 c 81 § 89; and repealed by 1995 c 134 § 16.

## Title 36 COUNTIES

### Chapter 36.32

#### COUNTY COMMISSIONERS

**36.32.213 Inventory of county personal property—Inventory by board.** [1963 c 4 § 36.32.213. Prior: 1931 c 95 § 2; RRS § 4056-2. Formerly RCW 36.32.210, part.] Repealed by 1995 c 194 § 10.

### Chapter 36.70A

#### GROWTH MANAGEMENT—PLANNING BY SELECTED COUNTIES AND CITIES

**36.70A.065 Development regulations—Requirements.** [1995 c 347 § 410; 1995 c 347 § 409; 1994 c 257 § 3.] Recodified as RCW 36.70B.080 pursuant to 1995 c 347 § 432.

**36.70A.440 Development permit applications—Notice to applicant.** [1995 c 347 § 408; 1994 c 257 § 4.] Recodified as RCW 36.70B.070 pursuant to 1995 c 347 § 432.

### Chapter 36.110

#### JAIL INDUSTRIES PROGRAM

**36.110.040 Board of directors—Advice to cities and counties—Guidelines for coordination of programs.** [1993 c 285 § 4.] Repealed by 1995 c 154 § 6.

## Title 39 PUBLIC CONTRACTS AND INDEBTEDNESS

### Chapter 39.16

#### RESIDENT EMPLOYEES ON PUBLIC WORKS

**39.16.005 Employment of resident employees—Percentage specified—Wages.** [1977 ex.s. c 187 § 1; 1973 1st ex.s. c 29 § 1; 1972 ex.s. c 28 § 1.] Repealed by 1995 c 164 § 1.

**39.16.020 Procedure when resident labor unavailable.** [1977 ex.s. c 187 § 2; 1943 c 246 § 2; Rem. Supp. 1943 § 10322-10b.] Repealed by 1995 c 164 § 1.

**39.16.030 Provisions to be written into contract—Civil penalty.** [1943 c 246 § 3; Rem. Supp. 1943 § 10322-10c.] Repealed by 1995 c 164 § 1.

**39.16.040 Criminal penalty.** [1943 c 246 § 4; Rem. Supp. 1943 § 10322-10d.] Repealed by 1995 c 164 § 1.

### Chapter 39.19

#### OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES

**39.19.040 Advisory committee on minority and women's business enterprises—Membership—Terms—Travel expenses—Quorum.** [1985 c 466 § 45; 1983 c 120 § 4.] Repealed by 1995 c 269 § 1301, effective July 1, 1995.

### Chapter 39.34

#### INTERLOCAL COOPERATION ACT

**39.34.120 Duty to submit certain agreements to the office of community affairs—Comments.** [1967 c 239 § 13.] Repealed by 1995 c 22 § 2.

## Title 41 PUBLIC EMPLOYMENT, CIVIL SERVICE AND PENSIONS

### Chapter 41.04

#### GENERAL PROVISIONS

**41.04.250 Deferred compensation plans authorized for public employees—Types of investments.** [1981 c 256 § 2; 1975 1st ex.s. c 274 § 2; 1973 1st ex.s. c 99 § 1; 1972 ex.s. c 19 § 1; 1971 ex.s. c 264 § 1.] Repealed by 1995 c 239 § 326, effective July 1, 1996.

**41.04.255 Individual retirement account plans authorized—Administration of medical benefits plan.** [1991 c 249 § 2; 1982 c 107 § 2.] Repealed by 1995 c 239 § 326, effective July 1, 1996.

**41.04.260 Committee for deferred compensation—Generally.** [1993 c 34 § 2; 1991 sp.s. c 13 § 101. Prior: 1987 c 475 § 11; 1987 c 121 § 1; 1985 c 57 § 23; 1984 c 242 § 1; 1983 c 226 § 1; 1981 c 256 § 3; 1975-'76 2nd ex.s. c 34 § 84; 1975 1st ex.s. c 274 § 1.] Repealed by 1995 c 239 § 326, effective July 1, 1996.

### Chapter 41.05

#### STATE HEALTH CARE AUTHORITY (Formerly: State employees' insurance and health care)

**41.05.200 Washington state group purchasing association—Generally.** [1993 c 492 § 228.] Repealed by 1995 1st sp.s. c 6 § 9, effective July 1, 1995.

**41.05.210 Washington state group purchasing association—Marketing plan.** [1993 c 492 § 229.] Repealed by 1995 1st sp.s. c 6 § 9, effective July 1, 1995.

**41.05.240 American Indian health care delivery plan.** [1995 c 43 § 4; 1993 c 492 § 468.] Recodified as RCW 43.70.590 pursuant to 1995 c 43 § 5, effective July 1, 1995.

**Reviser's note:** This section was also repealed by 1995 1st sp.s. c 6 § 9 without cognizance of the recodification and amendment thereof. For rule of construction concerning sections amended and repealed in the same legislative session, see RCW 1.12.025.

**41.05.240 American Indian health care delivery plan.** [1993 c 492 § 468.] Repealed by 1995 1st sp.s. c 6 § 9, effective July 1, 1995.

**Reviser's note:** This section was also amended and recodified as RCW 43.70.590 by 1995 c 43 without cognizance of the repeal thereof. For rule of construction concerning sections amended and repealed in the same legislative session, see RCW 1.12.025.

#### Chapter 41.06

##### STATE CIVIL SERVICE LAW

**41.06.089 Department of trade and economic development—Certain personnel exempted from chapter.** [1985 c 466 § 15.] Decodified pursuant to 1995 c 399 § 220.

#### Chapter 41.32

##### TEACHERS' RETIREMENT

**41.32.487 Minimum retirement allowance—Annual cost-of-living adjustment.** [1989 c 272 § 6; 1987 c 455 § 3.] Repealed by 1995 c 345 § 11.

**41.32.4871 Monthly benefit—Temporary increase—Conditions.** [1993 c 519 § 2.] Repealed by 1995 c 345 § 11.

**41.32.488 Annual cost-of-living adjustment not contractual entitlement.** [1987 c 455 § 5.] Decodified pursuant to 1995 c 345 § 12.

**41.32.499 Service retirement allowance adjustments based on cost-of-living factors.** [1991 c 35 § 56; 1973 2nd ex.s. c 32 § 1; 1973 1st ex.s. c 189 § 9.] Repealed by 1995 c 345 § 11.

**41.32.575 Cost-of-living adjustment—Adjustment ratio determined—Information compiled.** [1994 c 247 § 3; 1989 c 272 § 3.] Repealed by 1995 c 345 § 11.

**41.32.775 Employer and member contributions.** [1990 c 274 § 9; 1989 c 273 § 19; 1986 c 268 § 2; 1984 c 184 § 11; 1977 ex.s. c 293 § 6.] Repealed by 1995 c 239 § 326, effective July 1, 1996.

#### Chapter 41.40

##### WASHINGTON PUBLIC EMPLOYEES' RETIREMENT SYSTEM

**41.40.045 Employer's additional contribution.** [1989 c 273 § 22; 1986 c 268 § 4; 1973 1st ex.s. c 190 § 13; 1972 ex.s. c 151 § 14; 1971 ex.s. c 271 § 11; 1963 c 174 § 15; 1961 c 291 § 11; 1957 c 231 § 4. Prior: 1953 c 200 § 18; 1951 c 50 § 12; 1949 c 240 § 25; 1947 c 274 § 37; Rem. Supp. 1949 § 11072-37. Formerly RCW 41.40.361.] Repealed by 1995 c 286 § 6.

**41.40.195 Adjustment in pension portion of service retirement allowance for prior pensions.** [1991 c 35 § 79; 1973 2nd ex.s. c 14 § 1; 1973 1st ex.s. c 190 § 11; 1971 ex.s. c 271 § 6; 1970 ex.s. c 68 § 1.] Repealed by 1995 c 345 § 11.

**41.40.198 Minimum retirement allowance—Computation.** [1989 c 272 § 8; 1987 c 455 § 2; 1986 c 306 § 3; 1979 ex.s. c 96 § 1.] Repealed by 1995 c 345 § 11.

**41.40.1981 Minimum retirement allowance—Annual cost-of-living adjustment.** [1989 c 272 § 9; 1987 c 455 § 4.] Repealed by 1995 c 345 § 11.

**41.40.1983 Monthly benefit—Temporary increase—Conditions.** [1993 c 519 § 3.] Repealed by 1995 c 345 § 11.

**41.40.325 Cost-of-living adjustment—Adjustment ratio determined—Information compiled.** [1994 c 247 § 6; 1989 c 272 § 2.] Repealed by 1995 c 345 § 11.

#### Chapter 41.45

##### ACTUARIAL FUNDING OF STATE RETIREMENT SYSTEMS

**41.45.040 Adoption of economic assumptions and contribution rates.** [1993 c 519 § 18; 1989 c 273 § 4.] Repealed by 1995 c 233 § 3; and repealed by 1995 c 239 § 326, effective July 1, 1996.

**41.45.0601 Basic state contribution rate September 1, 1992, through August 31, 1993.** [1993 c 519 § 20; 1992 c 239 § 1.] Repealed by 1995 c 233 § 3; and repealed by 1995 c 239 § 326, effective July 1, 1996.

**41.45.901 Effective dates—1989 c 273.** [1989 c 273 § 33.] Repealed by 1995 c 239 § 326, effective July 1, 1996.

#### Chapter 41.50

##### DEPARTMENT OF RETIREMENT SYSTEMS

**41.50.032 Transfer of powers, duties, and functions of certain boards to director of retirement systems—State advisory committee created—Chairperson—Subcommittees—Disability appeals.** [1984 c 184 § 15; 1982 c 163 § 9.] Repealed by 1995 c 239 § 326, effective July 1, 1996.

**41.50.250 Department of retirement systems expense fund created—Report to employers—Billings—Appropriation requests.** [1991 c 35 § 72; 1989 c 273 § 21; 1981 c 3 § 32; 1969 c 128 § 4; 1963 c 174 § 6; 1955 c 220 § 2; 1953 c 200 § 3; 1949 c 240 § 5; 1947 c 274 § 9; Rem. Supp. 1949 § 11072-9. Formerly RCW 41.40.080.] Repealed by 1995 c 239 § 326, effective July 1, 1996.

#### Chapter 41.56

##### PUBLIC EMPLOYEES' COLLECTIVE BARGAINING

**41.56.460 Uniformed personnel—Interest arbitration panel—Basis for determination.** [1993 c 517 § 10; 1993 c 502 § 5; 1993 c 398 § 2; 1993 c 397 § 2; 1988 c 110 § 1; 1987 c 521 § 2; 1983 c 287 § 4; 1979 ex.s. c 184 § 3; 1973 c 131 § 5.] Repealed by 1995 c 273 § 4, effective July 1, 1995.

## Title 42

### PUBLIC OFFICERS AND AGENCIES

#### Chapter 42.17

##### DISCLOSURE—CAMPAIGN FINANCES—LOBBYING—RECORDS

**42.17.021 Additional definitions.** [1993 c 2 § 30 (Initiative Measure No. 134, approved November 3, 1992).] Repealed by 1995 c 397 § 34, effective July 1, 1995.

**42.17.2415 Reporting gifts.** [1991 sp.s. c 18 § 3.] Repealed by 1995 c 397 § 34, effective July 1, 1995.

**42.17.630 Definitions.** [1993 c 2 § 3 (Initiative Measure No. 134, approved November 3, 1992).] Repealed by 1995 c 397 § 34, effective July 1, 1995.

#### Chapter 42.52

##### ETHICS IN PUBLIC SERVICE

**42.52.210 Sworn statement of relationship or interest in certain business entities required—Confidentiality.** [1959 c 320 § 5. Formerly RCW 42.22.050.] Repealed by 1995 c 397 § 34, effective July 1, 1995.

## Title 43

## STATE GOVERNMENT—EXECUTIVE

## Chapter 43.09

## STATE AUDITOR

**43.09.030 Assistant—Powers—Bond—Oath.** [1965 c 8 § 43.09.030. Prior: 1909 ex.s. c 22 § 1; RRS § 10998.] Repealed by 1995 c 301 § 79.

**43.09.040 Deputy—Oath.** [1965 c 8 § 43.09.040. Prior: 1949 c 62 § 1; 1890 p 635 § 3; Rem. Supp. 1949 § 10999; prior: Code 1881 § 2568.] Repealed by 1995 c 301 § 79.

**43.09.190 Division of municipal corporations.** [1965 c 8 § 43.09.190. Prior: (i) 1921 c 7 § 49; RRS § 10807. (ii) 1921 c 7 § 52; RRS § 10810. (iii) 1921 c 7 § 55; RRS § 10813. (iv) 1927 c 280 § 11; 1925 c 18 § 11; RRS § 11101.] Repealed by 1995 c 301 § 79.

**43.09.250 Division of municipal corporations—Appointment of examiners—Contracts with certified public accountants.** [1988 c 52 § 1; 1965 c 8 § 43.09.250. Prior: 1963 c 209 § 3; 1919 c 119 § 1; 1911 c 30 § 1; 1909 c 76 § 7; RRS § 9957.] Repealed by 1995 c 301 § 79.

**43.09.300 Post-audit of state departments—Division of departmental audits—Chief examiner—Appointment of state examiners—Contracts with certified public accountants.** [1988 c 53 § 1; 1965 c 8 § 43.09.300. Prior: 1941 c 196 § 2; Rem. Supp. 1941 § 11018-2.] Repealed by 1995 c 301 § 79.

## Chapter 43.17

ADMINISTRATIVE DEPARTMENTS AND AGENCIES—  
GENERAL PROVISIONS

**43.17.260 Commission for efficiency and accountability—Generally.** [1987 c 480 § 1.] Repealed by 1995 c 269 § 2401, effective July 1, 1995.

**43.17.270 Commission for efficiency and accountability—Duties.** [1987 c 480 § 2.] Repealed by 1995 c 269 § 2401, effective July 1, 1995.

**43.17.280 Commission for efficiency and accountability—Review, recommendations, reports.** [1987 c 480 § 3.] Repealed by 1995 c 269 § 2401, effective July 1, 1995.

**43.17.290 Commission for efficiency and accountability—Funding, staffing.** [1987 c 480 § 4.] Repealed by 1995 c 269 § 2401, effective July 1, 1995.

**43.17.300 Commission for efficiency and accountability—Contracting authority.** [1987 c 480 § 5.] Repealed by 1995 c 269 § 2401, effective July 1, 1995.

## Chapter 43.19

## DEPARTMENT OF GENERAL ADMINISTRATION

**43.19.1904 State supply management advisory board—Powers and duties.** [1979 c 88 § 2; 1975-'76 2nd ex.s. c 21 § 4; 1967 ex.s. c 104 § 4; 1965 c 8 § 43.19.1904. Prior: 1959 c 178 § 3.] Repealed by 1995 c 269 § 1407, effective July 1, 1995.

**43.19.640 Printing and duplicating management center—Intent.** [1979 c 151 § 105; 1977 ex.s. c 86 § 1.] Repealed by 1995 c 23 § 1; and repealed by 1995 c 135 § 8.

**43.19.645 Printing and duplicating management center—Established—Expiration.** [1977 ex.s. c 86 § 2.] Repealed by 1995 c 23 § 1; and repealed by 1995 c 135 § 8.

**43.19.650 Printing and duplicating management center—Powers and duties.** [1986 c 158 § 11; 1977 ex.s. c 86 § 3.] Repealed by 1995 c 23 § 1; and repealed by 1995 c 135 § 8.

**43.19.655 Printing and duplicating management center—Acquisition of duplicating equipment by state agencies prohibited unless authorized by center.** [1977 ex.s. c 86 § 4.] Repealed by 1995 c 23 § 1; and repealed by 1995 c 135 § 8.

**43.19.660 Printing and duplicating management center—Fees and charges—Intent.** [1987 c 505 § 27; 1986 c 158 § 12; 1979 c 151 § 106; 1977 ex.s. c 86 § 5.] Repealed by 1995 c 23 § 1; and repealed by 1995 c 135 § 8.

**43.19.665 Printing and duplicating management center—Printing and duplicating committee abolished—Transfer of powers, duties and functions.** [1977 ex.s. c 86 § 6.] Repealed by 1995 c 23 § 1; and repealed by 1995 c 135 § 8.

## Chapter 43.20A

## DEPARTMENT OF SOCIAL AND HEALTH SERVICES

**43.20A.730 TRS program advisory committee—Generally.** [1992 c 144 § 4; 1990 c 89 § 4; 1987 c 304 § 4.] Repealed by 1995 c 269 § 1601, effective July 1, 1995.

## Chapter 43.21B

ENVIRONMENTAL HEARINGS OFFICE—POLLUTION  
CONTROL HEARINGS BOARD

**43.21B.140 Formal or informal hearing, election of party taking appeal—Exception.** [1987 c 109 § 30; 1970 ex.s. c 62 § 44.] Repealed by 1995 c 382 § 8.

**43.21B.150 Informal hearings—Generally.** [1990 c 65 § 4; 1974 ex.s. c 69 § 2; 1970 ex.s. c 62 § 45.] Repealed by 1995 c 382 § 8.

## Chapter 43.21I

## OFFICE OF MARINE SAFETY

**43.21I.005 Findings.** [1995 2nd sp.s. c 14 § 514; 1991 c 200 § 401.] Recodified as RCW 43.21A.705 pursuant to 1995 2nd sp.s. c 14 § 523, effective January 1, 1996, until June 30, 1997.

**43.21I.010 Office of marine safety.** [1995 2nd sp.s. c 14 § 515; 1992 c 73 § 4; 1991 c 200 § 402.] Recodified as RCW 43.21A.710 pursuant to 1995 2nd sp.s. c 14 § 523, effective January 1, 1996, until June 30, 1997.

**43.21I.020 Administrator of marine safety.** [1992 c 73 § 5; 1991 c 200 § 403.] Repealed by 1995 2nd sp.s. c 14 § 524, effective January 1, 1996.

**43.21I.030 Administrator's powers.** [1995 2nd sp.s. c 14 § 516; 1992 c 73 § 11; 1991 c 200 § 405.] Recodified as RCW 43.21A.715 pursuant to 1995 2nd sp.s. c 14 § 523, effective January 1, 1996, until June 30, 1997.

**43.21I.040 Authority to administer oaths and issue subpoenas.** [1995 2nd sp.s. c 14 § 517; 1991 c 200 § 407.] Recodified as RCW 43.21A.720 pursuant to 1995 2nd sp.s. c 14 § 523, effective January 1, 1996, until June 30, 1997.

## Chapter 43.31

DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC  
DEVELOPMENT

(Formerly: Department of trade and economic development)

**43.31.631 Economic recovery coordination board—Expiration of section.** [1993 c 316 § 3; 1991 c 314 § 6.] Repealed by 1995 c 226 § 33, effective July 1, 1995; and repealed by 1995 c 269 § 1902, effective July 1, 1995.

**43.31.661 Air transportation options in timber impact areas.** [1991 c 314 § 10.] Repealed by 1995 c 226 § 33, effective July 1, 1995.

## Chapter 43.51

## PARKS AND RECREATION COMMISSION

**43.51.280 Trust land purchase account.** [1991 sp.s. c 16 § 922; 1991 sp.s. c 13 § 4; 1987 c 466 § 2. Prior: 1985 c 163 § 2; 1985 c 57 § 34; 1981 c 271 § 2; 1980 c 4 § 2; 1971 ex.s. c 210 § 2.] Repealed by 1995 c 211 § 6, effective July 1, 1995.

## Chapter 43.52

## OPERATING AGENCIES

**43.52.373 Executive committee—Composition, powers and duties, terms.** [1982 1st ex.s. c 43 § 6; 1965 c 8 § 43.52.373. Prior: 1957 c 295 § 3.] Repealed by 1995 c 269 § 2001, effective July 1, 1995.

## Chapter 43.63A

## DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

(Formerly: Department of community development)

**43.63A.300 State fire protection services—Intent.** [1995 c 369 § 14; 1993 c 280 § 68; 1986 c 266 § 54.] Recodified as RCW 43.43.930 pursuant to 1995 c 369 § 69, effective July 1, 1995.

**43.63A.310 State fire protection policy board—Created—Members.** [1995 c 369 § 15; 1986 c 266 § 55.] Recodified as RCW 43.43.932 pursuant to 1995 c 369 § 69, effective July 1, 1995.

**43.63A.320 State fire protection policy board—Duties.** [1995 c 369 § 16; 1995 c 243 § 11; 1993 c 280 § 69; 1986 c 266 § 56.] Recodified as RCW 43.43.934 pursuant to 1995 c 369 § 69, effective July 1, 1995.

**43.63A.330 State fire protection policy board—Advisory duties.** [1995 c 369 § 17; 1993 c 280 § 70; 1986 c 266 § 57.] Recodified as RCW 43.43.936 pursuant to 1995 c 369 § 69, effective July 1, 1995.

**43.63A.340 Director of fire protection—Appointment—Duties.** [1995 c 369 § 18; 1993 c 280 § 71; 1986 c 266 § 58.] Recodified as RCW 43.43.938 pursuant to 1995 c 369 § 69, effective July 1, 1995.

**43.63A.350 Fire service training program—Grants and bequests.** [1995 c 369 § 19; 1986 c 266 § 59.] Recodified as RCW 43.43.940 pursuant to 1995 c 369 § 69, effective July 1, 1995.

**43.63A.360 Fire service training—Fees and fee schedules.** [1995 c 369 § 20; 1986 c 266 § 60.] Recodified as RCW 43.43.942 pursuant to 1995 c 369 § 69, effective July 1, 1995.

**43.63A.370 Fire service training account.** [1995 c 369 § 21; 1986 c 266 § 61.] Recodified as RCW 43.43.944 pursuant to 1995 c 369 § 69, effective July 1, 1995.

**43.63A.375 Fire services trust fund.** [1991 c 135 § 2.] Recodified as RCW 43.43.946 pursuant to 1995 c 369 § 69, effective July 1, 1995.

**43.63A.377 Fire services trust fund—Expenditures.** [1995 c 369 § 22; 1991 c 135 § 3.] Recodified as RCW 43.43.948 pursuant to 1995 c 369 § 69, effective July 1, 1995.

**43.63A.380 Fire service training center bond retirement account of 1977.** [1991 sp.s. c 13 § 79.] Recodified as RCW 43.43.950 pursuant to 1995 c 369 § 69, effective July 1, 1995.

## Chapter 43.72

## HEALTH SYSTEM REFORM—HEALTH SERVICES COMMISSION

**43.72.005 Intent.** [1993 c 492 § 401.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

**43.72.010 Definitions.** [1994 c 4 § 1; 1993 c 494 § 1; 1993 c 492 § 402.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

**43.72.020 Washington health services commission—Generally.** [1993 c 492 § 403.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

**43.72.030 Chair—Powers and duties.** [1993 c 492 § 405.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

**43.72.040 Commission powers and duties.** [1994 c 4 § 3; 1993 c 494 § 2; 1993 c 492 § 406.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

**43.72.050 Economic viability of certified health plans threatened—Modification of maximum premium—Submission to legislature.** [1993 c 492 § 407.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

**43.72.060 Advisory committees and special committees.** [1994 c 4 § 2; 1993 c 492 § 404.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

**43.72.070 Continuous quality improvement and total quality management.** [1993 c 492 § 409.] Repealed by 1995 c 265 § 27, effective July 1, 1995; and repealed by 1995 c 267 § 12, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

**43.72.080 Health insurance purchasing cooperatives—Designation of regions by commission—Information systems—Minimum standards and rules.** [1993 c 492 § 425.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

**43.72.090 Uniform or supplemental benefits—Provision by certified health plan only—Uniform benefits package as minimum.** [1993 c 492 § 427.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

**Reviser's note:** This section was also amended by 1995 c 2 § 1 without cognizance of the repeal thereof. For rule of construction concerning sections amended and repealed in the same legislative session, see RCW 1.12.025.

**Savings—1995 c 265:** See note following RCW 70.47.015.

**43.72.100 Certified health plans—Duties.** [1993 c 492 § 428.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

**43.72.110 Limited certified dental plan.** [1993 c 492 § 429.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

**43.72.120 Registered employer health plans.** [1993 c 492 § 430.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

**43.72.130 Uniform benefits package design.** [1993 c 492 § 449.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

**43.72.140 Small business economic impact statement.** [1993 c 492 § 450.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

**43.72.150 Household income analysis.** [1993 c 492 § 451.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

**43.72.160 Certified health plan benefit packages—Offering, filing, and approval of forms.** [1993 c 492 § 452.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

**43.72.170 Uniform and supplemental benefits—Rates—Filing and approval.** [1993 c 492 § 453.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

**43.72.180 Legislative approval—Uniform benefits package and medical risk adjustment mechanisms.** [1993 c 492 § 454.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

**Reviser's note:** This section was also amended by 1995 c 2 § 2 without cognizance of the repeal thereof. For rule of construction concerning sections amended and repealed in the same legislative session, see RCW 1.12.025.

**Savings—1995 c 265:** See note following RCW 70.47.015.

**43.72.190 Supplemental and additional benefits negotiation.** [1993 c 492 § 455.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.



**43.72.200 Conscience or religion.** [1993 c 492 § 456.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

**43.72.210 Individual participation.** [1993 c 492 § 463.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

**43.72.220 Employer participation.** [1993 c 494 § 3; 1993 c 492 § 464.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

**43.72.225 Seasonal employment.** [1994 c 4 § 4.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

**43.72.230 Depository.** [1993 c 492 § 465.] Repealed by 1995 c 265 § 27, effective July 1, 1995; and repealed by 1995 1st sp.s. c 6 § 9, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

**43.72.240 Small firm financial assistance.** [1993 c 494 § 4; 1993 c 492 § 466.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

**43.72.800 Long-term care integration plan.** [1993 c 492 § 457.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

**43.72.810 Code revisions and waivers.** [1993 c 492 § 474.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

**43.72.820 Reports of health care cost control and access commission.** [1993 c 492 § 475.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

**43.72.830 Legislative budget committee evaluations, plans, and studies.** [1993 c 492 § 476.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

**43.72.840 Reform effort evaluation.** [1993 c 492 § 478.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

**43.72.870 Tax credits—Recommend legislation.** [1993 c 494 § 5.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

#### Chapter 43.99

#### MARINE RECREATION LAND—INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

**43.99.144 Guide of public parks and recreation sites—Receipts allowed—Deposit—Use.** [1979 ex.s. c 24 § 2.] Repealed by 1995 c 166 § 12.

#### Chapter 43.150

#### CENTER FOR VOLUNTEERISM AND CITIZEN SERVICE

**43.150.060 Council on volunteerism and citizen service created—Membership—Travel expenses—Duties.** [1992 c 66 § 6; 1987 c 505 § 39; 1985 c 110 § 1; 1982 1st ex.s. c 11 § 6.] Repealed by 1995 c 269 § 2302, effective July 1, 1995.

## Title 46

### MOTOR VEHICLES

#### Chapter 46.12

#### CERTIFICATES OF OWNERSHIP AND REGISTRATION

**46.12.360 Reimbursement to owner of stolen vehicle.** [1990 c 42 § 325; 1980 c 32 § 7; 1975-'76 2nd ex.s. c 91 § 7.] Repealed by 1995 c 256 § 27.

#### Chapter 46.20

#### DRIVERS' LICENSES—IDENTICARDS

**46.20.309 Driver under twenty-one—Alcohol in system—Implied consent—Penalties.** [1995 c 332 § 2; 1994 c 275 § 10.] Recodified as RCW 46.61.503 pursuant to 1995 c 332 § 20, effective September 1, 1995.

**46.20.365 Alcohol violator—Confiscation of driver's license—Temporary and probationary licenses.** [1994 c 275 § 12.] Repealed by 1995 c 332 § 21, effective September 1, 1995.

#### Chapter 46.61

#### RULES OF THE ROAD

**46.61.5051 Alcohol violator with regular license—Penalties.** [1994 c 275 § 4.] Repealed by 1995 c 332 § 21, effective September 1, 1995.

**46.61.5052 Alcohol violator with probationary license—Penalties.** [1994 c 275 § 5.] Repealed by 1995 c 332 § 21, effective September 1, 1995.

**46.61.5053 Alcohol violator with suspended or revoked license—Penalties.** [1994 c 275 § 6.] Repealed by 1995 c 332 § 21, effective September 1, 1995.

#### Chapter 46.80

#### MOTOR VEHICLE WRECKERS

**46.80.055 Staggering renewal periods.** [1985 c 109 § 8.] Repealed by 1995 c 256 § 27.

## Title 47

### PUBLIC HIGHWAYS AND TRANSPORTATION

#### Chapter 47.10

#### HIGHWAY CONSTRUCTION BONDS

**47.10.840 Reimbursement of transportation fund.** [1994 c 183 § 8.] Repealed by 1995 2nd sp.s. c 15 § 8.

#### Chapter 47.60

#### PUGET SOUND FERRY AND TOLL BRIDGE SYSTEM

**47.60.651 Passenger-only ferry purchase—Notice of intent to purchase.** [1987 c 183 § 1.] Repealed by 1995 1st sp.s. c 4 § 3.

**47.60.653 Passenger-only ferry purchase—Request for proposal.** [1987 c 183 § 2.] Repealed by 1995 1st sp.s. c 4 § 3.

**47.60.655 Passenger-only ferry purchase—Evaluation of proposals.** [1987 c 183 § 3.] Repealed by 1995 1st sp.s. c 4 § 3.

**47.60.657 Passenger-only ferry purchase—Decision, appeal.** [1987 c 183 § 4.] Repealed by 1995 1st sp.s. c 4 § 3.

**47.60.659 Passenger-only ferry purchase—Contract.** [1987 c 183 § 5.] Repealed by 1995 1st sp.s. c 4 § 3.

**47.60.661 Passenger-only ferry purchase—Proposals, deposit.** [1987 c 183 § 6.] Repealed by 1995 1st sp.s. c 4 § 3.

## Chapter 47.66

## MULTIMODAL TRANSPORTATION PROGRAMS

**47.66.020 Selection committee—Membership.** [1993 c 393 § 4.] Repealed by 1995 c 269 § 2608, effective July 1, 1995.

**47.66.050 Duties of department.** [1993 c 393 § 7.] Repealed by 1995 c 269 § 2608, effective July 1, 1995.

**47.66.060 Schedule.** [1993 c 393 § 8.] Repealed by 1995 c 269 § 2608, effective July 1, 1995.

## Chapter 47.68

## AERONAUTICS

(Formerly: Chapter 14.04 RCW, Aeronautics commission)

**47.68.370 Washington wing civil air patrol—Declaration of public purpose—Consultation, cooperation, and contracts with department.** [1984 c 7 § 363; 1975-'76 2nd ex.s. c 73 § 1. Formerly RCW 14.04.370.] Repealed by 1995 c 153 § 3.

## Chapter 47.76

## RAIL FREIGHT SERVICE

**47.76.260 Rail corridors of state-wide significance.** [1993 c 224 § 5; 1990 c 43 § 5. Formerly RCW 47.76.140.] Repealed by 1995 c 380 § 10.

## Title 48

### INSURANCE

## Chapter 48.01

## INITIAL PROVISIONS

**48.01.200 Washington health services act of 1993—Conflict with Title 48 RCW.** [1993 c 492 § 294.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

**48.01.210 Coverage for dental services—Uniform benefits package—Certified health plan.** [1993 c 462 § 51.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

## Chapter 48.20

## DISABILITY INSURANCE

**48.20.540 Preexisting condition exclusion or limitation.** [1993 c 492 § 283.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

## Chapter 48.21

## GROUP AND BLANKET DISABILITY INSURANCE

**48.21.340 Preexisting condition exclusion or limitation.** [1993 c 492 § 284.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

## Chapter 48.22

## CASUALTY INSURANCE

**48.22.071 Committee—Oversight responsibility—Membership.** [1992 c 209 § 3.] Repealed by 1995 c 269 § 2701, effective July 1, 1995.

**48.22.072 Committee—Study.** [1993 c 177 § 2; 1992 c 209 § 4.] Repealed by 1995 c 269 § 2701, effective July 1, 1995.

## Chapter 48.43

## CERTIFIED HEALTH PLANS

**48.43.010 Certified health plans—Registration required—Penalty.** [1993 c 492 § 432.] Repealed by 1995 c 265 § 27, effective July 1, 1995.  
**Savings—1995 c 265:** See note following RCW 70.47.015.

**48.43.020 Eligibility requirements for certificate of registration—Application requirements.** [1993 c 492 § 433.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

**48.43.030 Issuance of certificate—Grounds for refusal.** [1993 c 492 § 434.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

**48.43.040 Premiums and enrollee payment amounts—Verification—Filing of premium schedules and cost-sharing amounts—Additional charges prohibited.** [1993 c 492 § 435.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

**48.43.050 Annual financial statement filing—Penalty.** [1993 c 492 § 436.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

**48.43.060 Provider contracts to be in writing—Enrollee liability—Commissioner's review.** [1993 c 492 § 437.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

**48.43.070 Minimum net worth—Requirements.** [1993 c 492 § 438.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

**48.43.080 Funded reserve requirements.** [1993 c 492 § 439.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

**48.43.090 Examination of certified health plans—Independent audit reports.** [1993 c 492 § 440.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

**48.43.100 Insolvency—Equitable distribution of insolvent plan's enrollees—Continuation of benefits, allocation of coverage.** [1993 c 492 § 441.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

**48.43.110 Financial failure, supervision by commissioner—Priority of distribution of assets.** [1993 c 492 § 442.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

**48.43.120 Grievance procedure.** [1993 c 492 § 443.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

**48.43.130 Application—Certified health plans.** [1993 c 492 § 444.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

**48.43.140 Enforcement authority of commissioner.** [1993 c 492 § 445.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

**48.43.150 Annual report to the health services commission.** [1993 c 492 § 446.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

**48.43.160 Health insurance purchasing cooperatives—Certification.** [1993 c 492 § 426.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

**48.43.170 Health care providers—Opportunity for inclusion.** [1993 c 492 § 431.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

#### Chapter 48.44

##### HEALTH CARE SERVICES

**48.44.480 Preexisting condition exclusion or limitation.** [1993 c 492 § 285.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

**48.44.490 Unfair practices.** [1993 c 492 § 288.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

#### Chapter 48.46

##### HEALTH MAINTENANCE ORGANIZATIONS

**48.46.550 Preexisting condition exclusion or limitation.** [1993 c 492 § 286.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

**48.46.560 Unfair practices.** [1993 c 492 § 289.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

#### Chapter 48.48

##### STATE FIRE PROTECTION

(Formerly: State fire marshal)

**48.48.120 Forms, blanks, circulars, etc., at expense of state.** [1947 c 79 § .33.12; Rem. Supp. 1947 § 45.33.12.] Repealed by 1995 c 369 § 71, effective July 1, 1995.

#### Chapter 48.50

##### ARSON REPORTING IMMUNITY ACT

**48.50.060 Authorized agency to furnish requested information to insurer.** [1979 ex.s. c 80 § 6.] Repealed by 1995 c 285 § 37, effective July 1, 1995.

**48.50.080 Information released only in criminal or civil proceedings.** [1979 ex.s. c 80 § 8.] Repealed by 1995 c 285 § 37, effective July 1, 1995.

## Title 49

### LABOR REGULATIONS

#### Chapter 49.44

##### VIOLATIONS—PROHIBITED PRACTICES

**49.44.070 Grafting by employee.** [1909 c 249 § 427; RRS § 2679.] Repealed by 1995 c 285 § 37, effective July 1, 1995.

## Title 59

### LANDLORD AND TENANT

#### Chapter 59.21

##### MOBILE HOME RELOCATION ASSISTANCE

**59.21.020 Relocation assistance—Eligibility—Park-owners' duties—Restrictions.** [1991 c 327 § 11; 1990 c 171 § 2; 1989 c 201 § 2.] Repealed by 1995 c 122 § 13.

**59.21.035 Park-owner obligation—Purchasers.** [1990 c 171 § 4.] Repealed by 1995 c 122 § 13.

**59.21.080 Relocation fund—Park-owner contribution—Park closing.** [1990 c 171 § 9; 1989 c 201 § 11.] Repealed by 1995 c 122 § 13.

**59.21.085 Relocation fund—Waiver of park-owner contribution—Involuntary park closing.** [1991 c 327 § 15.] Repealed by 1995 c 122 § 13.

**59.21.095 Relocation fund—Annual fee—Department of revenue—Rules.** [1991 c 327 § 9.] Repealed by 1995 c 122 § 13.

**59.21.900 Severability—1989 c 201.** [1989 c 201 § 17.] Repealed by 1995 c 122 § 13.

**59.21.901 Construction—1991 c 327.** [1991 c 327 § 17.] Repealed by 1995 c 122 § 13.

**59.21.902 Severability—1991 c 327.** [1991 c 327 § 19.] Repealed by 1995 c 122 § 13.

**59.21.903 Effective date—1991 c 327.** [1991 c 327 § 20.] Repealed by 1995 c 122 § 13.

## Title 61

### MORTGAGES, DEEDS OF TRUST, AND REAL ESTATE CONTRACTS

#### Chapter 61.12

##### FORECLOSURE OF REAL ESTATE MORTGAGES AND PERSONAL PROPERTY LIENS

**61.12.162 Judicial foreclosure of personal property liens.** [1995 c 62 § 1; 1969 c 82 § 1.] Recodified as RCW 60.10.023 pursuant to 1995 c 62 § 18.

**61.12.164 Judicial foreclosure of personal property liens—Redemption rights.** Cross-reference section, decodified pursuant to 1995 c 62 § 17.

**61.12.165 Judicial foreclosure of personal property liens—Rights and interest of purchaser for value.** Cross-reference section, decodified pursuant to 1995 c 62 § 17.

#### Chapter 61.16

##### ASSIGNMENT AND SATISFACTION OF REAL ESTATE AND CHATTEL MORTGAGES

**61.16.060 Chattel mortgages and conditional sales contracts—Agent may satisfy.** [1937 c 133 § 2 (adding to 1899 c 98 a new section, § 10); RRS § 3787-2.] Repealed by 1995 c 62 § 16.

## Title 62A

### UNIFORM COMMERCIAL CODE

#### Article 8

##### INVESTMENT SECURITIES

**62A.8-308 Indorsements; instructions.** [1986 c 35 § 23; 1965 ex.s. c 157 § 8-308. Cf. former RCW sections: (i) RCW 23.80.200; 1939 c 100 § 20; RRS § 3803-120; formerly RCW 23.20.200. (ii) RCW 62.01.031 through 62.01.037; 1955 c 35 §§ 62.01.031 through 62.01.037; prior: 1899 c 149 §§ 31 through 37; RRS §§ 3422 through 3428. (iii) RCW 62.01.064 through 62.01.069; 1955 c 35 §§ 62.01.064 through 62.01.069; prior: 1899 c 149 §§ 64 through 69; RRS §§ 3455 through 3460.] Repealed by 1995 c 48 § 52.

**62A.8-309 Effect of indorsement without delivery.** [1986 c 35 § 24; 1965 ex.s. c 157 § 8-309. Cf. former RCW sections: (i) RCW 23.80.010; 1939 c 100 § 1; RRS § 3803-101; prior: 1927 c 206 § 1; Code 1881 § 2429; 1873 p 401 § 9; 1869 p 333 § 9; 1866 p 59 § 9; formerly RCW 23.20.020. (ii) RCW 23.80.100; 1939 c 100 § 10; RRS § 3803-110; formerly RCW 23.20.110. (iii) RCW 62.01.030; 1955 c 35 § 62.01.030; prior: 1899 c 149 § 30; RRS § 3421.] Repealed by 1995 c 48 § 52.

**62A.8-310 Indorsement of certificated security in bearer form.** [1986 c 35 § 25; 1965 ex.s. c 157 § 8-310. Cf. former RCW 62.01.040; 1955 c 35 § 62.01.040; prior: 1899 c 149 § 40; RRS § 3431.] Repealed by 1995 c 48 § 52.

**62A.8-311 Effect of unauthorized indorsement or instruction.** [1986 c 35 § 26; 1965 ex.s. c 157 § 8-311. Cf. former RCW 62.01.023; 1955 c 35 § 62.01.023; prior: 1899 c 149 § 23; RRS § 3414.] Repealed by 1995 c 48 § 52.

**62A.8-312 Effect of guaranteeing signature, indorsement, or instruction.** [1986 c 35 § 27; 1965 ex.s. c 157 § 8-312.] Repealed by 1995 c 48 § 52.

**62A.8-313 When transfer to purchaser occurs; financial intermediary as bona fide purchaser; "financial intermediary".** [1986 c 35 § 28; 1965 ex.s. c 157 § 8-313. Cf. former RCW sections: (i) RCW 23.80.220; 1939 c 100 § 22; RRS § 3803-122; formerly RCW 23.20.010, part. (ii) RCW 62.01.191; 1955 c 35 § 62.01.191; prior: 1899 c 149 § 191; RRS § 3581.] Repealed by 1995 c 48 § 52.

**62A.8-314 Duty to transfer, when completed.** [1986 c 35 § 29; 1965 ex.s. c 157 § 8-314.] Repealed by 1995 c 48 § 52.

**62A.8-315 Action against transferee based upon wrongful transfer.** [1986 c 35 § 30; 1965 ex.s. c 157 § 8-315. Cf. former RCW 23.80.070; 1939 c 100 § 7; RRS § 3803-107; formerly RCW 23.20.080.] Repealed by 1995 c 48 § 52.

**62A.8-316 Purchaser's right to requisites for registration of transfer, pledge, or release on books.** [1986 c 35 § 31; 1965 ex.s. c 157 § 8-316.] Repealed by 1995 c 48 § 52.

**62A.8-317 Creditors' rights.** [1986 c 35 § 32; 1965 ex.s. c 157 § 8-317. Cf. former RCW sections: RCW 23.80.130 and 23.80.140; 1939 c 100 §§ 13 and 14; RRS §§ 3803-113 and 3803-114; formerly RCW 23.20.140 and 23.20.150.] Repealed by 1995 c 48 § 52.

**62A.8-318 No conversion by good faith conduct.** [1986 c 35 § 33; 1965 ex.s. c 157 § 8-318.] Repealed by 1995 c 48 § 52.

**62A.8-319 Statute of frauds.** [1986 c 35 § 34; 1965 ex.s. c 157 § 8-319. Cf. former RCW 63.04.050; 1925 ex.s. c 142 § 4; RRS § 5836-4.] Repealed by 1995 c 48 § 52.

**62A.8-320 Transfer, pledge, or release within central depository system.** [1986 c 35 § 35; 1965 ex.s. c 157 § 8-320.] Repealed by 1995 c 48 § 52.

**62A.8-321 Enforceability, attachment, perfection, and termination of security interests.** [1986 c 35 § 36.] Repealed by 1995 c 48 § 52.

**62A.8-408 Statements of uncertificated securities.** [1986 c 35 § 44.] Repealed by 1995 c 48 § 52.

## Title 63

### PERSONAL PROPERTY

#### Chapter 63.14

##### RETAIL INSTALLMENT SALES OF GOODS AND SERVICES

**63.14.135 Retail installment contracts and charge agreements—Maximum allowable service charge—Computation—Publication in the Washington State Register—Suspended application.** [1992 c 193 § 2; 1989 c 112 § 2; 1988 c 72 § 1; 1986 c 60 § 2.] Repealed by 1995 c 249 § 1.

**Application—Savings—1995 c 249:** See RCW 63.10.924 and 63.10.925.

## Title 67

### SPORTS AND RECREATION— CONVENTION FACILITIES

#### Chapter 67.28

##### PUBLIC STADIUM, CONVENTION, PERFORMING AND VISUAL ARTS FACILITIES

**67.28.250 Special excise tax authorized—Pierce county—Hotel, motel, rooming house, trailer camp, etc., charges.** [1992 c 156 § 2; 1988 ex.s. c 1 § 22.] Repealed by 1995 c 386 § 11.

## Title 69

### FOOD, DRUGS, COSMETICS, AND POISONS

#### Chapter 69.08

##### FLOUR, WHITE BREAD, AND ROLLS

**69.08.010 Definitions.** [1971 c 27 § 1; 1945 c 192 § 1; Rem. Supp. 1945 § 6294-160.] Repealed by 1995 c 374 § 24, effective June 30, 1995.

**69.08.020 Director, duty to enforce.** [1945 c 192 § 4; Rem. Supp. 1945 § 6294-163.] Repealed by 1995 c 374 § 24, effective June 30, 1995.

**69.08.030 Flour—Content requirements.** [1985 c 25 § 1; 1945 c 192 § 2; Rem. Supp. 1945 § 6294-161.] Repealed by 1995 c 374 § 24, effective June 30, 1995.

**69.08.040 Bread and rolls—Content requirements.** [1985 c 25 § 2; 1945 c 192 § 3; Rem. Supp. 1945 § 6294-162.] Repealed by 1995 c 374 § 24, effective June 30, 1995.

**69.08.045 Specialty breads or rolls, macaroni or macaroni products, enriched white flour required—Exemptions.** [1988 c 5 § 5; 1971 c 27 § 2.] Repealed by 1995 c 374 § 24, effective June 30, 1995.

**69.08.050 Intrastate and interstate standards to conform.** [1945 c 192 § 5; Rem. Supp. 1945 § 6294-164.] Repealed by 1995 c 374 § 24, effective June 30, 1995.

**69.08.060 Shortage of ingredients—Procedure.** [1945 c 192 § 6; Rem. Supp. 1945 § 6294-165.] Repealed by 1995 c 374 § 24, effective June 30, 1995.

**69.08.070 Regulations, how and where kept—Copies for distribution.** [1945 c 192 § 7; Rem. Supp. 1945 § 6294-166.] Repealed by 1995 c 374 § 24, effective June 30, 1995.

**69.08.080 Right of entry, to take samples, etc.** [1945 c 192 § 8; Rem. Supp. 1945 § 6294-167.] Repealed by 1995 c 374 § 24, effective June 30, 1995.

**69.08.090 Penalty.** [1945 c 192 § 9; Rem. Supp. 1945 § 6294-168.] Repealed by 1995 c 374 § 24, effective June 30, 1995.

#### Chapter 69.25

##### WASHINGTON WHOLESOME EGGS AND EGG PRODUCTS ACT

**69.25.330 Exemption from chapter.** [1975 1st ex.s. c 201 § 34.] Repealed by 1995 c 374 § 32, effective June 30, 1995.

**69.25.340 General penalty.** [1975 1st ex.s. c 201 § 36.] Repealed by 1995 c 374 § 32, effective June 30, 1995.

## Title 70 PUBLIC HEALTH AND SAFETY

### Chapter 70.05

#### LOCAL HEALTH DEPARTMENTS, BOARDS, OFFICERS— REGULATIONS

**70.05.037 Combined city-county health departments—Establishment.** [(1993 c 492 § 244 repealed by 1995 c 43 § 16); 1985 c 124 § 1; 1949 c 46 § 1; Rem. Supp. 1949 § 6099-30. Formerly RCW 70.08.010.] Recodification of RCW 70.08.010 was repealed by 1995 c 43 § 16, effective June 30, 1995.

### Chapter 70.08

#### COMBINED CITY-COUNTY HEALTH DEPARTMENTS

**70.08.010 Combined city-county health departments—Establishment.** [(1993 c 492 § 244 repealed by 1995 c 43 § 16); 1985 c 124 § 1; 1949 c 46 § 1; Rem. Supp. 1949 § 6099-30.] Recodified as RCW 70.05.037 pursuant to 1993 c 492 § 256, effective July 1, 1995. Recodification of RCW 70.08.010 was subsequently repealed by 1995 c 43 § 16, effective June 30, 1995.

### Chapter 70.47

#### BASIC HEALTH PLAN—HEALTH CARE ACCESS ACT

**70.47.065 Premium pricing structure.** [1993 c 494 § 6.] Repealed by 1995 c 266 § 4, effective July 1, 1995.

### Chapter 70.77

#### STATE FIREWORKS LAW

**70.77.465 Additional and supplemental reports.** [1986 c 266 § 116; 1961 c 228 § 70.] Repealed by 1995 c 61 § 31.

**Reviser's note:** This section was also amended by 1995 c 369 § 56 without cognizance of the repeal thereof. For rule of construction concerning sections amended and repealed in the same legislative session, see RCW 1.12.025.

### Chapter 70.89

#### SAFETY GLASS

(Formerly: Safety glazing material)

**70.89.005 Purpose.** [1973 1st ex.s. c 2 § 1.] Repealed by 1995 c 343 § 8.

**70.89.010 Safety glazing material defined—Types—Tests—Definitions.** [1973 1st ex.s. c 2 § 2; 1963 c 128 § 1.] Repealed by 1995 c 343 § 8.

**70.89.021 Safety glazing material for use in hazardous locations—Labeling requirements.** [1973 1st ex.s. c 2 § 3.] Repealed by 1995 c 343 § 8.

**70.89.031 Sale, fabrication, assembly, installation of other than safety glazing materials in hazardous locations unlawful.** [1973 1st ex.s. c 2 § 4.] Repealed by 1995 c 343 § 8.

**70.89.040 Penalty.** [1973 1st ex.s. c 2 § 8; 1963 c 128 § 4.] Repealed by 1995 c 343 § 8.

**70.89.050 Employees not liable.** [1989 c 12 § 19; 1973 1st ex.s. c 2 § 5.] Repealed by 1995 c 343 § 8.

**70.89.060 Local ordinances superseded.** [1973 1st ex.s. c 2 § 6.] Repealed by 1995 c 343 § 8.

**70.89.070 Enforcement of chapter.** [1973 1st ex.s. c 2 § 7.] Repealed by 1995 c 343 § 8.

**70.89.900 Severability—1963 c 128.** [1963 c 128 § 5.] Repealed by 1995 c 343 § 8.

**70.89.910 Construction, effective date, prospective application—1973 1st ex.s. c 2.** [1973 1st ex.s. c 2 § 10.] Repealed by 1995 c 343 § 8.

### Chapter 70.94

#### WASHINGTON CLEAN AIR ACT

**70.94.222 Order—Finality—Review.** [1970 ex.s. c 62 s 59; 1970 ex.s. c 41 § 2; 1969 ex.s. c 168 § 26; 1967 c 238 § 36.] Repealed by 1995 c 135 § 8.

### Chapter 70.95B

#### DOMESTIC WASTE TREATMENT PLANTS—OPERATORS

**70.95B.070 Board of examiners for wastewater operator certification—Created—Members—Qualifications—Terms—Powers and duties—Compensation and travel expenses.** [1984 c 287 § 106; 1975-'76 2nd ex.s. c 34 § 161; 1973 c 139 § 7.] Repealed by 1995 c 269 § 2907, effective July 1, 1995.

### Chapter 70.95D

#### SOLID WASTE INCINERATOR AND LANDFILL OPERATORS

**70.95D.050 Board of advisors.** [1989 c 431 § 69.] Repealed by 1995 c 269 § 2803, effective July 1, 1995.

### Chapter 70.119

#### PUBLIC WATER SUPPLY SYSTEMS—OPERATORS

**70.119.080 Water and wastewater operator certification board of examiners—Additional members—Additional powers and duties.** [1983 c 292 § 6; 1977 ex.s. c 99 § 8.] Repealed by 1995 c 269 § 2907, effective July 1, 1995.

### Chapter 70.128

#### ADULT FAMILY HOMES

**70.128.180 Report to legislature on siting review—Model ordinance.** [1989 c 427 § 41.] Repealed by 1995 1st sp.s. c 18 § 31, effective July 1, 1995.

**Reviser's note:** RCW 70.128.180 was amended by 1995 c 399 § 196 without reference to its repeal by 1995 1st sp.s. c 18 § 31. It has been decodified for publication purposes pursuant to RCW 1.12.025.

### Chapter 70.170

#### HEALTH DATA AND CHARITY CARE

**70.170.030 Council—Members—Compensation—Quorum.** [1989 1st ex.s. c 9 § 503.] Repealed by 1995 c 269 § 2204, effective July 1, 1995.

**70.170.040 Council—Reports—Advisory function—Studies.** [1989 1st ex.s. c 9 § 504.] Repealed by 1995 c 269 § 2204, effective July 1, 1995.

**70.170.100 State-wide health care data system—Design requirements—Reporting requirements—Data availability.** [1993 c 492 § 259; 1990 c 269 § 12; 1989 1st ex.s. c 9 § 510.] Repealed by 1995 c 265 § 27, effective July 1, 1995; and repealed by 1995 c 267 § 12, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

**70.170.110 Analyses, reports, and studies.** [1993 c 492 § 260; 1989 1st ex.s. c 9 § 511.] Repealed by 1995 c 265 § 27, effective July 1, 1995; and repealed by 1995 c 267 § 12, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

**70.170.120 Confidentiality of data.** [1993 c 492 § 261.] Repealed by 1995 c 265 § 27, effective July 1, 1995; and repealed by 1995 c 267 § 12, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

**70.170.130 Health services commission access to data.** [1993 c 492 § 262.] Repealed by 1995 c 265 § 27, effective July 1, 1995; and repealed by 1995 c 267 § 12, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

**70.170.140 Personal health services data and information system.** [1993 c 492 § 263.] Repealed by 1995 c 265 § 27, effective July 1, 1995; and repealed by 1995 c 267 § 12, effective July 1, 1995.

**Savings—1995 c 265:** See note following RCW 70.47.015.

## Title 71 MENTAL ILLNESS

### Chapter 71.09

#### SEXUALLY VIOLENT PREDATORS

**71.09.100 Subsequent discharge petitions.** [1990 c 3 § 1010.] Repealed by 1995 c 216 § 22.

## Title 72 STATE INSTITUTIONS

### Chapter 72.09

#### DEPARTMENT OF CORRECTIONS (CORRECTIONS REFORM ACT OF 1981)

**72.09.020 Definition—"Inmate."** [1988 c 153 § 7; 1981 c 136 § 7.] Repealed by 1995 1st sp.s. c 19 § 36.

## Title 74 PUBLIC ASSISTANCE

### Chapter 74.08

#### ELIGIBILITY GENERALLY—STANDARDS OF ASSISTANCE—OLD AGE ASSISTANCE

**74.08.530 Chore services—Legislative finding, intent.** [1980 c 137 § 1; 1973 1st ex.s. c 51 § 1.] Recodified as RCW 74.39A.100 pursuant to 1995 1st sp.s. c 18 § 34, effective July 1, 1995.

**74.08.541 Definitions—Chore services—Eligibility.** [1989 c 427 § 4; 1986 c 222 § 1; 1983 1st ex.s. c 41 § 39; 1981 1st ex.s. c 6 § 17.] Repealed by 1995 1st sp.s. c 18 § 35, effective July 1, 1995.

**74.08.545 Chore services—Legislative policy and intent regarding available funds—Levels of service.** [1995 1st sp.s. c 18 § 36; 1989 c 427 § 5; 1981 1st ex.s. c 6 § 16.] Recodified as RCW 74.39A.110 pursuant to 1995 1st sp.s. c 18 § 34, effective July 1, 1995.

**74.08.550 Chore services—Department to develop program.** [1995 1st sp.s. c 18 § 40; 1989 c 427 § 6; 1983 c 3 § 189; 1980 c 137 § 2; 1973 1st ex.s. c 51 § 3.] Recodified as RCW 74.39A.130 pursuant to 1995 1st sp.s. c 18 § 34, effective July 1, 1995.

**74.08.560 Chore services—Employment of public assistance recipients.** [1983 c 3 § 190; 1973 1st ex.s. c 51 § 4.] Recodified as RCW 74.39A.140 pursuant to 1995 1st sp.s. c 18 § 34, effective July 1, 1995.

**74.08.570 Chore services for disabled persons—Eligibility.** [1995 1st sp.s. c 18 § 41; 1989 c 427 § 7; 1980 c 137 § 3.] Recodified as RCW 74.39A.150 pursuant to 1995 1st sp.s. c 18 § 34, effective July 1, 1995.

### Chapter 74.14C

#### FAMILY PRESERVATION SERVICES

**74.14C.035 Department efforts not to replace private contracts.** [1992 c 214 § 8.] Repealed by 1995 c 311 § 28.

### Chapter 74.34

#### ABUSE OF VULNERABLE ADULTS

**74.34.100 Protection of vulnerable adults—Legislative findings.** [1995 1st sp.s. c 18 § 83; 1986 c 187 § 4.] Recodified as RCW 74.34.015 pursuant to 1995 1st sp.s. c 18 § 89, effective July 1, 1995.

### Chapter 74.46

#### NURSING HOME AUDITING AND COST REIMBURSEMENT ACT OF 1980

**74.46.420 Principles of rate setting.** [1995 1st sp.s. c 18 § 99; 1993 sp.s. c 13 § 7; 1985 c 361 § 18; 1983 1st ex.s. c 67 § 18; 1980 c 177 § 42.] Repealed by 1995 1st sp.s. c 18 § 98, effective June 30, 1998.

**74.46.430 Prospective reimbursement rates—Minimum hourly wages.** [1995 1st sp.s. c 18 § 100; 1993 sp.s. c 13 § 8; 1987 2nd ex.s. c 1 § 2; 1987 c 476 § 2; 1983 1st ex.s. c 67 § 19; 1980 c 177 § 43.] Repealed by 1995 1st sp.s. c 18 § 98, effective June 30, 1998.

**74.46.440 Limitation of services subject to cost reimbursement—Exception.** [1989 c 372 § 16; 1980 c 177 § 44.] Repealed by 1995 1st sp.s. c 18 § 98, effective June 30, 1998.

**74.46.450 Reimbursement rate for new contractor.** [1995 1st sp.s. c 18 § 101; 1995 1st sp.s. c 18 § 70; 1993 sp.s. c 13 § 9; 1983 1st ex.s. c 67 § 20; 1980 c 177 § 45.] Repealed by 1995 1st sp.s. c 18 § 98, effective June 30, 1998.

**74.46.460 Rate determination or adjustment—When—Basis.** [1995 1st sp.s. c 18 § 102; 1993 sp.s. c 13 § 10; 1987 c 476 § 3; 1985 c 361 § 15; 1983 1st ex.s. c 67 § 21; 1981 1st ex.s. c 2 § 5; 1980 c 177 § 46.] Repealed by 1995 1st sp.s. c 18 § 98, effective June 30, 1998.

**74.46.465 Rate adjustment for physical plant capital improvements.** [1987 c 476 § 8.] Repealed by 1995 1st sp.s. c 18 § 98, effective June 30, 1998.

**74.46.470 Cost centers.** [1995 1st sp.s. c 18 § 103; 1993 sp.s. c 13 § 11; 1987 c 476 § 4; 1983 1st ex.s. c 67 § 22; 1980 c 177 § 47.] Repealed by 1995 1st sp.s. c 18 § 98, effective June 30, 1998.

**74.46.481 Nursing services cost center reimbursement rate.** [1995 1st sp.s. c 18 § 104; 1993 sp.s. c 13 § 12; 1991 sp.s. c 8 § 16; 1990 c 207 § 1; 1987 c 476 § 5; 1983 1st ex.s. c 67 § 24.] Repealed by 1995 1st sp.s. c 18 § 98, effective June 30, 1998.

**74.46.490 Food cost center reimbursement rate.** [1995 1st sp.s. c 18 § 105; 1993 sp.s. c 13 § 13; 1983 1st ex.s. c 67 § 25; 1981 1st ex.s. c 2 § 6; 1980 c 177 § 49.] Repealed by 1995 1st sp.s. c 18 § 98, effective June 30, 1998.

**74.46.500 Administrative cost center reimbursement rate.** [1995 1st sp.s. c 18 § 106; 1993 sp.s. c 13 § 14; 1992 c 182 § 1; 1980 c 177 § 50.] Repealed by 1995 1st sp.s. c 18 § 98, effective June 30, 1998.

**74.46.505 Operational cost center.** [1995 1st sp.s. c 18 § 107; 1993 sp.s. c 13 § 15.] Repealed by 1995 1st sp.s. c 18 § 98, effective June 30, 1998.

**74.46.510 Property cost center.** [1995 1st sp.s. c 18 § 108; 1993 sp.s. c 13 § 16; 1980 c 177 § 51.] Repealed by 1995 1st sp.s. c 18 § 98, effective June 30, 1998.

**74.46.530 Return on investment rate—Review.** [1995 1st sp.s. c 18 § 109; 1993 sp.s. c 13 § 17; 1991 sp.s. c 8 § 17; 1985 c 361 § 17; 1983 1st ex.s. c 67 § 28; 1981 1st ex.s. c 2 § 7; 1980 c 177 § 53.] Repealed by 1995 1st sp.s. c 18 § 98, effective June 30, 1998.

**74.46.540 Effect of legislative revision.** [1980 c 177 § 54.] Repealed by 1995 1st sp.s. c 18 § 98, effective June 30, 1998.

**74.46.550 Reimbursement rates not to exceed customary charges.** [1983 1st ex.s. c 67 § 29; 1980 c 177 § 55.] Repealed by 1995 1st sp.s. c 18 § 98, effective June 30, 1998.

**74.46.560 Notification of rates.** [1995 1st sp.s. c 18 § 110; 1983 1st ex.s. c 67 § 30; 1980 c 177 § 56.] Repealed by 1995 1st sp.s. c 18 § 98, effective June 30, 1998.

**74.46.570 Adjustments required due to errors or omissions.** [1995 1st sp.s. c 18 § 111; 1983 1st ex.s. c 67 § 31; 1980 c 177 § 57.] Repealed by 1995 1st sp.s. c 18 § 98, effective June 30, 1998.

**74.46.580 Public review of rate setting.** [1983 1st ex.s. c 67 § 32; 1980 c 177 § 58.] Repealed by 1995 1st sp.s. c 18 § 98, effective June 30, 1998.

**74.46.590 Public disclosure of rate-setting methodology.** [1980 c 177 § 59.] Repealed by 1995 1st sp.s. c 18 § 98, effective June 30, 1998.

## Title 76

### FORESTS AND FOREST PRODUCTS

#### Chapter 76.48

##### SPECIALIZED FOREST PRODUCTS

**76.48.092 Surrender of copy of specialized forest products permit to permittee following stipulated use—Penalty.** [1979 ex.s. c 94 § 8; 1977 ex.s. c 147 § 14.] Repealed by 1995 c 366 § 18.

## Title 81

### TRANSPORTATION

#### Chapter 81.62

##### RAIL DEVELOPMENT COMMISSION

**81.62.010 Legislative finding—Intent.** [1987 c 429 § 1.] Repealed by 1995 c 269 § 3301, effective July 1, 1995.

**81.62.020 Membership.** [1987 c 429 § 2.] Repealed by 1995 c 269 § 3301, effective July 1, 1995.

**81.62.030 Procedures—Expenses—Powers—Dissolution date.** [1987 c 429 § 3.] Repealed by 1995 c 269 § 3301, effective July 1, 1995.

**81.62.040 Staff—Budget approval.** [1987 c 429 § 4.] Repealed by 1995 c 269 § 3301, effective July 1, 1995.

**81.62.050 Study subjects.** [1987 c 429 § 5.] Repealed by 1995 c 269 § 3301, effective July 1, 1995.

**81.62.060 Reports.** [1987 c 429 § 6.] Repealed by 1995 c 269 § 3301, effective July 1, 1995.

**81.62.900 Severability—1987 c 429.** [1987 c 429 § 7.] Repealed by 1995 c 269 § 3301, effective July 1, 1995.

**81.62.901 Effective date—1987 c 429.** [1987 c 429 § 8.] Repealed by 1995 c 269 § 3301, effective July 1, 1995.

#### Chapter 81.80

##### MOTOR FREIGHT CARRIERS

**81.80.145 Private carriers—Terminal safety audits—Exemptions—Registration—Rules—Fees.** [1993 c 359 § 1.] Repealed by 1995 c 272 § 6, effective January 1, 1996.

#### Chapter 81.84

##### STEAMBOAT COMPANIES

**81.84.005 Definitions.** [1995 c 361 § 1.] Repealed by 1995 c 361 § 4, effective January 1, 2001.

**81.84.007 Chapter not applicable.** [1995 c 361 § 3.] Repealed by 1995 c 361 § 4, effective January 1, 2001.

**81.84.015 Vessels providing excursion service—Certificate required.** [1995 c 361 § 2.] Repealed by 1995 c 361 § 4, effective January 1, 2001.

## Title 82

### EXCISE TAXES

#### Chapter 82.37

##### MOTOR VEHICLE FUEL IMPORTER TAX ACT

**82.37.010 Declaration of purpose—Use of revenues.** [1963 ex.s. c 22 § 1.] Repealed by 1995 c 274 § 3.

**82.37.020 Definitions.** [1993 c 54 § 5; 1983 c 3 § 223; 1979 c 158 § 225; 1965 c 67 § 1; 1963 ex.s. c 22 § 2.] Repealed by 1995 c 274 § 3.

**82.37.030 Tax imposed—Rate to be computed.** [1983 1st ex.s. c 49 § 29; 1977 ex.s. c 317 § 4; 1967 ex.s. c 83 § 4; 1963 ex.s. c 22 § 3.] Repealed by 1995 c 274 § 3.

**82.37.040 Report and remittance by carriers.** [1963 ex.s. c 22 § 4.] Repealed by 1995 c 274 § 3.

**82.37.050 Additional assessment—Notice.** [1963 ex.s. c 22 § 5.] Repealed by 1995 c 274 § 3.

**82.37.060 Computation and collection of tax—Deduction and credit for fuel purchased or received in Washington—Refunds.** [1965 c 67 § 2; 1963 ex.s. c 22 § 6.] Repealed by 1995 c 274 § 3.

**82.37.070 Exemptions.** [1963 ex.s. c 22 § 7.] Repealed by 1995 c 274 § 3.

**82.37.080 Audit—Assessment of tax—Delinquency, penalty, and interest.** [1963 ex.s. c 22 § 8.] Repealed by 1995 c 274 § 3.

**82.37.090 Delinquency—Lien of tax—Notice.** [1963 ex.s. c 22 § 9.] Repealed by 1995 c 274 § 3.

**82.37.100 Delinquency—Collection by civil action.** [1963 ex.s. c 22 § 10.] Repealed by 1995 c 274 § 3.

**82.37.110 Remedies cumulative.** [1963 ex.s. c 22 § 11.] Repealed by 1995 c 274 § 3.

**82.37.120 Reassessment procedure.** [1963 ex.s. c 22 § 12.] Repealed by 1995 c 274 § 3.

**82.37.130 Notice of assessment—Time limitation.** [1963 ex.s. c 22 § 13.] Repealed by 1995 c 274 § 3.

**82.37.140 Exported fuel—Refund procedure.** [1965 c 67 § 3; 1963 ex.s. c 22 § 14.] Repealed by 1995 c 274 § 3.

**82.37.145 Duplicate, erroneous, or illegal collections—Credits—Refunds.** [1965 c 67 § 5.] Repealed by 1995 c 274 § 3.

**82.37.150 Records required of motor carriers.** [1965 c 67 § 4; 1963 ex.s. c 22 § 15.] Repealed by 1995 c 274 § 3.

**82.37.160 Examinations and investigations.** [1967 ex.s. c 89 § 7; 1963 ex.s. c 22 § 16.] Repealed by 1995 c 274 § 3.

**82.37.170 Rules and regulations—Secrecy enjoined, exception.** [1963 ex.s. c 22 § 17.] Repealed by 1995 c 274 § 3.

**82.37.175 Administration, collection, and enforcement of taxes pursuant to chapter 82.41 RCW.** [1982 c 161 § 13.] Repealed by 1995 c 274 § 3.

**82.37.180 Unlawful practices—Penalties for violation of chapter.** [1963 ex.s. c 22 § 18.] Repealed by 1995 c 274 § 3.

**82.37.190 Disposition of revenues.** [1974 ex.s. c 28 § 2. Prior: 1973 1st ex.s. c 124 § 3; 1973 c 95 § 6; 1967 ex.s. c 83 § 5; 1963 ex.s. c 22 § 19.] Repealed by 1995 c 274 § 3.

**82.37.900 Severability—1963 ex.s. c 22.** [1963 ex.s. c 22 § 22.] Repealed by 1995 c 274 § 3.

**82.37.910 Short title.** [1963 ex.s. c 22 § 23.] Repealed by 1995 c 274 § 3.

**82.37.920 Effective date—1963 ex.s. c 22.** [1963 ex.s. c 22 § 24.] Repealed by 1995 c 274 § 3.

## Chapter 82.61

TAX DEFERRALS FOR MANUFACTURING,  
RESEARCH, AND DEVELOPMENT PROJECTS

**82.61.020** Application for deferral—Contents—Initiation of construction. [1987 c 497 § 2; 1985 ex.s. c 2 § 2.] Repealed by 1995 1st sp.s. c 3 § 11, effective July 1, 1995.

**82.61.040** Expiration of RCW 82.61.020 and 82.61.030. [1993 sp.s. c 25 § 408; 1988 c 41 § 2; 1986 c 116 § 10; 1985 ex.s. c 2 § 8.] Repealed by 1995 1st sp.s. c 3 § 11, effective July 1, 1995.

## Chapter 82.63

## TAX DEFERRALS FOR HIGH TECHNOLOGY BUSINESSES

**82.63.040** Repayment schedule. [1994 sp.s. c 5 § 6.] Repealed by 1995 1st sp.s. c 3 § 14, effective July 1, 1995.

**82.63.050** Ineligible use of investment project—Payment of deferred taxes. [1994 sp.s. c 5 § 7.] Repealed by 1995 1st sp.s. c 3 § 14, effective July 1, 1995.

## Title 88

NAVIGATION AND HARBOR  
IMPROVEMENTS

## Chapter 88.44

## OIL SPILL FIRST RESPONSE

**88.44.155** Legal adviser—Attorney general. [1994 c 52 § 4.] Repealed by 1995 c 148 § 4, effective July 1, 1995.

**88.44.215** Contractor indemnification—Limited. [1994 c 52 § 3.] Repealed by 1995 c 148 § 4, effective July 1, 1995.

## Chapter 88.46

## VESSEL OIL SPILL PREVENTION AND RESPONSE

**88.46.920** Report to the legislature. [1991 c 200 § 429.] Repealed by 1995 2nd sp.s. c 14 § 524, effective January 1, 1996.

**88.46.923** Transfer of employees. [1991 c 200 § 432.] Repealed by 1995 2nd sp.s. c 14 § 524, effective January 1, 1996.

## Title 90

## WATER RIGHTS—ENVIRONMENT

## Chapter 90.56

OIL AND HAZARDOUS SUBSTANCE SPILL PREVENTION AND  
RESPONSE

**90.56.450** Marine oversight board—Annual report. [1992 c 73 § 40; 1991 c 200 § 501.] Repealed by 1995 c 269 § 3401, effective July 1, 1995.

## Chapter 90.58

## SHORELINE MANAGEMENT ACT OF 1971

**90.58.145** Substantial development permit—Structures at temporary ferry terminals—Hood Canal bridge—Removal of structures. [1979 ex.s. c 84 § 4.] Repealed by 1995 c 347 § 313.

## Chapter 90.62

## ENVIRONMENTAL COORDINATION PROCEDURES ACT

**90.62.010** Legislative finding—Purposes. [1982 c 179 § 1; 1977 c 54 § 1; 1973 1st ex.s. c 185 § 1.] Repealed by 1995 c 347 § 619.

**90.62.020** Definitions. [1994 c 264 § 96; 1988 c 36 § 71; 1977 c 54 § 2; 1973 1st ex.s. c 185 § 2.] Repealed by 1995 c 347 § 619.

**90.62.030** Thermal power plants exempt from chapter. [1973 1st ex.s. c 185 § 3.] Repealed by 1995 c 347 § 619.

**90.62.040** Master application for proposed project—Contents—Notice to state agencies—Agency permit forms sent applicant—Return of forms to department with local government certification. [1990 c 137 § 1; 1977 c 54 § 3; 1973 1st ex.s. c 185 § 4.] Repealed by 1995 c 347 § 619.

**90.62.050** Notice of proposed project—Publication—Contents—Public hearing. [1977 c 54 § 4; 1973 1st ex.s. c 185 § 5.] Repealed by 1995 c 347 § 619.

**90.62.060** Public hearing—Procedure—Agency participation—Final decisions. [1982 c 179 § 2; 1977 c 54 § 5; 1973 1st ex.s. c 185 § 6.] Repealed by 1995 c 347 § 619.

**90.62.070** Withdrawal of agency from participation. [1973 1st ex.s. c 185 § 7.] Repealed by 1995 c 347 § 619.

**90.62.080** Board review of agency final decision, procedure—Appeal of local government decision—Judicial review. [1987 c 109 § 156; 1977 c 54 § 6; 1973 1st ex.s. c 185 § 8.] Repealed by 1995 c 347 § 619.

**90.62.090** Application, scope, construction of chapter—Continuation of fee schedules—Collection. [1977 c 54 § 7; 1973 1st ex.s. c 185 § 9.] Repealed by 1995 c 347 § 619.

**90.62.100** Compliance with local zoning ordinances and plans—Scope—Certification—Other laws not affected. [1977 c 54 § 8; 1973 1st ex.s. c 185 § 10.] Repealed by 1995 c 347 § 619.

**90.62.110** Rules—Authority—Cooperation enjoined. [1973 1st ex.s. c 185 § 11.] Repealed by 1995 c 347 § 619.

**90.62.120** Permit requirements information centers—Offices for environmental permit applications—Procedures. [1973 1st ex.s. c 185 § 12.] Repealed by 1995 c 347 § 619.

**90.62.130** Modifications to master application—Authorized—Rules to set forth guidelines, limitations. [1977 c 54 § 9.] Repealed by 1995 c 347 § 619.

**90.62.900** Report to legislature. [1973 1st ex.s. c 185 § 13.] Repealed by 1995 c 347 § 619.

**90.62.901** Conflicts with federal requirements—Compliance with federal laws. [1973 1st ex.s. c 185 § 14.] Repealed by 1995 c 347 § 619.

**90.62.904** Liberal construction. [1973 1st ex.s. c 185 § 15.] Repealed by 1995 c 347 § 619.

**90.62.905** Short title. [1973 1st ex.s. c 185 § 16.] Repealed by 1995 c 347 § 619.

**90.62.906** Effective date—1973 1st ex.s. c 185. [1973 1st ex.s. c 185 § 18.] Repealed by 1995 c 347 § 619.

**90.62.907** Severability—1973 1st ex.s. c 185. [1973 1st ex.s. c 185 § 19.] Repealed by 1995 c 347 § 619.

**90.62.908** Severability—1977 c 54. [1977 c 54 § 10.] Repealed by 1995 c 347 § 619.



## Title 1 GENERAL PROVISIONS

### Chapters

- 1.08 Statute law committee (Code reviser).**  
**1.20 General provisions.**  
**1.30 Law revision commission.**

### Chapter 1.08 STATUTE LAW COMMITTEE (CODE REVISER)

#### Sections

- 1.08.112 Report on rule-making activity.

**1.08.112 Report on rule-making activity.** (1) The code reviser shall compile and publish on a quarterly basis a report on state agency rule-making activity. The report shall summarize the following information by agency and by type of activity for new, amended, and repealed rules adopted by state agencies pursuant to chapter 34.05 RCW:

- (a) The number adopted, proposed for adoption, and withdrawn;
- (b) The number adopted as emergency rules;
- (c) The number adopted in order to comply with federal statute, with federal rules or standards, and with recently enacted state statutes;
- (d) The number adopted at the request of a nongovernmental entity;
- (e) The number adopted on an agency's own initiative;
- (f) The number adopted in order to clarify, streamline, or reform agency procedures;
- (g) The number of petitions for review of rules received by agencies;
- (h) The number of rules appealed to superior court; and
- (i) The number adopted using negotiated rule making, pilot rule making, or other alternative rule-making mechanisms.

(2) For purposes of the report required by this section, each Washington State Register filing section shall be considered as a separate rule. The code reviser may adopt rules necessary to implement this section. To the maximum extent practicable, the code reviser shall use information supplied on forms provided by state agencies pursuant to chapter 34.05 RCW to prepare the report required by this section. [1995 c 403 § 704.]

**Findings—Short title—Intent—1995 c 403:** See note following RCW 34.05.328.

**Part headings not law—Severability—1995 c 403:** See RCW 43.05.903 and 43.05.904.

### Chapter 1.20 GENERAL PROVISIONS

#### Sections

- 1.20.120 State arboretum.

**1.20.120 State arboretum.** The Washington park arboretum is hereby designated as an official arboretum of the state of Washington. [1995 c 82 § 2.]

**Findings—1995 c 82:** "The legislature finds that the arboreta in this state act as living museums devoted to the display and conservation of woody plant species from around the world that can grow in the Pacific Northwest. Arboreta enhance public appreciation for the aesthetic diversity of temperate woody plants; conserve both natural and cultivated woody plant taxa to preserve their diversity for future appreciation; educate the public and students concerning urban landscape use and the natural biology of temperate woody plants; and cooperate with similar institutions in this region and around the world in achieving these common goals. The legislature further finds that arboreta are of increasing importance as world biodiversity declines.

The Washington park arboretum is a two hundred acre living museum that is managed cooperatively by the city of Seattle and the University of Washington. It is devoted to the display and conservation of collections of plants from around the world which can grow in the Pacific Northwest. These plants are used for education, research, conservation, and a sense of public pleasure. The Washington park arboretum, the oldest center for botanical and gardening learning in the Pacific Northwest, is recognized as one of the two foremost collections of woody plants in the United States of America and enjoys an excellent international reputation. The legislature finds that it is fitting and appropriate to recognize the importance of the overall mission of the Washington park arboretum." [1995 c 82 § 1.]

### Chapter 1.30 LAW REVISION COMMISSION

#### Sections

- 1.30.010 through 1.30.060 Repealed.

**1.30.010 through 1.30.060 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

## Title 2 COURTS OF RECORD

### Chapters

- 2.08 Superior courts.**  
**2.10 Judicial retirement system.**  
**2.32 Court clerks, reporters, and bailiffs.**  
**2.48 State bar act.**  
**2.52 Judicial council.**

### Chapter 2.08 SUPERIOR COURTS

#### Sections

- 2.08.062 Judges—Chelan, Douglas, Clark, Grays Harbor, Kitsap, Kittitas, and Lewis counties.

**2.08.062 Judges—Chelan, Douglas, Clark, Grays Harbor, Kitsap, Kittitas, and Lewis counties.** There shall be in the counties of Chelan and Douglas jointly, three judges of the superior court; in the county of Clark seven judges of the superior court; in the county of Grays Harbor three judges of the superior court; in the county of Kitsap seven judges of the superior court; in the county of Kittitas one judge of the superior court; in the county of Lewis two

judges of the superior court. [1995 c 117 § 1; 1992 c 189 § 2; 1990 c 186 § 1; 1987 c 323 § 2; 1985 c 357 § 2; 1979 ex.s. c 202 § 2; 1977 ex.s. c 311 § 2; 1975-'76 2nd ex.s. c 79 § 1; 1971 ex.s. c 83 § 4; 1967 ex.s. c 84 § 2; 1963 c 48 § 2; 1951 c 125 § 4. Prior: 1945 c 20 § 1, part; 1927 c 135 § 1, part; 1911 c 131 § 1; 1907 c 79 § 1, part; 1907 c 178 § 1, part; 1905 c 36 § 1, part; 1895 c 89 § 1, part; 1891 c 68 § 3, part; 1890 p 341 § 1, part; Rem. Supp. 1945 § 11045-1d, part; RRS § 11045-1, part.]

**Effect—Additional position in Clark county subject to approval and agreement—1995 c 117:** "The additional judicial position created by section 1 of this act is effective only if Clark county through its duly constituted legislative authority documents its approval of the additional position and its agreement that it will pay out of county funds, without reimbursement from the state, the expenses of the additional judicial position as provided by state law or the state Constitution." [1995 c 117 § 2.]

**Effective dates—Additional judicial positions subject to approval and agreement—1992 c 189:** See notes following RCW 2.08.061.

**Effective dates—Additional judicial positions in Kitsap and Thurston counties subject to approval and agreement—1990 c 186:** "(1)(a) One additional judicial position created by section 1 of this act and the additional judicial position created by section 2 of this act shall be effective July 1, 1990.

(b) The second additional judicial position created by section 1 of this act shall be effective not later than, and at the discretion of the legislative authority may be phased in at any time before, January 1, 1994.

(2) The additional judicial positions created by sections 1 and 2 of this act in Kitsap and Thurston counties shall be effective only if the county through its duly constituted legislative authority documents its approval of any additional positions and its agreement that it will pay out of county funds, without reimbursement from the state, the expenses of such additional judicial positions as provided by statute. The additional expenses include, but are not limited to, expenses incurred for court facilities." [1990 c 186 § 4.] Sections 1 and 2 of this act are the 1990 c 186 amendments to RCW 2.08.062 and 2.08.065.

**Effective dates—Additional judicial positions in King, Chelan, and Douglas counties subject to approval and agreement—1987 c 323:** See note following RCW 2.08.061.

**Effective dates—Additional judicial positions in Pierce, Clark, and Snohomish counties subject to approval and agreement—1985 c 357:** See note following RCW 2.08.061.

**Adjustment in judicial services:** See note following RCW 2.08.065.

**Effective date—1977 ex.s. c 311:** See note following RCW 2.08.061.

## Chapter 2.10

### JUDICIAL RETIREMENT SYSTEM

#### Sections

2.10.100	Retirement for service or age.
2.10.144	Payment of accumulated contributions or retirement allowance upon death—Election.
2.10.146	Election of option for payment of retirement or disability allowance.

**2.10.100 Retirement for service or age.** Retirement of a member for service shall be made by the retirement board as follows:

(1) Any judge who, on August 9, 1971 or within one year thereafter, shall have completed as a judge the years of actual service required under chapter 2.12 RCW and who shall elect to become a member of this system, shall in all respects be deemed qualified to retire under this retirement system upon the member's written request.

(2) Any member who has completed fifteen or more years of service may be retired upon the member's written

request but shall not be eligible to receive a retirement allowance until the member attains the age of sixty years.

(3) Any member who attains the age of seventy-five years shall be retired at the end of the calendar year in which the member attains such age.

(4) Any judge who involuntarily leaves service or who is appointed to a position as a federal judge or federal magistrate at any time after having served an aggregate of twelve years shall be eligible to a partial retirement allowance computed according to RCW 2.10.110 and shall receive this allowance upon the attainment of the age of sixty years and fifteen years after the beginning of the member's judicial service. [1995 c 305 § 1; 1988 c 109 § 3; 1971 ex.s. c 267 § 10.]

**Retroactive application—1995 c 305:** "Section 1 of this act shall apply retroactively to October 1, 1994." [1995 c 305 § 2.]

**Effective date—1988 c 109:** See note following RCW 2.10.030.

**2.10.144 Payment of accumulated contributions or retirement allowance upon death—Election.** (1) If a judge dies before the date of retirement, the amount of the accumulated contributions standing to the judge's credit at the time of death shall be paid to the member's estate, or such person or persons, trust, or organization as the judge has nominated by written designation duly executed and filed with the department of retirement systems. If there is no such designated person or persons still living at the time of the judge's death, or if the judge fails to file a new beneficiary designation subsequent to marriage, remarriage, dissolution of marriage, divorce, or reestablishment of membership following termination by withdrawal or retirement, the judge's credited accumulated contributions shall be paid to the surviving spouse as if in fact the spouse had been nominated by written designation or, if there is no such surviving spouse, then to the judge's legal representatives.

(2) Upon the death in service of any judge who is qualified but has not applied for a service retirement allowance or has completed ten years of service at the time of death, the designated beneficiary, or the surviving spouse as provided in subsection (1) of this section, may elect to waive the payment provided by subsection (1) of this section. Upon such an election, a joint and one hundred percent survivor option under RCW 2.10.146 shall automatically be given effect as if selected for the benefit of the surviving spouse or dependent who is the designated beneficiary, except that if the judge is not then qualified for a service retirement allowance, the option II benefit shall be based upon the actuarial equivalent of the sum necessary to pay the accrued regular retirement allowance commencing when the deceased judge would have first qualified for a service retirement allowance. However, subsection (1) of this section, unless elected, shall not apply to any judge who has applied for a service retirement and thereafter dies between the date of separation from service and the judge's effective retirement date, where the judge has selected a survivorship option under RCW 2.10.146(1)(b). In those cases, the beneficiary named in the judge's final application for service retirement may elect to receive either a cash refund or monthly payments according to the option selected by the judge. [1995 c 144 § 20; 1990 c 249 § 13; 1988 c 109 § 8.]

**Findings—1990 c 249:** See note following RCW 2.10.146.

Effective date—1988 c 109: See note following RCW 2.10.030.

**2.10.146 Election of option for payment of retirement or disability allowance.** (1) Upon making application for a service retirement allowance under RCW 2.10.100 or a disability allowance under RCW 2.10.120, a judge who is eligible therefor shall make an election as to the manner in which such service retirement shall be paid from among the following designated options, calculated so as to be actuarially equivalent to each other:

(a) Standard allowance. A member selecting this option shall receive a retirement allowance, which shall be computed as provided in RCW 2.10.110. The retirement allowance shall be payable throughout the judge's life. However, if the judge dies before the total of the retirement allowance paid to the judge equals the amount of the judge's accumulated contributions at the time of retirement, then the balance shall be paid to the member's estate, or such person or persons, trust, or organization as the judge has nominated by written designation duly executed and filed with the department of retirement systems or, if there is no such designated person or persons still living at the time of the judge's death, then to the surviving spouse or, if there is neither such designated person or persons still living at the time of death nor a surviving spouse, then to the judge's legal representative.

(b) The department shall adopt rules that allow a judge to select a retirement option that pays the judge a reduced retirement allowance and upon death, such portion of the judge's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid to a designated person. Such person shall be nominated by the judge by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and a joint and fifty percent survivor option.

(2) A judge, if married, must provide the written consent of his or her spouse to the option selected under this section. If a judge is married and both the judge and the judge's spouse do not give written consent to an option under this section, the department will pay the judge a joint and fifty percent survivor benefit and record the judge's spouse as the beneficiary. Such benefit shall be calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section. [1995 c 144 § 21; 1990 c 249 § 2; 1988 c 109 § 9.]

**Findings—1990 c 249:** "The legislature finds that:

(1) It would be advantageous for some retirees to have survivorship options available other than the options currently listed in statute. Allowing the department of retirement systems to adopt several different survivor options will assist retirees in their financial planning; and

(2) Disabled members of the retirement systems listed in RCW 41.50.030, except for members of the law enforcement officers' and fire fighters' retirement system plan I, must forfeit any right to leave a benefit to their survivors if they wish to go on disability retirement. This results in some disabled workers holding onto their jobs in order to provide for their dependents. The provisions of this act allow members to go on disability retirement while still providing for their survivors." [1990 c 249 § 1.] For codification of 1990 c 249, see Codification Tables, Volume 0.

Effective date—1988 c 109: See note following RCW 2.10.030.

## Chapter 2.32

### COURT CLERKS, REPORTERS, AND BAILIFFS

#### Sections

2.32.075	Repealed.
2.32.160	Commission on supreme court reports.
2.32.170	Commission—Powers.

**2.32.075 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**2.32.160 Commission on supreme court reports.** There is hereby created a commission advisory to the supreme court regarding the publication of the decisions of the supreme court and court of appeals of this state in both the form of advance sheets for temporary use and in permanent form, to be known as the commission on supreme court reports, and to include the reporter of decisions, the state law librarian, and such other members, including a judge of the court of appeals and a member in good standing of the Washington state bar association, as determined by the chief justice of the supreme court, who shall be chairman of the commission. Members of the commission shall serve as such without additional or any compensation: PROVIDED, That members shall be compensated in accordance with RCW 43.03.240. [1995 c 257 § 1; 1984 c 287 § 7; 1971 c 42 § 1; 1943 c 185 § 1; Rem. Supp. 1943 § 11071-1. Prior: 1917 c 87 § 1; 1905 c 167 §§ 1-4; 1895 c 55 § 1; 1891 c 37 § 1; 1890 p 327 § 1.]

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

**2.32.170 Commission—Powers.** The commission shall make recommendations to the supreme court on matters pertaining to the publication of such decisions, in both temporary and permanent forms. The commission shall by July 1, 1997, develop a policy that ensures that if any material prepared pursuant to RCW 2.32.110 is licensed for resale, the material is made available for licensing to all commercial resellers on an equal and nonexclusive basis. [1995 c 257 § 2; 1943 c 185 § 2; Rem. Supp. 1943 § 11071-2. Prior: 1921 c 162 § 1; 1919 c 117 §§ 1-3; 1905 c 167 § 5.]

## Chapter 2.48

### STATE BAR ACT

#### Sections

2.48.180	Definitions—Unlawful practice a crime—Cause for discipline—Unprofessional conduct—Defense—Injunction—Remedies—Costs—Attorneys' fees—Time limit for action.
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**2.48.180 Definitions—Unlawful practice a crime—Cause for discipline—Unprofessional conduct—Defense—Injunction—Remedies—Costs—Attorneys' fees—Time limit for action.** (1) As used in this section:

(a) "Legal provider" means an active member in good standing of the state bar, and any other person authorized by the Washington state supreme court to engage in full or limited practice of law;

(b) "Nonlawyer" means a person to whom the Washington supreme court has granted a limited authorization to practice law but who practices law outside that authorization, and a person who is not an active member in good standing of the state bar, including persons who are disbarred or suspended from membership;

(c) "Ownership interest" means the right to control the affairs of a business, or the right to share in the profits of a business, and includes a loan to the business when the interest on the loan is based upon the income of the business or the loan carries more than a commercially reasonable rate of interest.

(2) The following constitutes unlawful practice of law:

(a) A nonlawyer practices law, or holds himself or herself out as entitled to practice law;

(b) A legal provider holds an investment or ownership interest in a business primarily engaged in the practice of law, knowing that a nonlawyer holds an investment or ownership interest in the business;

(c) A nonlawyer knowingly holds an investment or ownership interest in a business primarily engaged in the practice of law;

(d) A legal provider works for a business that is primarily engaged in the practice of law, knowing that a nonlawyer holds an investment or ownership interest in the business; or

(e) A nonlawyer shares legal fees with a legal provider.

(3) Unlawful practice of law is a crime. A single violation of this section is a gross misdemeanor. Each subsequent violation, whether alleged in the same or in subsequent prosecutions, is a class C felony.

(4) Nothing contained in this section affects the power of the courts to grant injunctive or other equitable relief or to punish as for contempt.

(5) Whenever a legal provider or a person licensed by the state in a business or profession is convicted, enjoined, or found liable for damages or a civil penalty or other equitable relief under this section, the plaintiff's attorney shall provide written notification of the judgment to the appropriate regulatory or disciplinary body or agency.

(6) A violation of this section is cause for discipline and constitutes unprofessional conduct that could result in any regulatory penalty provided by law, including refusal, revocation, or suspension of a business or professional license, or right or admission to practice. Conduct that constitutes a violation of this section is unprofessional conduct in violation of RCW 18.130.180.

(7) In a proceeding under this section it is a defense if proven by the defendant by a preponderance of the evidence that, at the time of the offense, the conduct alleged was authorized by the rules of professional conduct or the admission to practice rules, or Washington business and professions licensing statutes or rules.

(8) Independent of authority granted to the attorney general, the prosecuting attorney may petition the superior court for an injunction against a person who has violated this chapter. Remedies in an injunctive action brought by a prosecuting attorney are limited to an order enjoining, restraining, or preventing the doing of any act or practice that constitutes a violation of this chapter and imposing a civil penalty of up to five thousand dollars for each violation. The prevailing party in the action may, in the discre-

tion of the court, recover its reasonable investigative costs and the costs of the action including a reasonable attorney's fee. The degree of proof required in an action brought under this subsection is a preponderance of the evidence. An action under this subsection must be brought within three years after the violation of this chapter occurred. [1995 c 285 § 26; 1989 c 117 § 13; 1933 c 94 § 14; RRS § 138-14.]

*Rules of court: RLD 1.1(h).*

**Effective date—1995 c 285:** See RCW 48.30A.900.

**Severability—Effective date—1989 c 117:** See RCW 19.154.901 and 19.154.902.

*Practicing law with disbarred attorney: RCW 2.48.220(9).*

## Chapter 2.52 JUDICIAL COUNCIL

Sections

2.52.010 through 2.52.050 Repealed.

**2.52.010 through 2.52.050 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

## Title 3 DISTRICT COURTS—COURTS OF LIMITED JURISDICTION

Chapters

**3.02** Courts of limited jurisdiction.  
**3.30** District courts.  
**3.34** District judges.  
**3.38** District court districts.  
**3.46** Municipal departments.  
**3.50** Municipal courts—Alternate provision.  
**3.62** Income of court.

### Chapter 3.02 COURTS OF LIMITED JURISDICTION

Sections

**3.02.045** Use of collection agencies and attorneys to collect unpaid amounts—Interest to agency authorized—Credit or debit card use—Assessment of amounts paid for collection as court costs.

**3.02.045 Use of collection agencies and attorneys to collect unpaid amounts—Interest to agency authorized—Credit or debit card use—Assessment of amounts paid for collection as court costs.** (1) Courts of limited jurisdiction may use collection agencies under chapter 19.16 RCW for purposes of collecting unpaid penalties on infractions, criminal fines, costs, assessments, civil judgments, or forfeitures that have been imposed by the courts. Courts of limited jurisdiction may enter into agreements with one or more attorneys or collection agencies for collection of outstanding penalties, fines, costs, assessments, and forfeitures. These agreements may specify the scope of work, remuneration for services, and other charges deemed appro-

priate. Such agreements may authorize collection agencies to retain all or any portion of the interest collected on these accounts.

(2) Courts of limited jurisdiction may use credit cards or debit cards for purposes of billing and collecting unpaid penalties, fines, costs, assessments, and forfeitures so imposed. Courts of limited jurisdiction may enter into agreements with one or more financial institutions for the purpose of the collection of penalties, fines, costs, assessments, and forfeitures. The agreements may specify conditions, remuneration for services, and other charges deemed appropriate.

(3) Servicing of delinquencies by collection agencies or by collecting attorneys in which the court retains control of its delinquencies shall not constitute assignment of debt.

(4) For purposes of this section, the term debt shall include penalties, fines, costs, assessments, or forfeitures imposed by the courts.

(5) The court may assess as court costs the moneys paid for remuneration for services or charges paid to collecting attorneys, to collection agencies, or, in the case of credit cards, to financial institutions. [1995 c 291 § 1; 1995 c 38 § 1; 1994 c 301 § 1; 1987 c 266 § 1.]

**Reviser's note:** This section was amended by 1995 c 38 § 1 and by 1995 c 291 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Acts of municipal officers ratified and confirmed—1995 c 38:** "Acts of municipal officers before July 23, 1995, that are consistent with its terms, including, but not limited to, acts consistent with chapter 301, Laws of 1994, are ratified and confirmed." [1995 c 38 § 12.]

**Chapter 3.30  
DISTRICT COURTS**

Sections  
3.30.070 Records.

**3.30.070 Records.** The clerk of each district court shall keep uniform records of each case filed and the proceedings had therein including an accounting for all funds received and disbursed. Financial reporting shall be in such form as may be prescribed by the state auditor. The form of other records may be prescribed by the supreme court. [1995 c 301 § 30; 1971 c 73 § 3; 1961 c 299 § 7.]

**Chapter 3.34  
DISTRICT JUDGES**

Sections  
3.34.010 District judges—Number for each county.

**3.34.010 District judges—Number for each county.** The number of district judges to be elected in each county shall be: Adams, two; Asotin, one; Benton, three; Chelan, two; Clallam, two; Clark, five; Columbia, one; Cowlitz, two; Douglas, one; Ferry, one; Franklin, one; Garfield, one; Grant, two; Grays Harbor, two; Island, one; Jefferson, one; King, twenty-six; Kitsap, three; Kittitas, two; Klickitat, two; Lewis, two; Lincoln, one; Mason, one; Okanogan, two; Pacific, two; Pend Oreille, one; Pierce, eleven; San Juan,

one; Skagit, two; Skamania, one; Snohomish, seven; Spokane, nine; Stevens, one; Thurston, two; Wahkiakum, one; Walla Walla, two; Whatcom, two; Whitman, one; Yakima, four. This number may be increased only as provided in RCW 3.34.020. [1995 c 168 § 1; 1994 c 111 § 1; 1991 c 354 § 1; 1989 c 227 § 6; 1987 c 202 § 111; 1975 1st ex.s. c 153 § 1; 1973 1st ex.s. c 14 § 1; 1971 ex.s. c 147 § 1; 1970 ex.s. c 23 § 1; 1969 ex.s. c 66 § 1; 1965 ex.s. c 110 § 5; 1961 c 299 § 10.]

**Effective date—1995 c 168:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 1, 1995]." [1995 c 168 § 2.]

**Intent—1989 c 227:** See note following RCW 3.38.070.

**Intent—1987 c 202:** See note following RCW 2.04.190.

**Chapter 3.38  
DISTRICT COURT DISTRICTS**

Sections  
3.38.010 Districting committee—Membership.

**3.38.010 Districting committee—Membership.** There is established in each county a district court districting committee composed of the following:

(1) The judge of the superior court, or, if there be more than one such judge, then one of the judges selected by that court;

(2) The prosecuting attorney, or a deputy selected by the prosecuting attorney;

(3) A practicing lawyer of the county selected by the president of the largest local bar association, if there be one, and if not, then by the county legislative authority;

(4) A judge of a court of limited jurisdiction in the county selected by the president of the Washington state district and municipal court judges' association; and

(5) The mayor, or representative appointed by the mayor, of each city or town with a population of three thousand or more in the county;

(6) One person to represent the cities and towns with populations of three thousand or less in the county, if any, to be selected by a majority vote of the mayors of those cities and towns with a population of less than three thousand. However, if there should not be a city in the county with a population of ten thousand or more, the mayor, or the mayor's representative, of each city or town with a population of less than three thousand shall be a member;

(7) The chair of the county legislative authority; and

(8) The county auditor. [1995 c 37 § 1. Prior: 1994 c 81 § 1; 1994 c 32 § 2; 1984 c 258 § 22; 1961 c 299 § 25.]

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

**Chapter 3.46  
MUNICIPAL DEPARTMENTS**

Sections  
3.46.120 Revenue—Disposition—Interest.

**3.46.120 Revenue—Disposition—Interest.** (1) All money received by the clerk of a municipal department including penalties, fines, bail forfeitures, fees and costs shall be paid by the clerk to the city treasurer.

(2) The city treasurer shall remit monthly thirty-two percent of the noninterest money received under this section, other than for parking infractions, and certain costs to the state treasurer. "Certain costs" as used in this subsection, means those costs awarded to prevailing parties in civil actions under RCW 4.84.010 or 36.18.040, or those costs awarded against convicted defendants in criminal actions under RCW 10.01.160, 10.46.190, or 36.18.040, or other similar statutes if such costs are specifically designated as costs by the court and are awarded for the specific reimbursement of costs incurred by the state, county, city, or town in the prosecution of the case, including the fees of defense counsel. Money remitted under this subsection to the state treasurer shall be deposited as provided in RCW 43.08.250.

(3) The balance of the noninterest money received under this section shall be retained by the city and deposited as provided by law.

(4) Penalties, fines, bail forfeitures, fees, and costs may accrue interest at the rate of twelve percent per annum, upon assignment to a collection agency. Interest may accrue only while the case is in collection status.

(5) Interest retained by the court on penalties, fines, bail forfeitures, fees, and costs shall be split twenty-five percent to the state treasurer for deposit in the public safety and education account as provided in RCW 43.08.250, twenty-five percent to the state treasurer for deposit in the judicial information system account as provided in RCW 2.68.020, twenty-five percent to the city general fund, and twenty-five percent to the city general fund to fund local courts. [1995 c 291 § 3; 1988 c 169 § 1; 1985 c 389 § 3; 1984 c 258 § 303; 1975 1st ex.s. c 241 § 4; 1961 c 299 § 46.]

**Effective date—1985 c 389:** See note following RCW 27.24.070.

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

**Legislative intent—1984 c 258 §§ 302-340:** "It is the intent of the legislature to assure accountability, uniformity, economy, and efficiency in the collection and distribution by superior, district, and municipal courts of fees, fines, forfeitures, and penalties assessed and collected for violations of state statutes, and county, city, and town ordinances." [1984 c 258 § 301.]

### Chapter 3.50

#### MUNICIPAL COURTS—ALTERNATE PROVISION

(Formerly: Municipal departments—Alternate provision)

##### Sections

3.50.100 Revenue—Disposition—Interest.

**3.50.100 Revenue—Disposition—Interest.** (1) Costs in civil and criminal actions may be imposed as provided in district court. All fees, costs, fines, forfeitures and other money imposed by any municipal court for the violation of any municipal or town ordinances shall be collected by the court clerk and, together with any other noninterest revenues received by the clerk, shall be deposited with the city or town treasurer as a part of the general fund of the city or town, or deposited in such other fund of the city or town, or

deposited in such other funds as may be designated by the laws of the state of Washington.

(2) The city treasurer shall remit monthly thirty-two percent of the noninterest money received under this section, other than for parking infractions, and certain costs to the state treasurer. "Certain costs" as used in this subsection, means those costs awarded to prevailing parties in civil actions under RCW 4.84.010 or 36.18.040, or those costs awarded against convicted defendants in criminal actions under RCW 10.01.160, 10.46.190, or 36.18.040, or other similar statutes if such costs are specifically designated as costs by the court and are awarded for the specific reimbursement of costs incurred by the state, county, city, or town in the prosecution of the case, including the fees of defense counsel. Money remitted under this subsection to the state treasurer shall be deposited as provided in RCW 43.08.250.

(3) The balance of the noninterest money received under this section shall be retained by the city and deposited as provided by law.

(4) Penalties, fines, bail forfeitures, fees, and costs may accrue interest at the rate of twelve percent per annum, upon assignment to a collection agency. Interest may accrue only while the case is in collection status.

(5) Interest retained by the court on penalties, fines, bail forfeitures, fees, and costs shall be split twenty-five percent to the state treasurer for deposit in the public safety and education account as provided in RCW 43.08.250, twenty-five percent to the state treasurer for deposit in the judicial information system account as provided in RCW 2.68.020, twenty-five percent to the city general fund, and twenty-five percent to the city general fund to fund local courts. [1995 c 291 § 3; 1988 c 169 § 2; 1985 c 389 § 4; 1984 c 258 § 304; 1975 1st ex.s. c 241 § 3; 1961 c 299 § 59.]

**Effective date—1985 c 389:** See note following RCW 27.24.070.

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

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

### Chapter 3.62

#### INCOME OF COURT

##### Sections

3.62.020 Costs, fees, fines, forfeitures, and penalties except city cases—Disposition—Interest.  
3.62.040 Costs, fines, forfeitures, and penalties from city cases—Disposition—Interest.  
3.62.090 Public safety and education assessment—Amount.

**3.62.020 Costs, fees, fines, forfeitures, and penalties except city cases—Disposition—Interest.** (1) Except as provided in subsection (4) of this section, all costs, fees, fines, forfeitures and penalties assessed and collected in whole or in part by district courts, except costs, fines, forfeitures and penalties assessed and collected, in whole or in part, because of the violation of city ordinances, shall be remitted by the clerk of the district court to the county treasurer at least monthly, together with a financial statement as required by the state auditor, noting the information necessary for crediting of such funds as required by law.

(2) The county treasurer shall remit thirty-two percent of the noninterest money received under subsection (1) of

this section except certain costs to the state treasurer. "Certain costs" as used in this subsection, means those costs awarded to prevailing parties in civil actions under RCW 4.84.010 or 36.18.040, or those costs awarded against convicted defendants in criminal actions under RCW 10.01.160, 10.46.190, or 36.18.040, or other similar statutes if such costs are specifically designated as costs by the court and are awarded for the specific reimbursement of costs incurred by the state or county in the prosecution of the case, including the fees of defense counsel. Money remitted under this subsection to the state treasurer shall be deposited as provided in RCW 43.08.250.

(3) The balance of the noninterest money received by the county treasurer under subsection (1) of this section shall be deposited in the county current expense fund.

(4) All money collected for county parking infractions shall be remitted by the clerk of the district court at least monthly, with the information required under subsection (1) of this section, to the county treasurer for deposit in the county current expense fund.

(5) Penalties, fines, bail forfeitures, fees, and costs may accrue interest at the rate of twelve percent per annum, upon assignment to a collection agency. Interest may accrue only while the case is in collection status.

(6) Interest retained by the court on penalties, fines, bail forfeitures, fees, and costs shall be split twenty-five percent to the state treasurer for deposit in the public safety and education account as provided in RCW 43.08.250, twenty-five percent to the state treasurer for deposit in the judicial information system account as provided in RCW 2.68.020, twenty-five percent to the county current expense fund, and twenty-five percent to the county current expense fund to fund local courts. [1995 c 301 § 31; 1995 c 291 § 5; 1988 c 169 § 3; 1985 c 389 § 5; 1984 c 258 § 306; 1971 c 73 § 8; 1969 ex.s. c 199 § 2; 1961 c 299 § 106.]

**Reviser's note:** This section was amended by 1995 c 291 § 5 and by 1995 c 301 § 31, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Effective date—1985 c 389:** See note following RCW 27.24.070.

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

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

**3.62.040 Costs, fines, forfeitures, and penalties from city cases—Disposition—Interest.** (1) Except as provided in subsection (4) of this section, all costs, fines, forfeitures and penalties assessed and collected, in whole or in part, by district courts because of violations of city ordinances shall be remitted by the clerk of the district court at least monthly directly to the treasurer of the city wherein the violation occurred.

(2) The city treasurer shall remit monthly thirty-two percent of the noninterest money received under this section, other than for parking infractions and certain costs, to the state treasurer. "Certain costs" as used in this subsection, means those costs awarded to prevailing parties in civil actions under RCW 4.84.010 or 36.18.040, or those costs awarded against convicted defendants in criminal actions under RCW 10.01.160, 10.46.190, or 36.18.040, or other similar statutes if such costs are specifically designated as costs by the court and are awarded for the specific reim-

bursement of costs incurred by the state, county, city, or town in the prosecution of the case, including the fees of defense counsel. Money remitted under this subsection to the state treasurer shall be deposited as provided in RCW 43.08.250.

(3) The balance of the noninterest money received under this section shall be retained by the city and deposited as provided by law.

(4) All money collected for city parking infractions shall be remitted by the clerk of the district court at least monthly to the city treasurer for deposit in the city's general fund.

(5) Penalties, fines, bail forfeitures, fees, and costs may accrue interest at the rate of twelve percent per annum, upon assignment to a collection agency. Interest may accrue only while the case is in collection status.

(6) Interest retained by the court on penalties, fines, bail forfeitures, fees, and costs shall be split twenty-five percent to the state treasurer for deposit in the public safety and education account as provided in RCW 43.08.250, twenty-five percent to the state treasurer for deposit in the judicial information system account as provided in RCW 2.68.020, twenty-five percent to the city general fund, and twenty-five percent to the city general fund to fund local courts. [1995 c 291 § 6; 1988 c 169 § 4; 1985 c 389 § 6; 1984 c 258 § 307; 1975 1st ex.s. c 241 § 2; 1961 c 299 § 108.]

**Effective date—1985 c 389:** See note following RCW 27.24.070.

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

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

**3.62.090 Public safety and education assessment—Amount.** (1) There shall be assessed and collected in addition to any fines, forfeitures, or penalties assessed, other than for parking infractions, by all courts organized under Title 3 or 35 RCW a public safety and education assessment equal to sixty percent of such fines, forfeitures, or penalties, which shall be remitted as provided in chapters 3.46, 3.50, 3.62, and 35.20 RCW. The assessment required by this section shall not be suspended or waived by the court.

(2) There shall be assessed and collected in addition to any fines, forfeitures, or penalties assessed, other than for parking infractions and for fines levied under RCW 46.61.5055, and in addition to the public safety and education assessment required under subsection (1) of this section, by all courts organized under Title 3 or 35 RCW, an additional public safety and education assessment equal to fifty percent of the public safety and education assessment required under subsection (1) of this section, which shall be remitted to the state treasurer and deposited as provided in RCW 43.08.250. The additional assessment required by this subsection shall not be suspended or waived by the court. [1995 c 332 § 7; 1994 c 275 § 34; 1986 c 98 § 4; 1984 c 258 § 337.]

**Severability—Effective dates—1995 c 332:** See notes following RCW 46.20.308.

**Short title—Effective date—1994 c 275:** See notes following RCW 46.04.015.

**Effective date—1986 c 98 § 4:** "Section 4 of this act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect May 1, 1986." [1986 c 98 § 5.] Section 4 of this act consists of the 1986 c 98 amendments to RCW 3.62.090.

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

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

**Public safety and education account:** RCW 43.08.250.

## Title 4 CIVIL PROCEDURE

### Chapters

- 4.24** Special rights of action and special immunities.  
**4.56** Judgments—Generally.  
**4.64** Entry of judgments.  
**4.84** Costs.  
**4.92** Actions and claims against state.

### Chapter 4.24

#### SPECIAL RIGHTS OF ACTION AND SPECIAL IMMUNITIES

##### Sections

- 4.24.130 Action for change of name—Fees.  
 4.24.240 Persons licensed to provide health care or related services, employees, hospitals, clinics, etc.—Professional review committee, society, examining, licensing or disciplinary board members, etc.—Immunity from civil suit.  
 4.24.290 Action for damages based on professional negligence of hospitals or members of healing arts—Standard of proof—Evidence—Exception.  
 4.24.400 Building warden assisting others to evacuate building or attempting to control hazard—Immunity from liability.

**4.24.130 Action for change of name—Fees.** (1) Any person desiring a change of his or her name or that of his or her child or ward, may apply therefor to the district court of the judicial district in which he or she resides, by petition setting forth the reasons for such change; thereupon such court in its discretion may order a change of the name and thenceforth the new name shall be in place of the former.

(2) An offender under the jurisdiction of the department of corrections who applies to change his or her name under subsection (1) of this section shall submit a copy of the application to the department of corrections not fewer than five days before the entry of an order granting the name change. No offender under the jurisdiction of the department of corrections at the time of application shall be granted an order changing his or her name if the court finds that doing so will interfere with legitimate penological interests, except that no order shall be denied when the name change is requested for religious or legitimate cultural reasons or in recognition of marriage or dissolution of marriage. An offender under the jurisdiction of the department of corrections who receives an order changing his or her name shall submit a copy of the order to the department of corrections within five days of the entry of the order. Violation of this subsection is a misdemeanor.

(3) The district court shall collect the fees authorized by RCW 36.18.010 for filing and recording a name change order, and transmit the fee and the order to the county

auditor. The court may collect a reasonable fee to cover the cost of transmitting the order to the county auditor.

(4) Name change petitions may be filed and shall be heard in superior court when the person desiring a change of his or her name or that of his or her child or ward is a victim of domestic violence as defined in RCW 26.50.010(1) and the person seeks to have the name change file sealed due to reasonable fear for his or her safety or that of his or her child or ward. Upon granting the name change, the superior court shall seal the file if the court finds that the safety of the person seeking the name change or his or her child or ward warrants sealing the file. In all cases filed under this subsection, whether or not the name change petition is granted, there shall be no public access to any court record of the name change filing, proceeding, or order, unless the name change is granted but the file is not sealed. [1995 1st sp.s. c 19 § 14; 1995 c 246 § 34; 1992 c 30 § 1; 1991 c 33 § 5; Code 1881 § 635; 1877 p 132 § 638; RRS § 998.]

**Findings—Purpose—Short title—Severability—Effective date—1995 1st sp.s. c 19:** See notes following RCW 72.09.450.

**Severability—1995 c 246:** See note following RCW 26.50.010.

**Effective date—1991 c 33:** See note following RCW 3.66.020.

**4.24.240 Persons licensed to provide health care or related services, employees, hospitals, clinics, etc.—Professional review committee, society, examining, licensing or disciplinary board members, etc.—Immunity from civil suit.** (1)(a) A person licensed by this state to provide health care or related services, including, but not limited to, a licensed acupuncturist, a physician, osteopathic physician, dentist, nurse, optometrist, podiatric physician and surgeon, chiropractor, physical therapist, psychologist, pharmacist, optician, physician's assistant, osteopathic physician's assistant, nurse practitioner, including, in the event such person is deceased, his or her estate or personal representative;

(b) An employee or agent of a person described in subparagraph (a) of this subsection, acting in the course and scope of his or her employment, including, in the event such employee or agent is deceased, his or her estate or personal representative; or

(c) An entity, whether or not incorporated, facility, or institution employing one or more persons described in subparagraph (a) of this subsection, including, but not limited to, a hospital, clinic, health maintenance organization, or nursing home; or an officer, director, trustee, employee, or agent thereof acting in the course and scope of his or her employment, including in the event such officer, director, employee, or agent is deceased, his or her estate or personal representative;

shall be immune from civil action for damages arising out of the good faith performance of their duties on such committees, where such actions are being brought by or on behalf of the person who is being evaluated.

(2) No member, employee, staff person, or investigator of a professional review committee shall be liable in a civil action as a result of acts or omissions made in good faith on behalf of the committee; nor shall any person be so liable for filing charges with or supplying information or testimony in good faith to any professional review committee; nor shall



a member, employee, staff person, or investigator of a professional society, of a professional examining or licensing board, of a professional disciplinary board, of a governing board of any institution, or of any employer of professionals be so liable for good faith acts or omissions made in full or partial reliance on recommendations or decisions of a professional review committee or examining board. [1995 c 323 § 1; 1985 c 326 § 25; 1975-'76 2nd ex.s. c 56 § 4; 1975 1st ex.s. c 114 § 1; 1969 ex.s. c 157 § 1.]

**Severability—1975-'76 2nd ex.s. c 56:** See note following RCW 4.16.350.

**4.24.290 Action for damages based on professional negligence of hospitals or members of healing arts—Standard of proof—Evidence—Exception.** In any civil action for damages based on professional negligence against a hospital which is licensed by the state of Washington or against the personnel of any such hospital, or against a member of the healing arts including, but not limited to, an acupuncturist licensed under chapter 18.06 RCW, a physician licensed under chapter 18.71 RCW, an osteopathic physician licensed under chapter 18.57 RCW, a chiropractor licensed under chapter 18.25 RCW, a dentist licensed under chapter 18.32 RCW, a podiatric physician and surgeon licensed under chapter 18.22 RCW, or a nurse licensed under chapter 18.79 RCW, the plaintiff in order to prevail shall be required to prove by a preponderance of the evidence that the defendant or defendants failed to exercise that degree of skill, care, and learning possessed at that time by other persons in the same profession, and that as a proximate result of such failure the plaintiff suffered damages, but in no event shall the provisions of this section apply to an action based on the failure to obtain the informed consent of a patient. [1995 c 323 § 2; 1994 sp.s. c 9 § 702; 1985 c 326 § 26; 1983 c 149 § 1; 1975 1st ex.s. c 35 § 1.]

**Severability—Headings and captions not law—Effective date—1994 sp.s. c 9:** See RCW 18.79.900 through 18.79.902.

*Limitations of actions for injuries resulting from health care or related services:* RCW 4.16.350.

**4.24.400 Building warden assisting others to evacuate building or attempting to control hazard—Immunity from liability.** No building warden, who acts in good faith, with or without compensation, shall be personally liable for civil damages arising from his or her negligent acts or omissions during the course of assigned duties in assisting others to evacuate industrial, commercial, governmental or multi-unit residential buildings or in attempting to control or alleviate a hazard to the building or its occupants caused by fire, earthquake or other threat to life or limb. The term "building warden" means an individual who is assigned to take charge of the occupants on a floor or in an area of a building during an emergency in accordance with a predetermined fire safety or evacuation plan; and/or an individual selected by a municipal fire chief or the chief of the Washington state patrol, through the director of fire protection, after an emergency is in progress to assist in evacuating the occupants of such a building or providing for their safety. This section shall not apply to any acts or omissions constituting gross negligence or wilful or wanton misconduct. [1995 c 369 § 2; 1986 c 266 § 79; 1981 c 320 § 1.]

**Effective date—1995 c 369:** See note following RCW 43.43.930.

**Severability—1986 c 266:** See note following RCW 38.52.005.

## Chapter 4.56

### JUDGMENTS—GENERALLY

#### Sections

4.56.210 Cessation of lien—Extension prohibited—Exception.

**4.56.210 Cessation of lien—Extension prohibited—Exception.** (1) Except as provided in subsections (2) and (3) of this section, after the expiration of ten years from the date of the entry of any judgment heretofore or hereafter rendered in this state, it shall cease to be a lien or charge against the estate or person of the judgment debtor. No suit, action or other proceeding shall ever be had on any judgment rendered in this state by which the lien shall be extended or continued in force for any greater or longer period than ten years.

(2) An underlying judgment or judgment lien entered after \*the effective date of this act for accrued child support shall continue in force for ten years after the eighteenth birthday of the youngest child named in the order for whom support is ordered. All judgments entered after \*the effective date of this act shall contain the birth date of the youngest child for whom support is ordered.

(3) A lien based upon an underlying judgment continues in force for an additional ten-year period if the period of execution for the underlying judgment is extended under RCW 6.17.020. [1995 c 75 § 1; 1989 c 360 § 2; 1979 ex.s. c 236 § 1; 1929 c 60 § 7; RRS §§ 459, 460. Formerly RCW 4.56.210 and 4.56.220. Prior: 1897 c 39 §§ 1, 2.]

**\*Reviser's note:** This act [1989 c 360] has three effective dates. Sections 9, 10, and 16 are effective May 12, 1989, section 39 is effective July 1, 1990, and the remainder of this act is effective July 23, 1989.

*Entry of judgments—Superior court—District court—Small claims:* RCW 6.01.020.

## Chapter 4.64

### ENTRY OF JUDGMENTS

#### Sections

4.64.030 Entry of judgment in execution docket—Summary of judgment for payment of money.

**4.64.030 Entry of judgment in execution docket—Summary of judgment for payment of money.** The clerk shall enter all judgments in the execution docket, subject to the direction of the court and shall specify clearly the amount to be recovered, the relief granted, or other determination of the action.

On the first page of each judgment which provides for the payment of money, including judgments in rem, mandates of judgments, and judgments on garnishments, the following shall be succinctly summarized: The judgment creditor and the name of his or her attorney, the judgment debtor, the amount of the judgment, the interest owed to the date of the judgment, and the total of the taxable costs and attorney fees, if known at the time of the entry of the judgment. If the attorney fees and costs are not included in

the judgment, they shall be summarized in the cost bill when filed. This information is included in the judgment to assist the county clerk in his or her record-keeping function. The clerk may not sign or file a judgment, and a judgment does not take effect, until the judgment has a summary in compliance with this section. The clerk is not liable for an incorrect summary. [1995 c 149 § 1; 1994 c 185 § 2; 1987 c 442 § 1107; 1984 c 128 § 6; 1983 c 28 § 2; Code 1881 § 305; 1877 p 62 § 309; 1869 p 75 § 307; RRS § 435.]

*Rules of court:* Cf. CR 58(a), CR 58(b), CR 78 (e).

## Chapter 4.84 COSTS

### Sections

- 4.84.340 Judicial review of agency action—Definitions.  
 4.84.350 Judicial review of agency action—Award of fees and expenses.  
 4.84.360 Judicial review of agency action—Payment of fees and expenses—Report to office of financial management.  
 4.84.370 Appeal of land use decisions—Fees and costs.

**4.84.340 Judicial review of agency action—Definitions.** Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 4.84.340 through 4.84.360.

(1) "Agency" means any state board, commission, department, institution of higher education, or officer, authorized by law to make rules or to conduct adjudicative proceedings, except those in the legislative or judicial branches, the governor, or the attorney general except to the extent otherwise required by law.

(2) "Agency action" means agency action as defined by chapter 34.05 RCW.

(3) "Fees and other expenses" includes the reasonable expenses of expert witnesses, the reasonable cost of a study, analysis, engineering report, test, or project that is found by the court to be necessary for the preparation of the party's case, and reasonable attorneys' fees. Reasonable attorneys' fees shall be based on the prevailing market rates for the kind and quality of services furnished, except that (a) no expert witness shall be compensated at a rate in excess of the highest rates of compensation for expert witnesses paid by the state of Washington, and (b) attorneys' fees shall not be awarded in excess of one hundred fifty dollars per hour unless the court determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceedings involved, justifies a higher fee.

(4) "Judicial review" means a judicial review as defined by chapter 34.05 RCW.

(5) "Qualified party" means (a) an individual whose net worth did not exceed one million dollars at the time the initial petition for judicial review was filed or (b) a sole owner of an unincorporated business, or a partnership, corporation, association, or organization whose net worth did not exceed five million dollars at the time the initial petition for judicial review was filed, except that an organization described in section 501(c)(3) of the federal internal revenue code of 1954 as exempt from taxation under section 501(a) of the code and a cooperative association as defined in section 15(a) of the agricultural marketing act (12 U.S.C.

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1141J(a)), may be a party regardless of the net worth of such organization or cooperative association. [1995 c 403 § 902.]

**Findings—1995 c 403:** "The legislature finds that certain individuals, smaller partnerships, smaller corporations, and other organizations may be deterred from seeking review of or defending against an unreasonable agency action because of the expense involved in securing the vindication of their rights in administrative proceedings. The legislature further finds that because of the greater resources and expertise of the state of Washington, individuals, smaller partnerships, smaller corporations, and other organizations are often deterred from seeking review of or defending against state agency actions because of the costs for attorneys, expert witnesses, and other costs. The legislature therefore adopts this equal access to justice act to ensure that these parties have a greater opportunity to defend themselves from inappropriate state agency actions and to protect their rights." [1995 c 43 § 901.]

**Findings—Short title—Intent—1995 c 403:** See note following RCW 34.05.328.

**Part headings not law—Severability—1995 c 403:** See RCW 43.05.903 and 43.05.904.

**4.84.350 Judicial review of agency action—Award of fees and expenses.** (1) Except as otherwise specifically provided by statute, a court shall award a qualified party that prevails in a judicial review of an agency action fees and other expenses, including reasonable attorneys' fees, unless the court finds that the agency action was substantially justified or that circumstances make an award unjust. A qualified party shall be considered to have prevailed if the qualified party obtained relief on a significant issue that achieves some benefit that the qualified party sought.

(2) The amount awarded a qualified party under subsection (1) of this section shall not exceed twenty-five thousand dollars. Subsection (1) of this section shall not apply unless all parties challenging the agency action are qualified parties. If two or more qualified parties join in an action, the award in total shall not exceed twenty-five thousand dollars. The court, in its discretion, may reduce the amount to be awarded pursuant to subsection (1) of this section, or deny any award, to the extent that a qualified party during the course of the proceedings engaged in conduct that unduly or unreasonably protracted the final resolution of the matter in controversy. [1995 c 403 § 903.]

**Findings—1995 c 403:** See note following RCW 4.84.340.

**Findings—Short title—Intent—1995 c 403:** See note following RCW 34.05.328.

**Part headings not law—Severability—1995 c 403:** See RCW 43.05.903 and 43.05.904.

**4.84.360 Judicial review of agency action—Payment of fees and expenses—Report to office of financial management.** Fees and other expenses awarded under RCW 4.84.340 and 4.84.350 shall be paid by the agency over which the party prevails from operating funds appropriated to the agency within sixty days. Agencies paying fees and other expenses pursuant to RCW 4.84.340 and 4.84.350 shall report all payments to the office of financial management within five days of paying the fees and other expenses. Fees and other expenses awarded by the court shall be subject to the provisions of chapter 39.76 RCW and shall be deemed payable on the date the court announces the award. [1995 c 403 § 904.]

**Findings—1995 c 403:** See note following RCW 4.84.340.

**Findings—Short title—Intent—1995 c 403:** See note following RCW 34.05.328.

**Part headings not law—Severability—1995 c 403:** See RCW 43.05.903 and 43.05.904.

**4.84.370 Appeal of land use decisions—Fees and costs.** (1) Notwithstanding any other provisions of this chapter, reasonable attorneys' fees and costs shall be awarded to the prevailing party or substantially prevailing party on appeal before the court of appeals or the supreme court of a decision by a county, city, or town to issue, condition, or deny a development permit involving a site-specific rezone, zoning, plat, conditional use, variance, shoreline permit, building permit, site plan, or similar land use approval or decision. The court shall award and determine the amount of reasonable attorneys' fees and costs under this section if:

(a) The prevailing party on appeal was the prevailing or substantially prevailing party before the county, city, or town, or in a decision involving a substantial development permit under chapter 90.58 RCW, the prevailing party on appeal was the prevailing party or the substantially prevailing party before the shoreline[s] hearings board; and

(b) The prevailing party on appeal was the prevailing party or substantially prevailing party in all prior judicial proceedings.

(2) In addition to the prevailing party under subsection (1) of this section, the county, city, or town whose decision is on appeal is considered a prevailing party if its decision is upheld at superior court and on appeal. [1995 c 347 § 718.]

**Finding—Severability—Part headings and table of contents not law—1995 c 347:** See notes following RCW 36.70A.470.

## Chapter 4.92

### ACTIONS AND CLAIMS AGAINST STATE

#### Sections

4.92.220 Risk management account created—Purpose.

**4.92.220 Risk management account created—Purpose.** (1) A risk management account is hereby created in the treasury to be used exclusively for the payment of costs related to:

(a) The appropriated administration of liability, property, and vehicle claims, including investigation, claim processing, negotiation, and settlement, and other expenses relating to settlements and judgments against the state not otherwise budgeted; and

(b) The nonappropriated pass-through cost associated with the purchase of liability and property insurance, including catastrophic insurance, subject to policy conditions and limitations determined by the risk manager.

(2) The risk management account's appropriation shall be financed through a combination of direct appropriations and assessments to state agencies. [1995 c 137 § 1; 1991 sp.s. c 13 § 91; 1989 c 419 § 5.]

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

**Intent—Effective date—1989 c 419:** See notes following RCW 4.92.006.

## Title 5 EVIDENCE

### Chapters

5.28 Oaths and affirmations.  
5.60 Witnesses—Competency.

### Chapter 5.28

#### OATHS AND AFFIRMATIONS

#### Sections

5.28.010 Who may administer.

**5.28.010 Who may administer.** Every court, judge, clerk of a court, or notary public, is authorized to take testimony in any action, suit or proceeding, and such other persons in particular cases as authorized by law. Every such court or officer is authorized to collect fees established under RCW 36.18.020 and 36.18.012 through 36.18.018 and to administer oaths and affirmations generally and to every such other person in such particular case as authorized. [1995 c 292 § 1; 1987 c 202 § 124; 2 H. C. § 1693; 1869 p 378 § 1; RRS § 1264.]

**Intent—1987 c 202:** See note following RCW 2.04.190.

*Oath of witness in superior court to be administered by judge: Rules of court: Cf. CR 43(d).*

*Powers of courts, judicial officers to administer oaths: RCW 2.28.010, 2.28.060.*

### Chapter 5.60

#### WITNESSES—COMPETENCY

#### Sections

5.60.060 Who are disqualified—Privileged communications.

**5.60.060 Who are disqualified—Privileged communications.** (1) A husband shall not be examined for or against his wife, without the consent of the wife, nor a wife for or against her husband without the consent of the husband; nor can either during marriage or afterward, be without the consent of the other, examined as to any communication made by one to the other during marriage. But this exception shall not apply to a civil action or proceeding by one against the other, nor to a criminal action or proceeding for a crime committed by one against the other, nor to a criminal action or proceeding against a spouse if the marriage occurred subsequent to the filing of formal charges against the defendant, nor to a criminal action or proceeding for a crime committed by said husband or wife against any child of whom said husband or wife is the parent or guardian, nor to a proceeding under chapter 70.96A or 71.05 RCW: PROVIDED, That the spouse of a person sought to be detained under chapter 70.96A or 71.05 RCW may not be compelled to testify and shall be so informed by the court prior to being called as a witness.

(2) An attorney or counselor shall not, without the consent of his or her client, be examined as to any communication made by the client to him or her, or his or her

advice given thereon in the course of professional employment.

(3) A member of the clergy or a priest shall not, without the consent of a person making the confession, be examined as to any confession made to him or her in his or her professional character, in the course of discipline enjoined by the church to which he or she belongs.

(4) Subject to the limitations under RCW 70.96A.140 or 71.05.250, a physician or surgeon or osteopathic physician or surgeon shall not, without the consent of his or her patient, be examined in a civil action as to any information acquired in attending such patient, which was necessary to enable him or her to prescribe or act for the patient, except as follows:

(a) In any judicial proceedings regarding a child's injury, neglect, or sexual abuse or the cause thereof; and

(b) Ninety days after filing an action for personal injuries or wrongful death, the claimant shall be deemed to waive the physician-patient privilege. Waiver of the physician-patient privilege for any one physician or condition constitutes a waiver of the privilege as to all physicians or conditions, subject to such limitations as a court may impose pursuant to court rules.

(5) A public officer shall not be examined as a witness as to communications made to him or her in official confidence, when the public interest would suffer by the disclosure.

(6)(a) A peer support group counselor shall not, without consent of the law enforcement officer making the communication, be compelled to testify about any communication made to the counselor by the officer while receiving counseling. The counselor must be designated as such by the sheriff, police chief, or chief of the Washington state patrol, prior to the incident that results in counseling. The privilege only applies when the communication was made to the counselor while acting in his or her capacity as a peer support group counselor. The privilege does not apply if the counselor was an initial responding officer, a witness, or a party to the incident which prompted the delivery of peer support group counseling services to the law enforcement officer.

(b) For purposes of this section, "peer support group counselor" means a:

(i) Law enforcement officer, or civilian employee of a law enforcement agency, who has received training to provide emotional and moral support and counseling to an officer who needs those services as a result of an incident in which the officer was involved while acting in his or her official capacity; or

(ii) Nonemployee counselor who has been designated by the sheriff, police chief, or chief of the Washington state patrol to provide emotional and moral support and counseling to an officer who needs those services as a result of an incident in which the officer was involved while acting in his or her official capacity. [1995 c 240 § 1; 1989 c 271 § 301. Prior: 1989 c 10 § 1; 1987 c 439 § 11; 1987 c 212 § 1501; 1986 c 305 § 101; 1982 c 56 § 1; 1979 ex.s. c 215 § 2; 1965 c 13 § 7; Code 1881 § 392; 1879 p 118 § 1; 1877 p 86 § 394; 1873 p 107 § 385; 1869 p 104 § 387; 1854 p 187 § 294; RRS § 1214. Cf. 1886 p 73 § 1.]

*Rules of court:* Cf. CR 43(g).

**Severability—1989 c 271:** See note following RCW 9.94A.310.

**Preamble—Report to legislature—Applicability—Severability—1986 c 305:** See notes following RCW 4.16.160.

**Severability—1982 c 56:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 c 56 § 2.] This applies to RCW 5.60.060.

*Nonsupport or family desertion, spouse as witness:* RCW 26.20.071.

*Optometrist—Client, privileged communications:* RCW 18.53.200.

*Psychologist—Client, privileged communications:* RCW 18.83.110.

*Report of abuse of children and adult dependent or developmentally disabled persons:* Chapter 26.44 RCW.

## Title 6

### ENFORCEMENT OF JUDGMENTS

#### Chapters

**6.17 Executions.**

**6.32 Proceedings supplemental to execution.**

#### Chapter 6.17

#### EXECUTIONS

##### Sections

**6.17.020 Execution authorized within ten years—Exceptions—Fee—Recoverable cost.**

**6.17.020 Execution authorized within ten years—Exceptions—Fee—Recoverable cost.** (1) Except as provided in subsections (2), (3), and (4) of this section, the party in whose favor a judgment of a court of record of this state or a district court of this state has been or may be rendered, or the assignee, may have an execution issued for the collection or enforcement of the judgment at any time within ten years from entry of the judgment.

(2) After July 23, 1989, a party who obtains a judgment or order of a court of record of any state, or an administrative order entered as defined in RCW 74.20A.020(6) for accrued child support, may have an execution issued upon that judgment or order at any time within ten years of the eighteenth birthday of the youngest child named in the order for whom support is ordered.

(3) After June 9, 1994, a party in whose favor a judgment has been rendered pursuant to subsection (1) or (4) of this section may, within ninety days before the expiration of the original ten-year period, apply to the court that rendered the judgment for an order granting an additional ten years during which an execution may be issued. The petitioner shall pay to the court a filing fee equal to the filing fee for filing the first or initial paper in a civil action in the court. When application is made to the court to grant an additional ten years, the application shall be accompanied by a current and updated judgment summary as outlined in RCW 4.64.030. The filing fee required under this subsection shall be included in the judgment summary and shall be a recoverable cost.

(4) A party who obtains a judgment or order for restitution or other court-ordered legal financial obligations pursuant to a criminal judgment and sentence may execute the judgment or order any time within ten years subsequent

to the entry of the judgment and sentence or ten years following the offender's release from total confinement as provided in chapter 9.94A RCW. [1995 c 231 § 4; 1994 c 189 § 1; 1989 c 360 § 3; 1987 c 442 § 402; 1980 c 105 § 4; 1971 c 81 § 26; 1929 c 25 § 2; RRS § 510. Prior: 1888 p 94 § 1; Code 1881 § 325; 1877 p 67 § 328; 1869 p 79 § 320; 1854 p 175 § 242. Formerly RCW 6.04.010.]

*Rules of court:* Cf. CR 58(b), 62(a), and 69(a); JCR 54.

**Application—1980 c 105:** See note following RCW 4.16.020.

*Entry of judgment:* RCW 6.01.020.

*Execution on part of claim in receiver's action:* RCW 7.60.050.

### Chapter 6.32

## PROCEEDINGS SUPPLEMENTAL TO EXECUTION

### Sections

6.32.130 Service of orders.

**6.32.130 Service of orders.** An injunction order or an order requiring a person to attend and be examined made as prescribed in this chapter must be served by delivering to the person to be served a certified copy of the original order and a copy of the affidavit on which it was made. In the case of an order requiring a person to attend and be examined and not imposing injunctive restraints, a noncertified copy may be served if the noncertified copy bears a stamp or notation indicating the name of the judge or commissioner who signed the original order, and a stamp or notation indicating the original order has been filed with the court.

Service upon a corporation is sufficient if made upon an officer, to whom a copy of a summons must be delivered. Where an order is personally served upon a corporation, unless the officer to be served is specially designated in the order, the order may be served upon any person upon whom a summons can be served. [1995 c 73 § 1; 1925 ex.s. c 38 § 1; 1893 c 133 § 13; RRS § 625.]

## Title 7

## SPECIAL PROCEEDINGS AND ACTIONS

### Chapters

7.16 Certiorari, mandamus, and prohibition.  
7.68 Victims of crimes—Compensation, assistance.  
7.70 Actions for injuries resulting from health care.

### Chapter 7.16

## CERTIORARI, MANDAMUS, AND PROHIBITION

### Sections

7.16.360 Inapplicability to action reviewable under Administrative Procedure Act or Land Use Petition Act.

**7.16.360 Inapplicability to action reviewable under Administrative Procedure Act or Land Use Petition Act.** This chapter does not apply to state agency action reviewable under chapter 34.05 RCW or to land use decisions of

local jurisdictions reviewable under chapter 36.70C RCW. [1995 c 347 § 716; 1989 c 175 § 38.]

**Finding—Severability—Part headings and table of contents not law—1995 c 347:** See notes following RCW 36.70A.470.

**Effective date—1989 c 175:** See note following RCW 34.05.010.

### Chapter 7.68

## VICTIMS OF CRIMES—COMPENSATION, ASSISTANCE

### Sections

7.68.090 Establishment of funds.  
7.68.120 Reimbursement—Restitution to victim—Notice—Fees—Order to withhold and deliver—Limitation.  
7.68.125 Erroneous or fraudulent payment—Repayment, when—Order contending a debt due—Filing—Fee—Service—Penalty.  
7.68.130 Public or private insurance—Attorneys' fees and costs of victim.

**7.68.090 Establishment of funds.** The director shall establish such fund or funds, separate from existing funds, necessary to administer this chapter, and payment to these funds shall be from legislative appropriation, statutory provision, reimbursement and subrogation as provided in this chapter, and from any contributions or grants specifically so directed. [1995 c 234 § 3; 1973 1st ex.s. c 122 § 9.]

**Finding—1995 c 234:** See note following RCW 72.09.095.

**7.68.120 Reimbursement—Restitution to victim—Notice—Fees—Order to withhold and deliver—Limitation.** Any person who has committed a criminal act which resulted in injury compensated under this chapter may be required to make reimbursement to the department as provided in this section.

(1) Any payment of benefits to or on behalf of a victim under this chapter creates a debt due and owing to the department by any person found to have committed the criminal act in either a civil or criminal court proceeding in which he or she is a party. If there has been a superior or district court order, or an order of the indeterminate sentence review board or the department of social and health services, as provided in subsection (4) of this section, the debt shall be limited to the amount provided for in the order. A court order shall prevail over any other order. If, in a criminal proceeding, a person has been found to have committed the criminal act that results in the payment of benefits to a victim and the court in the criminal proceeding does not enter a restitution order, the department shall, within one year of imposition of the sentence, petition the court for entry of a restitution order.

(2)(a) The department may issue a notice of debt due and owing to the person found to have committed the criminal act, and shall serve the notice on the person in the manner prescribed for the service of a summons in a civil action or by certified mail. The department shall file the notice of debt due and owing along with proof of service with the superior court of the county where the criminal act took place. The person served the notice shall have thirty days from the date of service to respond to the notice by requesting a hearing in superior court.

(b) If a person served a notice of debt due and owing fails to respond within thirty days, the department may seek a default judgment. Upon entry of a judgment in an action brought pursuant to (a) of this subsection, the clerk shall enter the order in the execution docket. The filing fee shall be added to the amount of the debt indicated in the judgment. The judgment shall become a lien upon all real and personal property of the person named in the judgment as in other civil cases. The judgment shall be subject to execution, garnishment, or other procedures for collection of a judgment.

(3)(a) The director, or the director's designee, may issue to any person or organization an order to withhold and deliver property of any kind if there is reason to believe that the person or organization possesses property that is due, owing, or belonging to any person against whom a judgment for a debt due and owing has been entered under subsection (2) of this section. For purposes of this subsection, "person or organization" includes any individual, firm, association, corporation, political subdivision of the state, or agency of the state.

(b) The order to withhold and deliver must be served in the manner prescribed for the service of a summons in a civil action or by certified mail, return receipt requested. Any person or organization upon whom service has been made shall answer the order within twenty days exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired of therein.

(c) If there is in the possession of the person or organization served with the order any property that might be subject to the claim of the department, the person or organization must immediately withhold such property and deliver the property to the director or the director's authorized representative immediately upon demand.

(d) If the person or organization served the order fails to timely answer the order, the court may render judgment by default against the person or organization for the full amount claimed by the director in the order plus costs.

(e) If an order to withhold and deliver is served upon an employer and the property found to be subject to the notice is wages, the employer may assert in the answer all exemptions to which the wage earner might be entitled as provided by RCW 6.27.150.

(4) Upon being placed on work release pursuant to chapter 72.65 RCW, or upon release from custody of a state correctional facility on parole, any convicted person who owes a debt to the department as a consequence of a criminal act may have the schedule or amount of payments therefor set as a condition of work release or parole by the department of social and health services or indeterminate sentence review board respectively, subject to modification based on change of circumstances. Such action shall be binding on the department.

(5) Any requirement for payment due and owing the department by a convicted person under this chapter may be waived, modified downward or otherwise adjusted by the department in the interest of justice, the well-being of the victim, and the rehabilitation of the individual.

(6) The department shall not seek payment for a debt due and owing if such action would deprive the victim of the crime giving rise to the claim under this chapter of the benefit of any property to which the victim would be entitled

under RCW 26.16.030. [1995 c 33 § 1; 1973 1st ex.s. c 122 § 12.]

**7.68.125 Erroneous or fraudulent payment—Repayment, when—Order contending a debt due—Filing—Fee—Service—Penalty.** (1) Whenever any payment under this chapter is made because of clerical error, mistake of identity, innocent misrepresentation by or on behalf of the recipient thereof mistakenly acted upon, or any other circumstance of a similar nature, all not induced by fraud, the recipient thereof shall repay it and recoupment may be made from any future payments due to the recipient under this chapter. The department must make claim for such repayment or recoupment within one year of the making of any such payment or it will be deemed that any claim therefor has been waived. The department may exercise its discretion to waive, in whole or in part, the amount of any such timely claim.

(2) Whenever any payment under this chapter has been made pursuant to an adjudication by the department, board, or any court and timely appeal therefrom has been made and the final decision is that any such payment was made pursuant to an erroneous adjudication, the recipient thereof shall repay it and recoupment may be made from any future payments due to the recipient under this chapter. The department may exercise its discretion to waive, in whole or in part, the amount thereof.

(3) Whenever any payment under this chapter has been induced by fraud the recipient thereof shall repay any such payment together with a penalty of fifty percent of the total of any such payments and the amount of such total sum may be recouped from any future payments due to the recipient under this chapter and the amount of the penalty shall be placed in the fund or funds established pursuant to RCW 7.68.090.

(4) If the department issues an order contending a debt due and owing under this section, the order is subject to chapter 51.52 RCW. If the order becomes final under chapter 51.52 RCW, the director or the director's designee may file with the clerk of any county within the state a warrant in the amount stated in the order plus interest accruing from the date the order became final. The clerk of the county in which the warrant is filed shall immediately enter the warrant in the execution docket. The amount of the warrant as docketed becomes a lien upon all real and personal property of the person against whom the warrant is issued, the same as a judgment in a civil case. The warrant shall then be subject to execution, garnishment, and other procedures for the collection of judgments. The filing fee must be added to the amount of the warrant. The department shall mail a conformed copy of the warrant to the person named within seven working days of filing with the clerk.

(5)(a) The director, or the director's designee, may issue to any person or organization an order to withhold and deliver property of any kind if there is reason to believe that the person or organization possesses property that is due, owing, or belonging to any person against whom a final order of debt due and owing has been entered. For purposes of this subsection, "person or organization" includes any

individual, firm, association, corporation, political subdivision of the state, or agency of the state.

(b) The order to withhold and deliver must be served in the manner prescribed for the service of a summons in a civil action or by certified mail, return receipt requested. Any person or organization upon whom service has been made shall answer the order within twenty days exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired of therein.

(c) If there is in the possession of the person or organization served with the order any property that might be subject to the claim of the department, the person or organization must immediately withhold such property and deliver the property to the director or the director's authorized representative immediately upon demand.

(d) If the person or organization served the order fails to timely answer the order, the court may render judgment by default against the person or organization for the full amount claimed by the director in the order plus costs.

(e) If an order to withhold and deliver is served upon an employer and the property found to be subject to the notice is wages, the employer may assert in the answer all exemptions to which the wage earner might be entitled as provided by RCW 6.27.150. [1995 c 33 § 2; 1975 1st ex.s. c 176 § 8.]

**7.68.130 Public or private insurance—Attorneys' fees and costs of victim.** (1) Benefits payable pursuant to this chapter shall be reduced by the amount of any other public or private insurance available, less a proportionate share of reasonable attorneys' fees and costs, if any, incurred by the victim in obtaining recovery from the insurer. Calculation of a proportionate share of attorneys' fees and costs shall be made under the formula established in RCW 51.24.060. The department or the victim may require court approval of costs and attorneys' fees or may petition a court for determination of the reasonableness of costs and attorneys' fees.

(2) Benefits payable after 1980 to victims injured or killed before 1980 shall be reduced by any other public or private insurance including but not limited to social security.

(3) Payment by the department under this chapter shall be secondary to other insurance benefits, notwithstanding the provision of any contract or coverage to the contrary. In the case of private life insurance proceeds, the first forty thousand dollars of the proceeds shall not be considered for purposes of any reduction in benefits.

(4) For the purposes of this section, the collection methods available under RCW 7.68.125(4) apply. [1995 c 33 § 3; 1985 c 443 § 16; 1980 c 156 § 4; 1977 ex.s. c 302 § 8; 1973 1st ex.s. c 122 § 13.]

**Severability—Effective date—1985 c 443:** See notes following RCW 7.69.010.

**Legislative intent—"Public or private insurance"—1980 c 156:** See note following RCW 7.68.020.

## Chapter 7.70

### ACTIONS FOR INJURIES RESULTING FROM HEALTH CARE

Sections  
7.70.020 Definitions.

**7.70.020 Definitions.** As used in this chapter "health care provider" means either:

(1) A person licensed by this state to provide health care or related services, including, but not limited to, a licensed acupuncturist, a physician, osteopathic physician, dentist, nurse, optometrist, podiatric physician and surgeon, chiropractor, physical therapist, psychologist, pharmacist, optician, physician's assistant, midwife, osteopathic physician's assistant, nurse practitioner, or physician's trained mobile intensive care paramedic, including, in the event such person is deceased, his or her estate or personal representative;

(2) An employee or agent of a person described in part (1) above, acting in the course and scope of his employment, including, in the event such employee or agent is deceased, his or her estate or personal representative; or

(3) An entity, whether or not incorporated, facility, or institution employing one or more persons described in part (1) above, including, but not limited to, a hospital, clinic, health maintenance organization, or nursing home; or an officer, director, employee, or agent thereof acting in the course and scope of his or her employment, including in the event such officer, director, employee, or agent is deceased, his or her estate or personal representative. [1995 c 323 § 3; 1985 c 326 § 27; 1981 c 53 § 1; 1975-'76 2nd ex.s. c 56 § 7.]

**Effective date—1981 c 53:** See note following RCW 18.50.005.

**Severability—1975-'76 2nd ex.s. c 56:** See note following RCW 4.16.350.

## Title 9

### CRIMES AND PUNISHMENTS

(See also Washington Criminal Code, Title 9A RCW)

#### Chapters

- 9.12 Barratry.
- 9.38 False representations.
- 9.40 Fire, crimes relating to.
- 9.41 Firearms and dangerous weapons.
- 9.46 Gambling—1973 act.
- 9.68A Sexual exploitation of children.
- 9.91 Miscellaneous crimes.
- 9.92 Punishment.
- 9.94 Prisoners—Correctional institutions.
- 9.94A Sentencing reform act of 1981.
- 9.95 Indeterminate sentences.

#### Chapter 9.12 BARRATRY

Sections  
9.12.010 Barratry.

**9.12.010 Barratry.** Every person who brings on his or her own behalf, or instigates, incites, or encourages another to bring, any false suit at law or in equity in any

court of this state, with intent thereby to distress or harass a defendant in the suit, or who serves or sends any paper or document purporting to be or resembling a judicial process, that is not in fact a judicial process, is guilty of a misdemeanor; and in case the person offending is an attorney, he or she may, in addition thereto be disbarred from practicing law within this state. [1995 c 285 § 27; 1915 c 165 § 1; 1909 c 249 § 118; Code 1881 § 901; 1873 p 204 § 100; 1854 p 92 § 91; RRS § 2370.]

**Effective date—1995 c 285:** See RCW 48.30A.900.

*Attorneys at law:* Chapter 2.44 RCW.

*State bar act:* Chapter 2.48 RCW.

### Chapter 9.38

#### FALSE REPRESENTATIONS

##### Sections

9.38.015 False statement by deposit account applicant.

**9.38.015 False statement by deposit account applicant.** (1) It is a gross misdemeanor for a deposit account applicant to knowingly make any false statement to a financial institution regarding:

(a) The applicant's identity;

(b) Past convictions for crimes involving fraud or deception; or

(c) Outstanding judgments on checks or drafts issued by the applicant.

(2) Each violation of subsection (1) of this section after the third violation is a class C felony punishable as provided in chapter 9A.20 RCW. [1995 c 186 § 4.]

**Severability—1995 c 186:** See RCW 30.22.901.

### Chapter 9.40

#### FIRE, CRIMES RELATING TO

##### Sections

9.40.100 Tampering with fire alarm or fire fighting equipment—False alarm—Penalties.

**9.40.100 Tampering with fire alarm or fire fighting equipment—False alarm—Penalties.** (1) Any person who willfully and without cause tampers with, molests, injures or breaks any public or private fire alarm apparatus, emergency phone, radio, or other wire or signal, or any fire fighting equipment, or who willfully and without having reasonable grounds for believing a fire exists, sends, gives, transmits, or sounds any false alarm of fire, by shouting in a public place or by means of any public or private fire alarm system or signal, or by telephone, is guilty of a misdemeanor. This provision shall not prohibit the testing of fire alarm systems by persons authorized to do so, by a fire department or the chief of the Washington state patrol, through the director of fire protection.

(2) Any person who willfully and without cause tampers with, molests, injures, or breaks any public or private fire alarm apparatus, emergency phone, radio, or other wire or signal, or any fire fighting equipment with the intent to commit arson, is guilty of a felony. [1995 c 369 § 3; 1990 c 177 § 1; 1986 c 266 § 80; 1967 c 204 § 1.]

**Effective date—1995 c 369:** See note following RCW 43.43.930.

**Severability—1990 c 177:** See RCW 18.160.902.

**Severability—1986 c 266:** See note following RCW 38.52.005.

### Chapter 9.41

#### FIREARMS AND DANGEROUS WEAPONS

##### Sections

9.41.040 Unlawful possession of firearms—Ownership, possession by certain persons.  
 9.41.060 Exceptions to restrictions on carrying firearms.  
 9.41.070 Concealed pistol license—Application—Fee—Renewal.  
 9.41.135 Verification of licenses and registration—Notice to federal government.  
 9.41.280 Possessing dangerous weapons on school facilities—Penalty—Exceptions.

**9.41.040 Unlawful possession of firearms—Ownership, possession by certain persons.** (1)(a) A person, whether an adult or juvenile, is guilty of the crime of unlawful possession of a firearm in the first degree, if the person owns, has in his or her possession, or has in his or her control any firearm after having previously been convicted in this state or elsewhere of any serious offense as defined in this chapter, residential burglary, reckless endangerment in the first degree, any felony violation of the Uniform Controlled Substances Act, chapter 69.50 RCW, classified as a class A or class B felony, or with a maximum sentence of at least ten years, or both, or equivalent statutes of another jurisdiction, except as otherwise provided in subsection (3) or (4) of this section.

(b) A person, whether an adult or juvenile, is guilty of the crime of unlawful possession of a firearm in the second degree, if the person does not qualify under (a) of this subsection for the crime of unlawful possession of a firearm in the first degree and the person owns, has in his or her possession, or has in his or her control any firearm:

(i) After having previously been convicted of any remaining felony violation of the Uniform Controlled Substances Act, chapter 69.50 RCW, or equivalent statutes of another jurisdiction not specifically listed as prohibiting firearm possession under (a) of this subsection, any remaining felony in which a firearm was used or displayed and the felony is not specifically listed as prohibiting firearm possession under (a) of this subsection, any domestic violence offense enumerated in \*RCW 10.99.020(2), or any harassment offense enumerated in RCW 9A.46.060, except as otherwise provided in subsection (3) or (4) of this section;

(ii) After having previously been convicted on three occasions within five years of driving a motor vehicle or operating a vessel while under the influence of intoxicating liquor or any drug, unless his or her right to possess a firearm has been restored as provided in RCW 9.41.047;

(iii) After having previously been involuntarily committed for mental health treatment under RCW 71.05.320, 71.34.090, chapter 10.77 RCW, or equivalent statutes of another jurisdiction, unless his or her right to possess a firearm has been restored as provided in RCW 9.41.047; and/or

(iv) If the person is under eighteen years of age, except as provided in RCW 9.41.042.



(2)(a) Unlawful possession of a firearm in the first degree is a class B felony, punishable under chapter 9A.20 RCW.

(b) Unlawful possession of a firearm in the second degree is a class C felony, punishable under chapter 9A.20 RCW.

(3) As used in this section, a person has been "convicted" at such time as a plea of guilty has been accepted or a verdict of guilty has been filed, notwithstanding the pendency of any future proceedings including but not limited to sentencing or disposition, post-trial or post-factfinding motions, and appeals. A person shall not be precluded from possession of a firearm if the conviction has been the subject of a pardon, annulment, certificate of rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted or the conviction or disposition has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence.

(4) Notwithstanding subsection (1) of this section, a person convicted of an offense prohibiting the possession of a firearm under this section other than murder, manslaughter, robbery, rape, indecent liberties, arson, assault, kidnapping, extortion, burglary, or violations with respect to controlled substances under RCW 69.50.401(a) and 69.50.410, who received a probationary sentence under RCW 9.95.200, and who received a dismissal of the charge under RCW 9.95.240, shall not be precluded from possession of a firearm as a result of the conviction. Notwithstanding any other provisions of this section, if a person is prohibited from possession of a firearm under subsection (1) of this section and has not previously been convicted of a sex offense prohibiting firearm ownership under subsection (1) of this section and/or any felony defined under any law as a class A felony or with a maximum sentence of at least twenty years, or both, the individual may petition a court of record to have his or her right to possess a firearm restored:

(a) Under RCW 9.41.047; and/or

(b) After five or more consecutive years in the community without being convicted or currently charged with any felony, gross misdemeanor, or misdemeanor crimes, if the individual has no prior felony convictions that prohibit the possession of a firearm counted as part of the offender score under RCW 9.94A.360.

(5) In addition to any other penalty provided for by law, if a person under the age of eighteen years is found by a court to have possessed a firearm in a vehicle in violation of subsection (1) of this section or to have committed an offense while armed with a firearm during which offense a motor vehicle served an integral function, the court shall notify the department of licensing within twenty-four hours and the person's privilege to drive shall be revoked under RCW 46.20.265.

(6) Nothing in chapter 129, Laws of 1995 shall ever be construed or interpreted as preventing an offender from being charged and subsequently convicted for the separate felony crimes of theft of a firearm or possession of a stolen firearm, or both, in addition to being charged and subsequently convicted under this section for unlawful possession of a firearm in the first or second degree. Notwithstanding any other law, if the offender is convicted under this section for unlawful possession of a firearm in the first or second

degree and for the felony crimes of theft of a firearm or possession of a stolen firearm, or both, then the offender shall serve consecutive sentences for each of the felony crimes of conviction listed in this subsection.

(7) Each firearm unlawfully possessed under this section shall be a separate offense. [1995 c 129 § 16 (Initiative Measure No. 159); 1994 sp.s. c 7 § 402. Prior: 1992 c 205 § 118; 1992 c 168 § 2; 1983 c 232 § 2; 1961 c 124 § 3; 1935 c 172 § 4; RRS § 2516-4.]

**\*Reviser's note:** RCW 10.99.020 was amended by 1995 c 246 § 21, changing subsection (2) to subsection (3).

**Findings and intent—Short title—Severability—Captions not law—1995 c 129 (Initiative Measure No. 159):** See notes following RCW 9.94A.310.

**Finding—Intent—Severability—1994 sp.s. c 7:** See notes following RCW 43.70.540.

**Effective date—1994 sp.s. c 7 §§ 401-410, 413-416, 418-437, and 439-460:** See note following RCW 9.41.010.

**Part headings not law—Severability—1992 c 205:** See notes following RCW 13.40.010.

**Severability—1992 c 168:** See note following RCW 9.41.070.

**Severability—1983 c 232:** See note following RCW 9.41.010.

**9.41.060 Exceptions to restrictions on carrying firearms.** The provisions of RCW 9.41.050 shall not apply to:

(1) Marshals, sheriffs, prison or jail wardens or their deputies, or other law enforcement officers;

(2) Members of the armed forces of the United States or of the national guard or organized reserves, when on duty;

(3) Officers or employees of the United States duly authorized to carry a concealed pistol;

(4) Any person engaged in the business of manufacturing, repairing, or dealing in firearms, or the agent or representative of the person, if possessing, using, or carrying a pistol in the usual or ordinary course of the business;

(5) Regularly enrolled members of any organization duly authorized to purchase or receive pistols from the United States or from this state;

(6) Regularly enrolled members of clubs organized for the purpose of target shooting, when those members are at or are going to or from their places of target practice;

(7) Regularly enrolled members of clubs organized for the purpose of modern and antique firearm collecting, when those members are at or are going to or from their collector's gun shows and exhibits;

(8) Individual hunters when on a hunting, camping, or fishing trip;

(9) Any person while carrying a pistol unloaded and in a closed opaque case or secure wrapper; or

(10) Law enforcement officers retired for service or physical disabilities, except for those law enforcement officers retired because of mental or stress-related disabilities. This subsection applies only to a retired officer who has obtained documentation from a law enforcement agency within Washington state from which he or she retired that is signed by the agency's chief law enforcement officer and that states that the retired officer was retired for service or physical disability. [1995 c 392 § 1; 1994 sp.s. c 7 § 406; 1961 c 124 § 5; 1935 c 172 § 6; RRS § 2516-6.]

**Finding—Intent—Severability—1994 sp.s. c 7:** See notes following RCW 43.70.540.

Effective date—1994 sp.s. c 7 §§ 401-410, 413-416, 418-437, and 439-460: See note following RCW 9.41.010.

**9.41.070 Concealed pistol license—Application—Fee—Renewal.** (1) The chief of police of a municipality or the sheriff of a county shall within thirty days after the filing of an application of any person, issue a license to such person to carry a pistol concealed on his or her person within this state for five years from date of issue, for the purposes of protection or while engaged in business, sport, or while traveling. However, if the applicant does not have a valid permanent Washington driver's license or Washington state identification card or has not been a resident of the state for the previous consecutive ninety days, the issuing authority shall have up to sixty days after the filing of the application to issue a license. The issuing authority shall not refuse to accept completed applications for concealed pistol licenses during regular business hours.

The applicant's constitutional right to bear arms shall not be denied, unless:

(a) He or she is ineligible to possess a firearm under the provisions of RCW 9.41.040 or 9.41.045;

(b) The applicant's concealed pistol license is in a revoked status;

(c) He or she is under twenty-one years of age;

(d) He or she is subject to a court order or injunction regarding firearms pursuant to RCW 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060, 26.10.040, 26.10.115, 26.26.130, 26.26.137, 26.50.060, or 26.50.070;

(e) He or she is free on bond or personal recognizance pending trial, appeal, or sentencing for a serious offense;

(f) He or she has an outstanding warrant for his or her arrest from any court of competent jurisdiction for a felony or misdemeanor;

(g) He or she has been ordered to forfeit a firearm under RCW 9.41.098(1)(e) within one year before filing an application to carry a pistol concealed on his or her person; or

(h)(i) He or she has been convicted of any crime against a child or other person listed in RCW 43.43.830(5).

(ii) Except as provided in (h)(iii) of this subsection, any person who becomes ineligible for a concealed pistol license as a result of a conviction for a crime listed in (h)(i) of this subsection and then successfully completes all terms of his or her sentence, as evidenced by a certificate of discharge issued under RCW 9.94A.220 in the case of a sentence under chapter 9.94A RCW, and has not again been convicted of any crime and is not under indictment for any crime, may, one year or longer after such successful sentence completion, petition a court of record for a declaration that the person is no longer ineligible for a concealed pistol license under (h)(i) of this subsection.

(iii) No person convicted of a serious offense as defined in RCW 9.41.010 may have his or her right to possess firearms restored, unless the person has been granted relief from disabilities by the secretary of the treasury under 18 U.S.C. Sec. 925(c), or RCW 9.41.040 (3) or (4) applies.

(2) The issuing authority shall check with the national crime information center, the Washington state patrol electronic data base, the department of social and health services electronic data base, and with other agencies or resources as appropriate, to determine whether the applicant

is ineligible under RCW 9.41.040 or 9.41.045 to possess a firearm and therefore ineligible for a concealed pistol license. This subsection applies whether the applicant is applying for a new concealed pistol license or to renew a concealed pistol license.

(3) Any person whose firearms rights have been restricted and who has been granted relief from disabilities by the secretary of the treasury under 18 U.S.C. Sec. 925(c) or who is exempt under 18 U.S.C. Sec. 921(a)(20)(A) shall have his or her right to acquire, receive, transfer, ship, transport, carry, and possess firearms in accordance with Washington state law restored except as otherwise prohibited by this chapter.

(4) The license application shall bear the full name, residential address, telephone number at the option of the applicant, date and place of birth, race, gender, description, not more than two complete sets of fingerprints, and signature of the licensee, and the licensee's driver's license number or state identification card number if used for identification in applying for the license. A signed application for a concealed pistol license shall constitute a waiver of confidentiality and written request that the department of social and health services, mental health institutions, and other health care facilities release information relevant to the applicant's eligibility for a concealed pistol license to an inquiring court or law enforcement agency.

The application for an original license shall include two complete sets of fingerprints to be forwarded to the Washington state patrol.

The license and application shall contain a warning substantially as follows:

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

The license shall contain a description of the major differences between state and federal law and an explanation of the fact that local laws and ordinances on firearms are preempted by state law and must be consistent with state law. The application shall contain questions about the applicant's eligibility under RCW 9.41.040 to possess a pistol, the applicant's place of birth, and whether the applicant is a United States citizen. The applicant shall not be required to produce a birth certificate or other evidence of citizenship. A person who is not a citizen of the United States shall meet the additional requirements of RCW 9.41.170 and produce proof of compliance with RCW 9.41.170 upon application. The license shall be in triplicate and in a form to be prescribed by the department of licensing.

The original thereof shall be delivered to the licensee, the duplicate shall within seven days be sent by registered mail to the director of licensing and the triplicate shall be preserved for six years, by the authority issuing the license.

The department of licensing shall make available to law enforcement and corrections agencies, in an on-line format, all information received under this subsection.

(5) The nonrefundable fee, paid upon application, for the original five-year license shall be thirty-six dollars plus

additional charges imposed by the Federal Bureau of Investigation that are passed on to the applicant. No other state or local branch or unit of government may impose any additional charges on the applicant for the issuance of the license.

The fee shall be distributed as follows:

(a) Fifteen dollars shall be paid to the state general fund;

(b) Four dollars shall be paid to the agency taking the fingerprints of the person licensed;

(c) Fourteen dollars shall be paid to the issuing authority for the purpose of enforcing this chapter; and

(d) Three dollars to the firearms range account in the general fund.

(6) The fee for the renewal of such license shall be thirty-two dollars. No other branch or unit of government may impose any additional charges on the applicant for the renewal of the license.

The renewal fee shall be distributed as follows:

(a) Fifteen dollars shall be paid to the state general fund;

(b) Fourteen dollars shall be paid to the issuing authority for the purpose of enforcing this chapter; and

(c) Three dollars to the firearms range account in the general fund.

(7) The fee for replacement of lost or damaged licenses is ten dollars to be paid to the issuing authority.

(8) Payment shall be by cash, check, or money order at the option of the applicant. Additional methods of payment may be allowed at the option of the issuing authority.

(9) A licensee may renew a license if the licensee applies for renewal within ninety days before or after the expiration date of the license. A license so renewed shall take effect on the expiration date of the prior license. A licensee renewing after the expiration date of the license must pay a late renewal penalty of ten dollars in addition to the renewal fee specified in subsection (6) of this section. The fee shall be distributed as follows:

(a) Three dollars shall be deposited in the state wildlife fund and used exclusively for the printing and distribution of a pamphlet on the legal limits of the use of firearms, firearms safety, and the preemptive nature of state law. The pamphlet shall be given to each applicant for a license; and

(b) Seven dollars shall be paid to the issuing authority for the purpose of enforcing this chapter.

(10) Notwithstanding the requirements of subsections (1) through (9) of this section, the chief of police of the municipality or the sheriff of the county of the applicant's residence may issue a temporary emergency license for good cause pending review under subsection (1) of this section.

(11) A political subdivision of the state shall not modify the requirements of this section or chapter, nor may a political subdivision ask the applicant to voluntarily submit any information not required by this section.

(12) A person who knowingly makes a false statement regarding citizenship or identity on an application for a concealed pistol license is guilty of false swearing under RCW 9A.72.040. In addition to any other penalty provided for by law, the concealed pistol license of a person who knowingly makes a false statement shall be revoked, and the

person shall be permanently ineligible for a concealed pistol license.

(13) A person may apply for a concealed pistol license:

(a) To the municipality or to the county in which the applicant resides if the applicant resides in a municipality;

(b) To the county in which the applicant resides if the applicant resides in an unincorporated area; or

(c) Anywhere in the state if the applicant is a nonresident. [1995 c 351 § 1. Prior: 1994 sp.s. c 7 § 407; 1994 c 190 § 2; 1992 c 168 § 1; 1990 c 195 § 6; prior: 1988 c 263 § 10; 1988 c 223 § 1; 1988 c 219 § 1; 1988 c 36 § 1; 1985 c 428 § 3; 1983 c 232 § 3; 1979 c 158 § 1; 1971 ex.s. c 302 § 2; 1961 c 124 § 6; 1935 c 172 § 7; RRS § 2516-7.]

**Finding—Intent—Severability—1994 sp.s. c 7:** See notes following RCW 43.70.540.

**Effective date—1994 sp.s. c 7 §§ 401-410, 413-416, 418-437, and 439-460:** See note following RCW 9.41.010.

**Severability—1992 c 168:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1992 c 168 § 4.]

**Severability—1985 c 428:** See note following RCW 9.41.290.

**Severability—1983 c 232:** See note following RCW 9.41.010.

**Severability—1971 ex.s. c 302:** See note following RCW 9.41.010.

#### 9.41.135 Verification of licenses and registration—

**Notice to federal government.** (1) At least once every twelve months, the department of licensing shall obtain a list of dealers licensed under 18 U.S.C. Sec. 923(a) with business premises in the state of Washington from the United States bureau of alcohol, tobacco, and firearms. The department of licensing shall verify that all dealers on the list provided by the bureau of alcohol, tobacco, and firearms are licensed and registered as required by RCW 9.41.100.

(2) At least once every twelve months, the department of licensing shall obtain from the department of revenue and the department of revenue shall transmit to the department of licensing a list of dealers registered with the department of revenue, and a list of dealers whose names and addresses were forwarded to the department of revenue by the department of licensing under RCW 9.41.110, who failed to register with the department of revenue as required by RCW 9.41.100.

(3) At least once every twelve months, the department of licensing shall notify the bureau of alcohol, tobacco, and firearms of all dealers licensed under 18 U.S.C. Sec. 923(a) with business premises in the state of Washington who have not complied with the licensing or registration requirements of RCW 9.41.100. In notifying the bureau of alcohol, tobacco, and firearms, the department of licensing shall not specify whether a particular dealer has failed to comply with licensing requirements or has failed to comply with registration requirements. [1995 c 318 § 6; 1994 sp.s. c 7 § 418.]

**Effective date—1995 c 318:** See note following RCW 82.04.030.

**Finding—Intent—Severability—Effective dates—Contingent expiration date—1994 sp.s. c 7:** See notes following RCW 43.70.540.

**Effective date—1994 sp.s. c 7 §§ 401-410, 413-416, 418-437, and 439-460:** See note following RCW 9.41.010.

**9.41.280 Possessing dangerous weapons on school facilities—Penalty—Exceptions.** (1) It is unlawful for a person to carry onto, or to possess on, public or private

elementary or secondary school premises, school-provided transportation, or areas of facilities while being used exclusively by public or private schools:

(a) Any firearm;

(b) Any other dangerous weapon as defined in RCW 9.41.250;

(c) Any device commonly known as "nun-chu-ka sticks", consisting of two or more lengths of wood, metal, plastic, or similar substance connected with wire, rope, or other means;

(d) Any device, commonly known as "throwing stars", which are multi-pointed, metal objects designed to embed upon impact from any aspect; or

(e) Any air gun, including any air pistol or air rifle, designed to propel a BB, pellet, or other projectile by the discharge of compressed air, carbon dioxide, or other gas.

(2) Any such person violating subsection (1) of this section is guilty of a gross misdemeanor. If any person is convicted of a violation of subsection (1)(a) of this section, the person shall lose his or her concealed pistol license, if any. The court shall send notice of the revocation to the department of licensing, and the city, town, or county which issued the license.

Any violation of subsection (1) of this section by elementary or secondary school students constitutes grounds for expulsion from the state's public schools in accordance with RCW 28A.600.010. An appropriate school authority shall promptly notify law enforcement and the student's parent or guardian regarding any allegation or indication of such violation.

(3) Subsection (1) of this section does not apply to:

(a) Any student or employee of a private military academy when on the property of the academy;

(b) Any person engaged in military, law enforcement, or school district security activities;

(c) Any person who is involved in a convention, showing, demonstration, lecture, or firearms safety course authorized by school authorities in which the firearms of collectors or instructors are handled or displayed;

(d) Any person while the person is participating in a firearms or air gun competition approved by the school or school district;

(e) Any person in possession of a pistol who has been issued a license under RCW 9.41.070, or is exempt from the licensing requirement by RCW 9.41.060, while picking up or dropping off a student;

(f) Any nonstudent at least eighteen years of age legally in possession of a firearm or dangerous weapon that is secured within an attended vehicle or concealed from view within a locked unattended vehicle while conducting legitimate business at the school;

(g) Any nonstudent at least eighteen years of age who is in lawful possession of an unloaded firearm, secured in a vehicle while conducting legitimate business at the school; or

(h) Any law enforcement officer of the federal, state, or local government agency.

(4) Subsections (1) (c) and (d) of this section do not apply to any person who possesses nun-chu-ka sticks, throwing stars, or other dangerous weapons to be used in martial arts classes authorized to be conducted on the school premises.

(5) Except as provided in subsection (3) (b), (c), (f), and (h) of this section, firearms are not permitted in a public or private school building.

(6) "GUN-FREE ZONE" signs shall be posted around school facilities giving warning of the prohibition of the possession of firearms on school grounds. [1995 c 87 § 1; 1994 sp.s. c 7 § 427; 1993 c 347 § 1; 1989 c 219 § 1; 1982 1st ex.s. c 47 § 4.]

**Finding—Intent—Severability—1994 sp.s. c 7:** See notes following RCW 43.70.540.

**Effective date—1994 sp.s. c 7 §§ 401-410, 413-416, 418-437, and 439-460:** See note following RCW 9.41.010.

**Severability—1982 1st ex.s. c 47:** See note following RCW 9.41.190.

## Chapter 9.46

### GAMBLING—1973 ACT

#### Sections

9.46.0277 "Raffle."

**9.46.0277 "Raffle."** "Raffle," as used in this chapter, means a game in which tickets bearing an individual number are sold for not more than twenty-five dollars each and in which a prize or prizes are awarded on the basis of a drawing from the tickets by the person or persons conducting the game, when the game is conducted by a bona fide charitable or nonprofit organization, no person other than a bona fide member of the organization takes any part in the management or operation of the game, and no part of the proceeds thereof inure to the benefit of any person other than the organization conducting the game. [1995 2nd sp.s. c 4 § 1; 1987 c 4 § 20. Formerly RCW 9.46.020(19).]

## Chapter 9.68A

### SEXUAL EXPLOITATION OF CHILDREN

(Formerly: Child pornography)

#### Sections

9.68A.105 Additional fee assessment.

**9.68A.105 Additional fee assessment.** (1)(a) In addition to penalties set forth in RCW 9.68A.100, a person who is either convicted or given a deferred sentence or a deferred prosecution as a result of an arrest for violating RCW 9.68A.100 or a comparable county or municipal ordinance shall be assessed a two hundred fifty dollar fee.

(b) The court may not suspend payment of all or part of the fee unless it finds that the person does not have the ability to pay.

(c) When a minor has been adjudicated a juvenile offender for an offense which, if committed by an adult, would constitute a violation of RCW 9.68A.100 or a comparable county or municipal ordinance, the court shall assess the fee under (a) of this subsection. The court may not suspend payment of all or part of the fee unless it finds that the minor does not have the ability to pay the fee.

(2) The fee assessed under subsection (1) of this section shall be collected by the clerk of the court and distributed each month to the state treasurer for deposit in the prostitu-

tion prevention and intervention account under RCW 43.63A.740 for the purpose of funding prostitution prevention and intervention activities. [1995 c 353 § 12.]

### Chapter 9.91 MISCELLANEOUS CRIMES

#### Sections

9.91.090 Repealed.

**9.91.090 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

### Chapter 9.92 PUNISHMENT

#### Sections

9.92.060 Suspending sentences.

**9.92.060 Suspending sentences.** (1) Whenever any person is convicted of any crime except murder, burglary in the first degree, arson in the first degree, robbery, rape of a child, or rape, the court may in its discretion, at the time of imposing sentence upon such person, direct that such sentence be stayed and suspended until otherwise ordered by such court, and that the sentenced person be placed under the charge of a community corrections officer employed by the department of corrections upon such terms as the court may determine.

(2) As a condition to suspension of sentence, the court shall require the payment of the penalty assessment required by RCW 7.68.035. In addition, the court may require the convicted person to make such monetary payments, on such terms as the court deems appropriate under the circumstances, as are necessary: (a) To comply with any order of the court for the payment of family support; (b) to make restitution to any person or persons who may have suffered loss or damage by reason of the commission of the crime in question or when the offender pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor's recommendation that the offender be required to pay restitution to a victim of an offense or offenses which are not prosecuted pursuant to a plea agreement; (c) to pay any fine imposed and not suspended and the court or other costs incurred in the prosecution of the case, including reimbursement of the state for costs of extradition if return to this state by extradition was required; and (d) to contribute to a county or interlocal drug fund.

(3) As a condition of the suspended sentence, the court may order the probationer to report to the secretary of corrections or such officer as the secretary may designate and as a condition of the probation to follow the instructions of the secretary.

(4) If restitution to the victim has been ordered under subsection (2)(b) of this section and the court has ordered supervision, the officer supervising the probationer shall make a reasonable effort to ascertain whether restitution has been made as ordered. If the court has ordered supervision and restitution has not been made, the officer shall inform the prosecutor of that violation of the terms of the suspended

sentence not less than three months prior to the termination of the suspended sentence. [1995 1st sp.s. c 19 § 30; 1987 c 202 § 142; 1982 1st ex.s. c 47 § 8; 1982 1st ex.s. c 8 § 4; 1979 c 29 § 1; 1967 c 200 § 7; 1957 c 227 § 1; 1949 c 76 § 1; 1921 c 69 § 1; 1909 c 249 § 28; 1905 c 24 § 1; Rem. Supp. 1949 § 2280.]

**Findings—Purpose—Short title—Severability—Effective date—1995 1st sp.s. c 19:** See notes following RCW 72.09.450.

**Intent—1987 c 202:** See note following RCW 2.04.190.

**Applicability—1984 c 209:** See RCW 9.92.900.

**Severability—1982 1st ex.s. c 47:** See note following RCW 9.41.190.

**Intent—Reports—1982 1st ex.s. c 8:** See note following RCW 7.68.035.

**Severability—1967 c 200:** See note following RCW 9.45.122.

*Probation:* RCW 9.95.200 through 9.95.250.

*Probation and parole services, provision by counties:* RCW 36.01.070.

*Restitution*

*alternative to fine:* RCW 9A.20.030.

*condition of probation:* RCW 9.95.210.

*disposition when victim not found or dead:* RCW 7.68.290.

### Chapter 9.94 PRISONERS—CORRECTIONAL INSTITUTIONS

#### Sections

9.94.010 Prison riot—Defined.

9.94.020 Prison riot—Penalty.

9.94.030 Holding person hostage—Interference with officer's duties.

9.94.040 Weapons—Possession, etc., by prisoner prohibited—Penalty.

9.94.041 Narcotic drugs, controlled substances—Possession, etc., by prisoners—Penalty.

9.94.049 "Correctional institution" and "state correctional institution" defined.

9.94.070 Persistent prison misbehavior.

**9.94.010 Prison riot—Defined.** Whenever two or more inmates of a correctional institution assemble for any purpose, and act in such a manner as to disturb the good order of the institution and contrary to the commands of the officers of the institution, by the use of force or violence, or the threat thereof, and whether acting in concert or not, they shall be guilty of prison riot. [1995 c 314 § 1; 1955 c 241 § 1.]

**9.94.020 Prison riot—Penalty.** Every inmate of a correctional institution who is guilty of prison riot or of voluntarily participating therein by being present at, or by instigating, aiding or abetting the same, shall be punished by imprisonment in a state correctional institution for not less than one year nor more than ten years, which shall be in addition to the sentence being served. [1995 c 314 § 2; 1992 c 7 § 19; 1955 c 241 § 2.]

**9.94.030 Holding person hostage—Interference with officer's duties.** Whenever any inmate of a correctional institution shall hold, or participate in holding, any person as a hostage, by force or violence, or the threat thereof, or shall prevent, or participate in preventing an officer of such institution from carrying out his or her duties, by force or violence, or the threat thereof, he or she shall be guilty of a felony and upon conviction shall be punished by imprison-

ment in a state correctional institution for not less than one year nor more than ten years. [1995 c 314 § 3; 1992 c 7 § 20; 1957 c 112 § 1; 1955 c 241 § 3.]

*Interfering with public officer: Chapter 9A.76 RCW.*

*Kidnapping: Chapter 9A.40 RCW.*

**9.94.040 Weapons—Possession, etc., by prisoner prohibited—Penalty.** (1) Every person serving a sentence in any state correctional institution who, without legal authorization, while in the institution or while being conveyed to or from the institution, or while under the custody or supervision of institution officials, officers, or employees, or while on any premises subject to the control of the institution, knowingly possesses or carries upon his or her person or has under his or her control any weapon, firearm, or any instrument which, if used, could produce serious bodily injury to the person of another, is guilty of a class B felony.

(2) Every person confined in a county or local correctional institution who, without legal authorization, while in the institution or while being conveyed to or from the institution, or while under the custody or supervision of institution officials, officers, or employees, or while on any premises subject to the control of the institution, knowingly possesses or has under his or her control a deadly weapon, as defined in RCW 9A.04.110, is guilty of a class B felony.

(3) The sentence imposed under this section shall be in addition to any sentence being served. [1995 c 314 § 4; 1979 c 121 § 1; 1977 ex.s. c 43 § 1; 1975-'76 2nd ex.s. c 38 § 18. Prior: 1955 c 241 § 4.]

**Severability—1979 c 121:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 c 121 § 8.]

**Effective date—Severability—1975-'76 2nd ex.s. c 38:** See notes following RCW 9A.08.020.

**9.94.041 Narcotic drugs, controlled substances—Possession, etc., by prisoners—Penalty.** (1) Every person serving a sentence in any state correctional institution who, without legal authorization, while in the institution or while being conveyed to or from the institution, or while under the custody or supervision of institution officials, officers, or employees, or while on any premises subject to the control of the institution, knowingly possesses or carries upon his or her person or has under his or her control any narcotic drug or controlled substance as defined in chapter 69.50 RCW is guilty of a class C felony.

(2) Every person confined in a county or local correctional institution who, without legal authorization, while in the institution or while being conveyed to or from the institution, or while under the custody or supervision of institution officials, officers, or employees, or while on any premises subject to the control of the institution, knowingly possesses or has under his or her control any narcotic drug or controlled substance, as defined in chapter 69.50 RCW, is guilty of a class C felony.

(3) The sentence imposed under this section shall be in addition to any sentence being served. [1995 c 314 § 5; 1979 c 121 § 2.]

**9.94.049 "Correctional institution" and "state correctional institution" defined.** (1) For the purposes of this chapter, the term "correctional institution" means any place designated by law for the keeping of persons held in custody under process of law, or under lawful arrest, including state prisons, county and local jails, and other facilities operated by the department of corrections or local governmental units primarily for the purposes of punishment, correction, or rehabilitation following conviction of a criminal offense.

(2) For the purposes of RCW 9.94.043 and 9.94.045, "state correctional institution" means all state correctional facilities under the supervision of the secretary of the department of corrections used solely for the purpose of confinement of convicted felons. [1995 c 314 § 6; 1992 c 7 § 21; 1985 c 350 § 3; 1979 c 121 § 6.]

**9.94.070 Persistent prison misbehavior.** (1) An inmate of a state correctional institution who is serving a sentence for an offense committed on or after August 1, 1995, commits the crime of persistent prison misbehavior if the inmate knowingly commits a serious infraction, that does not constitute a class A or class B felony, after losing all potential earned early release time credit.

(2) "Serious infraction" means misconduct that has been designated as a serious infraction by department of corrections rules adopted under RCW 72.09.130.

(3) "State correctional institution" has the same meaning as in RCW 9.94.049.

(4) The crime of persistent prison misbehavior is a class C felony punishable as provided in RCW 9A.20.021. The sentence imposed for this crime must be served consecutive to any sentence being served at the time the crime is committed. [1995 c 385 § 1.]

## Chapter 9.94A

### SENTENCING REFORM ACT OF 1981

#### Sections

9.94A.030	Definitions.
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9.94A.185	Home detention—Conditions.
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9.94A.360	Offender score.
9.94A.390	Departures from the guidelines.
9.94A.400	Consecutive or concurrent sentences.

9.94A.440 Evidentiary sufficiency.

9.94A.470 Armed offenders.

*Juvenile disposition standards commission—Functions transferred to sentencing guidelines commission: RCW 13.40.005.*

**9.94A.030 Definitions.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Collect," or any derivative thereof, "collect and remit," or "collect and deliver," when used with reference to the department of corrections, means that the department is responsible for monitoring and enforcing the offender's sentence with regard to the legal financial obligation, receiving payment thereof from the offender, and, consistent with current law, delivering daily the entire payment to the superior court clerk without depositing it in a departmental account.

(2) "Commission" means the sentencing guidelines commission.

(3) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(4) "Community custody" means that portion of an inmate's sentence of confinement in lieu of earned early release time or imposed pursuant to RCW 9.94A.120(6) served in the community subject to controls placed on the inmate's movement and activities by the department of corrections.

(5) "Community placement" means that period during which the offender is subject to the conditions of community custody and/or postrelease supervision, which begins either upon completion of the term of confinement (postrelease supervision) or at such time as the offender is transferred to community custody in lieu of earned early release. Community placement may consist of entirely community custody, entirely postrelease supervision, or a combination of the two.

(6) "Community service" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(7) "Community supervision" means a period of time during which a convicted offender is subject to crime-related prohibitions and other sentence conditions imposed by a court pursuant to this chapter or RCW 16.52.200(6) or 46.61.524. For first-time offenders, the supervision may include crime-related prohibitions and other conditions imposed pursuant to RCW 9.94A.120(5). For purposes of the interstate compact for out-of-state supervision of parolees and probationers, RCW 9.95.270, community supervision is the functional equivalent of probation and should be considered the same as probation by other states.

(8) "Confinement" means total or partial confinement as defined in this section.

(9) "Conviction" means an adjudication of guilt pursuant to Titles 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty.

(10) "Court-ordered legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court costs, county or interlocal drug funds, court-

appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of a felony conviction. Upon conviction for vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial obligations may also include payment to a public agency of the expense of an emergency response to the incident resulting in the conviction, subject to the provisions in RCW 38.52.430.

(11) "Crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct.

(12)(a) "Criminal history" means the list of a defendant's prior convictions, whether in this state, in federal court, or elsewhere. The history shall include, where known, for each conviction (i) whether the defendant has been placed on probation and the length and terms thereof; and (ii) whether the defendant has been incarcerated and the length of incarceration.

(b) "Criminal history" shall always include juvenile convictions for sex offenses and serious violent offenses and shall also include a defendant's other prior convictions in juvenile court if: (i) The conviction was for an offense which is a felony or a serious traffic offense and is criminal history as defined in RCW 13.40.020(9); (ii) the defendant was fifteen years of age or older at the time the offense was committed; and (iii) with respect to prior juvenile class B and C felonies or serious traffic offenses, the defendant was less than twenty-three years of age at the time the offense for which he or she is being sentenced was committed.

(13) "Day fine" means a fine imposed by the sentencing judge that equals the difference between the offender's net daily income and the reasonable obligations that the offender has for the support of the offender and any dependents.

(14) "Day reporting" means a program of enhanced supervision designed to monitor the defendant's daily activities and compliance with sentence conditions, and in which the defendant is required to report daily to a specific location designated by the department or the sentencing judge.

(15) "Department" means the department of corrections.

(16) "Determinate sentence" means a sentence that states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community supervision, the number of actual hours or days of community service work, or dollars or terms of a legal financial obligation. The fact that an offender through "earned early release" can reduce the actual period of confinement shall not affect the classification of the sentence as a determinate sentence.

(17) "Disposable earnings" means that part of the earnings of an individual remaining after the deduction from those earnings of any amount required by law to be withheld. For the purposes of this definition, "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonuses, or otherwise, and, notwithstanding any other provision of law

making the payments exempt from garnishment, attachment, or other process to satisfy a court-ordered legal financial obligation, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

(18) "Drug offense" means:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.401(d)) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

(c) Any out-of-state conviction for an offense that under the laws of this state would be a felony classified as a drug offense under (a) of this subsection.

(19) "Escape" means:

(a) Escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), willful failure to return from furlough (RCW 72.66.060), willful failure to return from work release (RCW 72.65.070), or willful failure to be available for supervision by the department while in community custody (RCW 72.09.310); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as an escape under (a) of this subsection.

(20) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-and-run injury-accident (RCW 46.52.020(4)); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a felony traffic offense under (a) of this subsection.

(21) "Fines" means the requirement that the offender pay a specific sum of money over a specific period of time to the court.

(22)(a) "First-time offender" means any person who is convicted of a felony (i) not classified as a violent offense or a sex offense under this chapter, or (ii) that is not the manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance classified in schedule I or II that is a narcotic drug, nor the manufacture, delivery, or possession with intent to deliver methamphetamine, its salts, isomers, and salts of its isomers as defined in RCW 69.50.206(d)(2), nor the selling for profit of any controlled substance or counterfeit substance classified in schedule I, RCW 69.50.204, except leaves and flowering tops of marijuana, and except as provided in (b) of this subsection, who previously has never been convicted of a felony in this state, federal court, or another state, and who has never participated in a program of deferred prosecution for a felony offense.

(b) For purposes of (a) of this subsection, a juvenile adjudication for an offense committed before the age of fifteen years is not a previous felony conviction except for adjudications of sex offenses and serious violent offenses.

(23) "Most serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies, as now existing or hereafter amended:

(a) Any felony defined under any law as a class A felony or criminal solicitation of or criminal conspiracy to commit a class A felony;

(b) Assault in the second degree;

(c) Assault of a child in the second degree;

(d) Child molestation in the second degree;

(e) Controlled substance homicide;

(f) Extortion in the first degree;

(g) Incest when committed against a child under age fourteen;

(h) Indecent liberties;

(i) Kidnapping in the second degree;

(j) Leading organized crime;

(k) Manslaughter in the first degree;

(l) Manslaughter in the second degree;

(m) Promoting prostitution in the first degree;

(n) Rape in the third degree;

(o) Robbery in the second degree;

(p) Sexual exploitation;

(q) Vehicular assault;

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

(s) Any other class B felony offense with a finding of sexual motivation, as "sexual motivation" is defined under this section;

(t) Any other felony with a deadly weapon verdict under RCW 9.94A.125;

(u) Any felony offense in effect at any time prior to December 2, 1993, that is comparable to a most serious offense under this subsection, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a most serious offense under this subsection.

(24) "Nonviolent offense" means an offense which is not a violent offense.

(25) "Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

(26) "Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, or, if home detention or work crew has been ordered by the court, in an approved residence, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release, home detention, work crew, and a combination of work crew and home detention as defined in this section.

(27) "Persistent offender" is an offender who:

(a) Has been convicted in this state of any felony considered a most serious offense; and

(b) Has, before the commission of the offense under (a) of this subsection, been convicted as an offender on at least two separate occasions, whether in this state or elsewhere, of felonies that under the laws of this state would be considered most serious offenses and would be included in the offender



score under RCW 9.94A.360; provided that of the two or more previous convictions, at least one conviction must have occurred before the commission of any of the other most serious offenses for which the offender was previously convicted.

(28) "Postrelease supervision" is that portion of an offender's community placement that is not community custody.

(29) "Restitution" means the requirement that the offender pay a specific sum of money over a specific period of time to the court as payment of damages. The sum may include both public and private costs. The imposition of a restitution order does not preclude civil redress.

(30) "Serious traffic offense" means:

(a) Driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502), actual physical control while under the influence of intoxicating liquor or any drug (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

(b) Any federal, out-of-state, county, or municipal conviction for an offense that under the laws of this state would be classified as a serious traffic offense under (a) of this subsection.

(31) "Serious violent offense" is a subcategory of violent offense and means:

(a) Murder in the first degree, homicide by abuse, murder in the second degree, assault in the first degree, kidnapping in the first degree, or rape in the first degree, assault of a child in the first degree, or an attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious violent offense under (a) of this subsection.

(32) "Sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

(33) "Sex offense" means:

(a) A felony that is a violation of chapter 9A.44 RCW or RCW 9A.64.020 or 9.68A.090 or a felony that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes;

(b) A felony with a finding of sexual motivation under RCW 9.94A.127 or 13.40.135; or

(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a sex offense under (a) of this subsection.

(34) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

(35) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

(36) "Transition training" means written and verbal instructions and assistance provided by the department to the offender during the two weeks prior to the offender's successful completion of the work ethic camp program. The transition training shall include instructions in the offender's requirements and obligations during the offender's period of community custody.

(37) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged.

(38) "Violent offense" means:

(a) Any of the following felonies, as now existing or hereafter amended: Any felony defined under any law as a class A felony or an attempt to commit a class A felony, criminal solicitation of or criminal conspiracy to commit a class A felony, manslaughter in the first degree, manslaughter in the second degree, indecent liberties if committed by forcible compulsion, kidnapping in the second degree, arson in the second degree, assault in the second degree, assault of a child in the second degree, extortion in the first degree, robbery in the second degree, vehicular assault, and vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in (a) of this subsection; and

(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a violent offense under (a) or (b) of this subsection.

(39) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community of not less than thirty-five hours per week that complies with RCW 9.94A.135. The civic improvement tasks shall have minimal negative impact on existing private industries or the labor force in the county where the service or labor is performed. The civic improvement tasks shall not affect employment opportunities for people with developmental disabilities contracted through sheltered workshops as defined in RCW 82.04.385. Only those offenders sentenced to a facility operated or utilized under contract by a county or the state are eligible to participate on a work crew. Offenders sentenced for a sex offense as defined in subsection (33) of this section are not eligible for the work crew program.

(40) "Work ethic camp" means an alternative incarceration program designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-world job and vocational experiences, character-building work ethics training, life management skills development, substance abuse rehabilitation, counseling, literacy training, and basic adult education.

(41) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school. Participation in work release shall be conditioned upon the offender attending work or school at regularly defined hours and abiding by the rules of the work release facility.

(42) "Home detention" means a program of partial confinement available to offenders wherein the offender is confined in a private residence subject to electronic surveillance. [1995 c 268 § 2; 1995 c 108 § 1; 1995 c 101 § 2; 1994 c 261 § 16. Prior: 1994 c 1 § 3 (Initiative Measure No. 593, approved November 2, 1993); 1993 c 338 § 2; 1993 c 251 § 4; 1993 c 164 § 1; prior: 1992 c 145 § 6; 1992 c 75 § 1; prior: 1991 c 348 § 4; 1991 c 290 § 3; 1991 c 181 § 1; 1991 c 32 § 1; 1990 c 3 § 602; prior: 1989 c

394 § 1; 1989 c 252 § 2; prior: 1988 c 157 § 1; 1988 c 154 § 2; 1988 c 153 § 1; 1988 c 145 § 11; prior: 1987 c 458 § 1; 1987 c 456 § 1; 1987 c 187 § 3; 1986 c 257 § 17; 1985 c 346 § 5; 1984 c 209 § 3; 1983 c 164 § 9; 1983 c 163 § 1; 1982 c 192 § 1; 1981 c 137 § 3.]

**Reviser's note:** This section was amended by 1995 c 101 § 2, 1995 c 108 § 1, and by 1995 c 268 § 2, each without reference to the other. All amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Purpose—1995 c 268:** "In order to eliminate a potential ambiguity over the scope of the term "sex offense," this act clarifies that for general purposes the definition of "sex offense" does not include any misdemeanors or gross misdemeanors. For purposes of the registration of sex offenders pursuant to RCW 9A.44.130, however, the definition of "sex offense" is expanded to include those gross misdemeanors that constitute attempts, conspiracies, and solicitations to commit class C felonies." [1995 c 268 § 1.]

**Effective date—1995 c 108:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [April 19, 1995]." [1995 c 108 § 6.]

**Finding—Intent—1994 c 261:** See note following RCW 16.52.011.

**Severability—Short title—Captions—1994 c 1 (Initiative Measure No. 593):** See notes following RCW 9.94A.392.

**Severability—Effective date—1993 c 338:** See notes following RCW 72.09.400.

**Finding—Intent—1993 c 251:** See note following RCW 38.52.430.

**Effective date—1991 c 348:** See note following RCW 46.61.520.

**Effective date—Application—1990 c 3 §§ 601-605:** See note following RCW 9.94A.127.

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3:** See RCW 18.155.900 through 18.155.902.

**Purpose—1989 c 252:** "The purpose of this act is to create a system that: (1) Assists the courts in sentencing felony offenders regarding the offenders' legal financial obligations; (2) holds offenders accountable to victims, counties, cities, the state, municipalities, and society for the assessed costs associated with their crimes; and (3) provides remedies for an individual or other entities to recoup or at least defray a portion of the loss associated with the costs of felonious behavior." [1989 c 252 § 1.]

**Prospective application—1989 c 252:** "Except for sections 18, 22, 23, and 24 of this act, this act applies prospectively only and not retrospectively. It applies only to offenses committed on or after the effective date of this act." [1989 c 252 § 27.]

**Effective dates—1989 c 252:** "(1) Sections 1 through 17, 19 through 21, 25, 26, and 28 of this act shall take effect July 1, 1990 unless otherwise directed by law.

(2) Sections 18, 22, 23, and 24 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1989." [1989 c 252 § 30.]

**Severability—1989 c 252:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1989 c 252 § 31.]

**Application—1988 c 157:** "This act applies to crimes committed after July 1, 1988." [1988 c 157 § 7.]

**Effective date—1988 c 153:** "This act shall take effect July 1, 1988." [1988 c 153 § 16.]

**Application of increased sanctions—1988 c 153:** "Increased sanctions authorized by this act are applicable only to those persons committing offenses after July 1, 1988." [1988 c 153 § 15.]

**Effective date—Savings—Application—1988 c 145:** See notes following RCW 9A.44.010.

**Severability—1987 c 458:** See note following RCW 48.21.160.

**Severability—1986 c 257:** See note following RCW 9A.56.010.

**Effective date—1986 c 257 §§ 17-35:** "Sections 17 through 35 of this act shall take effect July 1, 1986." [1986 c 257 § 38.]

**Effective dates—1984 c 209:** See note following RCW 9.92.150.

**Effective date—1983 c 163:** See note following RCW 9.94A.120.

#### **9.94A.040 Sentencing guidelines commission—Established—Powers and duties—Assumption of powers and duties of juvenile disposition standards commission.**

(1) A sentencing guidelines commission is established as an agency of state government.

(2) The commission shall, following a public hearing or hearings:

(a) Devise a series of recommended standard sentence ranges for all felony offenses and a system for determining which range of punishment applies to each offender based on the extent and nature of the offender's criminal history, if any;

(b) Devise recommended prosecuting standards in respect to charging of offenses and plea agreements; and

(c) Devise recommended standards to govern whether sentences are to be served consecutively or concurrently.

(3) Each of the commission's recommended standard sentence ranges shall include one or more of the following: Total confinement, partial confinement, community supervision, community service, and a fine.

(4) In devising the standard sentence ranges of total and partial confinement under this section, the commission is subject to the following limitations:

(a) If the maximum term in the range is one year or less, the minimum term in the range shall be no less than one-third of the maximum term in the range, except that if the maximum term in the range is ninety days or less, the minimum term may be less than one-third of the maximum;

(b) If the maximum term in the range is greater than one year, the minimum term in the range shall be no less than seventy-five percent of the maximum term in the range; and

(c) The maximum term of confinement in a range may not exceed the statutory maximum for the crime as provided in RCW 9A.20.020.

(5) In carrying out its duties under subsection (2) of this section, the commission shall give consideration to the existing guidelines adopted by the association of superior court judges and the Washington association of prosecuting attorneys and the experience gained through use of those guidelines. The commission shall emphasize confinement for the violent offender and alternatives to total confinement for the nonviolent offender.

(6) This commission shall conduct a study to determine the capacity of correctional facilities and programs which are or will be available. While the commission need not consider such capacity in arriving at its recommendations, the commission shall project whether the implementation of its recommendations would result in exceeding such capacity. If the commission finds that this result would probably occur, then the commission shall prepare an additional list of standard sentences which shall be consistent with such capacity.

(7) The commission may recommend to the legislature revisions or modifications to the standard sentence ranges and other standards. If implementation of the revisions or modifications would result in exceeding the capacity of correctional facilities, then the commission shall accompany its recommendation with an additional list of standard

sentence ranges which are consistent with correction capacity.

(8) The commission shall study the existing criminal code and from time to time make recommendations to the legislature for modification.

(9) The commission may (a) serve as a clearinghouse and information center for the collection, preparation, analysis, and dissemination of information on state and local sentencing practices; (b) develop and maintain a computerized sentencing information system by individual superior court judge consisting of offender, offense, history, and sentence information entered from judgment and sentence forms for all adult felons; and (c) conduct ongoing research regarding sentencing guidelines, use of total confinement and alternatives to total confinement, plea bargaining, and other matters relating to the improvement of the criminal justice system.

(10) The staff and executive officer of the commission may provide staffing and services to the juvenile disposition standards commission, if authorized by RCW 13.40.025 and 13.40.027. The commission may conduct joint meetings with the juvenile disposition standards commission.

(11) The commission shall assume the powers and duties of the juvenile disposition standards commission after June 30, 1997.

(12) The commission shall exercise its duties under this section in conformity with chapter 34.05 RCW. [1995 c 269 § 303; 1994 c 87 § 1; 1986 c 257 § 18; 1982 c 192 § 2; 1981 c 137 § 4.]

**Effective date—1995 c 269:** See note following RCW 13.40.025.

**Part headings not law—Severability—1995 c 269:** See notes following RCW 13.40.005.

**Severability—1986 c 257:** See note following RCW 9A.56.010.

**Effective date—1986 c 257 §§ 17-35:** See note following RCW 9.94A.030.

**9.94A.080 Plea agreements—Discussions—Contents of agreements.** The prosecutor and the attorney for the defendant, or the defendant when acting pro se, may engage in discussions with a view toward reaching an agreement that, upon the entering of a plea to a charged offense or to a lesser or related offense, the prosecutor will do any of the following:

- (1) Move for dismissal of other charges or counts;
- (2) Recommend a particular sentence within the sentence range applicable to the offense or offenses to which the offender pled guilty;
- (3) Recommend a particular sentence outside of the sentence range;
- (4) Agree to file a particular charge or count;
- (5) Agree not to file other charges or counts; or
- (6) Make any other promise to the defendant, except that in no instance may the prosecutor agree not to allege prior convictions.

In a case involving a crime against persons as defined in RCW 9.94A.440, the prosecutor shall make reasonable efforts to inform the victim of the violent offense of the nature of and reasons for the plea agreement, including all offenses the prosecutor has agreed not to file, and ascertain any objections or comments the victim has to the plea agreement.

The court shall not participate in any discussions under this section. [1995 c 288 § 1; 1981 c 137 § 8.]

**Effective date—1981 c 137:** See RCW 9.94A.905.

**9.94A.090 Plea agreements—Information to court—Approval or disapproval—Sentencing judge not bound.**

(1) If a plea agreement has been reached by the prosecutor and the defendant pursuant to RCW 9.94A.080, they shall at the time of the defendant's plea state to the court, on the record, the nature of the agreement and the reasons for the agreement. The prosecutor shall inform the court on the record whether the victim or victims of all crimes against persons, as defined in RCW 9.94A.440, covered by the plea agreement have expressed any objections to or comments on the nature of and reasons for the plea agreement. The court, at the time of the plea, shall determine if the agreement is consistent with the interests of justice and with the prosecuting standards. If the court determines it is not consistent with the interests of justice and with the prosecuting standards, the court shall, on the record, inform the defendant and the prosecutor that they are not bound by the agreement and that the defendant may withdraw the defendant's plea of guilty, if one has been made, and enter a plea of not guilty.

(2) The sentencing judge is not bound by any recommendations contained in an allowed plea agreement and the defendant shall be so informed at the time of plea. [1995 c 288 § 2; 1984 c 209 § 4; 1981 c 137 § 9.]

**Effective dates—1984 c 209:** See note following RCW 9.94A.030.

**Effective date—1981 c 137:** See RCW 9.94A.905.

**9.94A.103 Plea agreements and sentences for certain offenders—Public records.** Any and all recommended sentencing agreements or plea agreements and the sentences for any and all felony crimes shall be made and retained as public records if the felony crime involves:

- (1) Any violent offense as defined in this chapter;
- (2) Any most serious offense as defined in this chapter;
- (3) Any felony with a deadly weapon special verdict under RCW 9.94A.125;
- (4) Any felony with any deadly weapon enhancements under RCW 9.94A.310 (3) or (4), or both; and/or
- (5) The felony crimes of possession of a machine gun, possessing a stolen firearm, reckless endangerment in the first degree, theft of a firearm, unlawful possession of a firearm in the first or second degree, and/or use of a machine gun in a felony. [1995 c 129 § 5 (Initiative Measure No. 159).]

**Findings and intent—Short title—Severability—Captions not law—1995 c 129 (Initiative Measure No. 159):** See notes following RCW 9.94A.310.

**9.94A.105 Judicial records for sentences of certain offenders.** (1) A current, newly created or reworked judgment and sentence document for each felony sentencing shall record any and all recommended sentencing agreements or plea agreements and the sentences for any and all felony crimes kept as public records under RCW 9.94A.103 shall contain the clearly printed name and legal signature of the sentencing judge. The judgment and sentence document as defined in this section shall also provide additional space for the sentencing judge's reasons for going either above or

below the presumptive sentence range for any and all felony crimes covered as public records under RCW 9.94A.103. Both the sentencing judge and the prosecuting attorney's office shall each retain or receive a completed copy of each sentencing document as defined in this section for their own records.

(2) The sentencing guidelines commission shall be sent a completed copy of the judgment and sentence document upon conviction for each felony sentencing under subsection (1) of this section and shall compile a yearly and cumulative judicial record of each sentencing judge in regards to his or her sentencing practices for any and all felony crimes involving:

- (a) Any violent offense as defined in this chapter;
- (b) Any most serious offense as defined in this chapter;
- (c) Any felony with any deadly weapon special verdict under RCW 9.94A.125;
- (d) Any felony with any deadly weapon enhancements under RCW 9.94A.310 (3) or (4), or both; and/or
- (e) The felony crimes of possession of a machine gun, possessing a stolen firearm, reckless endangerment in the first degree, theft of a firearm, unlawful possession of a firearm in the first or second degree, and/or use of a machine gun in a felony.

(3) The sentencing guidelines commission shall compare each individual judge's sentencing practices to the standard or presumptive sentence range for any and all felony crimes listed in subsection (2) of this section for the appropriate offense level as defined in RCW 9.94A.320, offender score as defined in RCW 9.94A.360, and any applicable deadly weapon enhancements as defined in RCW 9.94A.310 (3) or (4), or both. These comparative records shall be retained and made available to the public for review in a current, newly created or reworked official published document by the sentencing guidelines commission.

(4) Any and all felony sentences which are either above or below the standard or presumptive sentence range in subsection (3) of this section shall also mark whether the prosecuting attorney in the case also recommended a similar sentence, if any, which was either above or below the presumptive sentence range and shall also indicate if the sentence was in conjunction with an approved alternative sentencing option including a first-time offender waiver, sex offender sentencing alternative, or other prescribed sentencing option.

(5) If any completed judgment and sentence document as defined in subsection (1) of this section is not sent to the sentencing guidelines commission as required in subsection (2) of this section, the sentencing guidelines commission shall have the authority and shall undertake reasonable and necessary steps to assure that all past, current, and future sentencing documents as defined in subsection (1) of this section are received by the sentencing guidelines commission. [1995 c 129 § 6 (Initiative Measure No. 159).]

**Findings and intent—Short title—Severability—Captions not law—1995 c 129 (Initiative Measure No. 159):** See notes following RCW 9.94A.310.

**9.94A.120 Sentences.** When a person is convicted of a felony, the court shall impose punishment as provided in this section.

(1) Except as authorized in subsections (2), (4), (5), (6), and (8) of this section, the court shall impose a sentence within the sentence range for the offense.

(2) The court may impose a sentence outside the standard sentence range for that offense if it finds, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence.

(3) Whenever a sentence outside the standard range is imposed, the court shall set forth the reasons for its decision in written findings of fact and conclusions of law. A sentence outside the standard range shall be a determinate sentence.

(4) A persistent offender shall be sentenced to a term of total confinement for life without the possibility of parole or, when authorized by RCW 10.95.030 for the crime of aggravated murder in the first degree, sentenced to death, notwithstanding the maximum sentence under any other law. An offender convicted of the crime of murder in the first degree shall be sentenced to a term of total confinement not less than twenty years. An offender convicted of the crime of assault in the first degree or assault of a child in the first degree where the offender used force or means likely to result in death or intended to kill the victim shall be sentenced to a term of total confinement not less than five years. An offender convicted of the crime of rape in the first degree shall be sentenced to a term of total confinement not less than five years. The foregoing minimum terms of total confinement are mandatory and shall not be varied or modified as provided in subsection (2) of this section. In addition, all offenders subject to the provisions of this subsection shall not be eligible for community custody, earned early release time, furlough, home detention, partial confinement, work crew, work release, or any other form of early release as defined under RCW 9.94A.150 (1), (2), (3), (5), (7), or (8), or any other form of authorized leave of absence from the correctional facility while not in the direct custody of a corrections officer or officers during such minimum terms of total confinement except in the case of an offender in need of emergency medical treatment or for the purpose of commitment to an inpatient treatment facility in the case of an offender convicted of the crime of rape in the first degree.

(5) In sentencing a first-time offender the court may waive the imposition of a sentence within the sentence range and impose a sentence which may include up to ninety days of confinement in a facility operated or utilized under contract by the county and a requirement that the offender refrain from committing new offenses. The sentence may also include up to two years of community supervision, which, in addition to crime-related prohibitions, may include requirements that the offender perform any one or more of the following:

- (a) Devote time to a specific employment or occupation;
- (b) Undergo available outpatient treatment for up to two years, or inpatient treatment not to exceed the standard range of confinement for that offense;
- (c) Pursue a prescribed, secular course of study or vocational training;
- (d) Remain within prescribed geographical boundaries and notify the court or the community corrections officer prior to any change in the offender's address or employment;

(e) Report as directed to the court and a community corrections officer; or

(f) Pay all court-ordered legal financial obligations as provided in RCW 9.94A.030 and/or perform community service work.

(6)(a) An offender is eligible for the special drug offender sentencing alternative if:

(i) The offender is convicted of the manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance classified in Schedule I or II that is a narcotic drug or a felony that is, under chapter 9A.28 RCW or RCW 69.50.407, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes, and the violation does not involve a sentence enhancement under \*RCW 9.94A.310(3);

(ii) The offender has no prior convictions for a felony in this state, another state, or the United States; and

(iii) The offense involved only a small quantity of the particular controlled substance as determined by the judge upon consideration of such factors as the weight, purity, packaging, sale price, and street value of the controlled substance.

(b) If the midpoint of the standard range is greater than one year and the sentencing judge determines that the offender is eligible for this option and that the offender and the community will benefit from the use of the special drug offender sentencing alternative, the judge may waive imposition of a sentence within the standard range and impose a sentence that must include a period of total confinement in a state facility for one-half of the midpoint of the standard range. During incarceration in the state facility, offenders sentenced under this subsection shall undergo a comprehensive substance abuse assessment and receive, within available resources, treatment services appropriate for the offender. The treatment services shall be designed by the division of alcohol and substance abuse of the department of social and health services, in cooperation with the department of corrections. If the midpoint of the standard range is twenty-four months or less, no more than three months of the sentence may be served in a work release status. The court shall also impose one year of concurrent community custody and community supervision that must include appropriate outpatient substance abuse treatment, crime-related prohibitions including a condition not to use illegal controlled substances, and a requirement to submit to urinalysis or other testing to monitor that status. The court may require that the monitoring for controlled substances be conducted by the department or by a treatment alternative to [a] street crime program or a comparable court or agency-referred program. The offender may be required to pay thirty dollars per month while on community custody to offset the cost of monitoring. In addition, the court shall impose three or more of the following conditions:

(i) Devote time to a specific employment or training;

(ii) Remain within prescribed geographical boundaries and notify the court or the community corrections officer before any change in the offender's address or employment;

(iii) Report as directed to a community corrections officer;

(iv) Pay all court-ordered legal financial obligations;

(v) Perform community service work;

(vi) Stay out of areas designated by the sentencing judge.

(c) If the offender violates any of the sentence conditions in (b) of this subsection, the department shall impose sanctions administratively, with notice to the prosecuting attorney and the sentencing court. Upon motion of the court or the prosecuting attorney, a violation hearing shall be held by the court. If the court finds that conditions have been willfully violated, the court may impose confinement consisting of up to the remaining one-half of the midpoint of the standard range. All total confinement served during the period of community custody shall be credited to the offender, regardless of whether the total confinement is served as a result of the original sentence, as a result of a sanction imposed by the department, or as a result of a violation found by the court. The term of community supervision shall be tolled by any period of time served in total confinement as a result of a violation found by the court.

(d) The department shall determine the rules for calculating the value of a day fine based on the offender's income and reasonable obligations which the offender has for the support of the offender and any dependents. These rules shall be developed in consultation with the administrator for the courts, the office of financial management, and the commission.

(7) If a sentence range has not been established for the defendant's crime, the court shall impose a determinate sentence which may include not more than one year of confinement, community service work, a term of community supervision not to exceed one year, and/or other legal financial obligations. The court may impose a sentence which provides more than one year of confinement if the court finds, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence.

(8)(a)(i) When an offender is convicted of a sex offense other than a violation of RCW 9A.44.050 or a sex offense that is also a serious violent offense and has no prior convictions for a sex offense or any other felony sex offenses in this or any other state, the sentencing court, on its own motion or the motion of the state or the defendant, may order an examination to determine whether the defendant is amenable to treatment.

The report of the examination shall include at a minimum the following: The defendant's version of the facts and the official version of the facts, the defendant's offense history, an assessment of problems in addition to alleged deviant behaviors, the offender's social and employment situation, and other evaluation measures used. The report shall set forth the sources of the evaluator's information.

The examiner shall assess and report regarding the defendant's amenability to treatment and relative risk to the community. A proposed treatment plan shall be provided and shall include, at a minimum:

(A) Frequency and type of contact between offender and therapist;

(B) Specific issues to be addressed in the treatment and description of planned treatment modalities;

(C) Monitoring plans, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members and others;

(D) Anticipated length of treatment; and

(E) Recommended crime-related prohibitions.

The court on its own motion may order, or on a motion by the state shall order, a second examination regarding the offender's amenability to treatment. The evaluator shall be selected by the party making the motion. The defendant shall pay the cost of any second examination ordered unless the court finds the defendant to be indigent in which case the state shall pay the cost.

(ii) After receipt of the reports, the court shall consider whether the offender and the community will benefit from use of this special sexual offender sentencing alternative and consider the victim's opinion whether the offender should receive a treatment disposition under this subsection. If the court determines that this special sex offender sentencing alternative is appropriate, the court shall then impose a sentence within the sentence range. If this sentence is less than eight years of confinement, the court may suspend the execution of the sentence and impose the following conditions of suspension:

(A) The court shall place the defendant on community supervision for the length of the suspended sentence or three years, whichever is greater; and

(B) The court shall order treatment for any period up to three years in duration. The court in its discretion shall order outpatient sex offender treatment or inpatient sex offender treatment, if available. A community mental health center may not be used for such treatment unless it has an appropriate program designed for sex offender treatment. The offender shall not change sex offender treatment providers or treatment conditions without first notifying the prosecutor, the community corrections officer, and the court, and shall not change providers without court approval after a hearing if the prosecutor or community corrections officer object to the change. In addition, as conditions of the suspended sentence, the court may impose other sentence conditions including up to six months of confinement, not to exceed the sentence range of confinement for that offense, crime-related prohibitions, and requirements that the offender perform any one or more of the following:

(I) Devote time to a specific employment or occupation;

(II) Remain within prescribed geographical boundaries and notify the court or the community corrections officer prior to any change in the offender's address or employment;

(III) Report as directed to the court and a community corrections officer;

(IV) Pay all court-ordered legal financial obligations as provided in RCW 9.94A.030, perform community service work, or any combination thereof; or

(V) Make recoupment to the victim for the cost of any counseling required as a result of the offender's crime.

(iii) The sex offender therapist shall submit quarterly reports on the defendant's progress in treatment to the court and the parties. The report shall reference the treatment plan and include at a minimum the following: Dates of attendance, defendant's compliance with requirements, treatment activities, the defendant's relative progress in treatment, and any other material as specified by the court at sentencing.

(iv) At the time of sentencing, the court shall set a treatment termination hearing for three months prior to the anticipated date for completion of treatment. Prior to the treatment termination hearing, the treatment professional and community corrections officer shall submit written reports to the court and parties regarding the defendant's compliance with treatment and monitoring requirements, and recommendations regarding termination from treatment, including proposed community supervision conditions. Either party may request and the court may order another evaluation regarding the advisability of termination from treatment. The defendant shall pay the cost of any additional evaluation ordered unless the court finds the defendant to be indigent in which case the state shall pay the cost. At the treatment termination hearing the court may: (A) Modify conditions of community supervision, and either (B) terminate treatment, or (C) extend treatment for up to the remaining period of community supervision.

(v) The court may revoke the suspended sentence at any time during the period of community supervision and order execution of the sentence if: (A) The defendant violates the conditions of the suspended sentence, or (B) the court finds that the defendant is failing to make satisfactory progress in treatment. All confinement time served during the period of community supervision shall be credited to the offender if the suspended sentence is revoked.

(vi) Except as provided in (a)(vii) of this subsection, after July 1, 1991, examinations and treatment ordered pursuant to this subsection shall only be conducted by sex offender treatment providers certified by the department of health pursuant to chapter 18.155 RCW.

(vii) A sex offender therapist who examines or treats a sex offender pursuant to this subsection (8) does not have to be certified by the department of health pursuant to chapter 18.155 RCW if the court finds that: (A) The offender has already moved to another state or plans to move to another state for reasons other than circumventing the certification requirements; (B) no certified providers are available for treatment within a reasonable geographical distance of the offender's home; and (C) the evaluation and treatment plan comply with this subsection (8) and the rules adopted by the department of health.

For purposes of this subsection, "victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a result of the crime charged. "Victim" also means a parent or guardian of a victim who is a minor child unless the parent or guardian is the perpetrator of the offense.

(b) When an offender commits any felony sex offense on or after July 1, 1987, and is sentenced to a term of confinement of more than one year but less than six years, the sentencing court may, on its own motion or on the motion of the offender or the state, request the department of corrections to evaluate whether the offender is amenable to treatment and the department may place the offender in a treatment program within a correctional facility operated by the department.

Except for an offender who has been convicted of a violation of RCW 9A.44.040 or 9A.44.050, if the offender completes the treatment program before the expiration of his or her term of confinement, the department of corrections may request the court to convert the balance of confinement

to community supervision and to place conditions on the offender including crime-related prohibitions and requirements that the offender perform any one or more of the following:

- (i) Devote time to a specific employment or occupation;
- (ii) Remain within prescribed geographical boundaries and notify the court or the community corrections officer prior to any change in the offender's address or employment;
- (iii) Report as directed to the court and a community corrections officer;
- (iv) Undergo available outpatient treatment.

If the offender violates any of the terms of his or her community supervision, the court may order the offender to serve out the balance of his or her community supervision term in confinement in the custody of the department of corrections.

Nothing in this subsection (8)(b) shall confer eligibility for such programs for offenders convicted and sentenced for a sex offense committed prior to July 1, 1987. This subsection (8)(b) does not apply to any crime committed after July 1, 1990.

(c) Offenders convicted and sentenced for a sex offense committed prior to July 1, 1987, may, subject to available funds, request an evaluation by the department of corrections to determine whether they are amenable to treatment. If the offender is determined to be amenable to treatment, the offender may request placement in a treatment program within a correctional facility operated by the department. Placement in such treatment program is subject to available funds.

(9)(a) When a court sentences a person to a term of total confinement to the custody of the department of corrections for an offense categorized as a sex offense or a serious violent offense committed after July 1, 1988, but before July 1, 1990, assault in the second degree, assault of a child in the second degree, any crime against a person where it is determined in accordance with RCW 9.94A.125 that the defendant or an accomplice was armed with a deadly weapon at the time of commission, or any felony offense under chapter 69.50 or 69.52 RCW not sentenced under subsection (6) of this section, committed on or after July 1, 1988, the court shall in addition to the other terms of the sentence, sentence the offender to a one-year term of community placement beginning either upon completion of the term of confinement or at such time as the offender is transferred to community custody in lieu of earned early release in accordance with RCW 9.94A.150 (1) and (2). When the court sentences an offender under this subsection to the statutory maximum period of confinement then the community placement portion of the sentence shall consist entirely of such community custody to which the offender may become eligible, in accordance with RCW 9.94A.150 (1) and (2). Any period of community custody actually served shall be credited against the community placement portion of the sentence.

(b) When a court sentences a person to a term of total confinement to the custody of the department of corrections for an offense categorized as a sex offense or serious violent offense committed on or after July 1, 1990, the court shall in addition to other terms of the sentence, sentence the offender to community placement for two years or up to the

period of earned early release awarded pursuant to RCW 9.94A.150 (1) and (2), whichever is longer. The community placement shall begin either upon completion of the term of confinement or at such time as the offender is transferred to community custody in lieu of earned early release in accordance with RCW 9.94A.150 (1) and (2). When the court sentences an offender under this subsection to the statutory maximum period of confinement then the community placement portion of the sentence shall consist entirely of the community custody to which the offender may become eligible, in accordance with RCW 9.94A.150 (1) and (2). Any period of community custody actually served shall be credited against the community placement portion of the sentence. Unless a condition is waived by the court, the terms of community placement for offenders sentenced pursuant to this section shall include the following conditions:

(i) The offender shall report to and be available for contact with the assigned community corrections officer as directed;

(ii) The offender shall work at department of corrections-approved education, employment, and/or community service;

(iii) The offender shall not consume controlled substances except pursuant to lawfully issued prescriptions;

(iv) An offender in community custody shall not unlawfully possess controlled substances;

(v) The offender shall pay supervision fees as determined by the department of corrections; and

(vi) The residence location and living arrangements are subject to the prior approval of the department of corrections during the period of community placement.

(c) The court may also order any of the following special conditions:

(i) The offender shall remain within, or outside of, a specified geographical boundary;

(ii) The offender shall not have direct or indirect contact with the victim of the crime or a specified class of individuals;

(iii) The offender shall participate in crime-related treatment or counseling services;

(iv) The offender shall not consume alcohol; or

(v) The offender shall comply with any crime-related prohibitions.

(d) Prior to transfer to, or during, community placement, any conditions of community placement may be removed or modified so as not to be more restrictive by the sentencing court, upon recommendation of the department of corrections.

(10) If the court imposes a sentence requiring confinement of thirty days or less, the court may, in its discretion, specify that the sentence be served on consecutive or intermittent days. A sentence requiring more than thirty days of confinement shall be served on consecutive days. Local jail administrators may schedule court-ordered intermittent sentences as space permits.

(11) If a sentence imposed includes payment of a legal financial obligation, the sentence shall specify the total amount of the legal financial obligation owed, and shall require the offender to pay a specified monthly sum toward that legal financial obligation. Restitution to victims shall be

paid prior to any other payments of monetary obligations. Any legal financial obligation that is imposed by the court may be collected by the department, which shall deliver the amount paid to the county clerk for credit. The offender's compliance with payment of legal financial obligations shall be supervised by the department. All monetary payments ordered shall be paid no later than ten years after the last date of release from confinement pursuant to a felony conviction or the date the sentence was entered. Independent of the department, the party or entity to whom the legal financial obligation is owed shall have the authority to utilize any other remedies available to the party or entity to collect the legal financial obligation. Nothing in this section makes the department, the state, or any of its employees, agents, or other persons acting on their behalf liable under any circumstances for the payment of these legal financial obligations. If an order includes restitution as one of the monetary assessments, the county clerk shall make disbursements to victims named in the order.

(12) Except as provided under RCW 9.94A.140(1) and 9.94A.142(1), a court may not impose a sentence providing for a term of confinement or community supervision or community placement which exceeds the statutory maximum for the crime as provided in chapter 9A.20 RCW.

(13) All offenders sentenced to terms involving community supervision, community service, community placement, or legal financial obligation shall be under the supervision of the secretary of the department of corrections or such person as the secretary may designate and shall follow explicitly the instructions of the secretary including reporting as directed to a community corrections officer, remaining within prescribed geographical boundaries, notifying the community corrections officer of any change in the offender's address or employment, and paying the supervision fee assessment. The department may require offenders to pay for special services rendered on or after July 25, 1993, including electronic monitoring, day reporting, and telephone reporting, dependent upon the offender's ability to pay. The department may pay for these services for offenders who are not able to pay.

(14) All offenders sentenced to terms involving community supervision, community service, or community placement under the supervision of the department of corrections shall not own, use, or possess firearms or ammunition. Offenders who own, use, or are found to be in actual or constructive possession of firearms or ammunition shall be subject to the appropriate violation process and sanctions. "Constructive possession" as used in this subsection means the power and intent to control the firearm or ammunition. "Firearm" as used in this subsection means a weapon or device from which a projectile may be fired by an explosive such as gunpowder.

(15) The sentencing court shall give the offender credit for all confinement time served before the sentencing if that confinement was solely in regard to the offense for which the offender is being sentenced.

(16) A departure from the standards in RCW 9.94A.400 (1) and (2) governing whether sentences are to be served consecutively or concurrently is an exceptional sentence subject to the limitations in subsections (2) and (3) of this section, and may be appealed by the defendant or the state as set forth in RCW 9.94A.210 (2) through (6).

(17) The court shall order restitution whenever the offender is convicted of a felony that results in injury to any person or damage to or loss of property, whether the offender is sentenced to confinement or placed under community supervision, unless extraordinary circumstances exist that make restitution inappropriate in the court's judgment. The court shall set forth the extraordinary circumstances in the record if it does not order restitution.

(18) As a part of any sentence, the court may impose and enforce an order that relates directly to the circumstances of the crime for which the offender has been convicted, prohibiting the offender from having any contact with other specified individuals or a specific class of individuals for a period not to exceed the maximum allowable sentence for the crime, regardless of the expiration of the offender's term of community supervision or community placement.

(19) In any sentence of partial confinement, the court may require the defendant to serve the partial confinement in work release, in a program of home detention, on work crew, or in a combined program of work crew and home detention.

(20) All court-ordered legal financial obligations collected by the department and remitted to the county clerk shall be credited and paid where restitution is ordered. Restitution shall be paid prior to any other payments of monetary obligations. [1995 c 108 § 3. Prior: 1994 c 1 § 2 (Initiative Measure No. 593, approved November 2, 1993); 1993 c 31 § 3; prior: 1992 c 145 § 7; 1992 c 75 § 2; 1992 c 45 § 5; prior: 1991 c 221 § 2; 1991 c 181 § 3; 1991 c 104 § 3; 1990 c 3 § 705; 1989 c 252 § 4; prior: 1988 c 154 § 3; 1988 c 153 § 2; 1988 c 143 § 21; prior: 1987 c 456 § 2; 1987 c 402 § 1; prior: 1986 c 301 § 4; 1986 c 301 § 3; 1986 c 257 § 20; 1984 c 209 § 6; 1983 c 163 § 2; 1982 c 192 § 4; 1981 c 137 § 12.]

**\*Reviser's note:** RCW 9.94A.310 was amended by 1995 c 129 § 2, and a new subsection (3) was inserted ahead of the previous subsection (3), which was renumbered as subsection (4).

**Evaluation of drug offender options:** "The commission shall evaluate the impact of implementing the drug offender options provided for in RCW 9.94A.120(6). The commission shall submit preliminary findings to the legislature by December 1, 1996, and shall submit the final report to the legislature by December 1, 1997. The report shall describe the changes in sentencing practices related to the use of punishment options for drug offenders and include the impact of sentencing alternatives on state prison populations, the savings in state resources, the effectiveness of drug treatment services, and the impact on recidivism rates." [1995 c 108 § 5.]

**Effective date—1995 c 108:** See note following RCW 9.94A.030.

**Severability—Short title—Captions—1994 c 1 (Initiative Measure No. 593):** See notes following RCW 9.94A.392.

**Severability—Application—1992 c 45:** See notes following RCW 9.94A.151.

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3:** See RCW 18.155.900 through 18.155.902.

**Purpose—Prospective application—Effective dates—Severability—1989 c 252:** See notes following RCW 9.94A.030.

**Effective date—Application of increased sanctions—1988 c 153:** See notes following RCW 9.94A.030.

**Applicability—1988 c 143 §§ 21-24:** "Increased sanctions authorized by sections 21 through 24 of this act are applicable only to those persons committing offenses after March 21, 1988." [1988 c 143 § 25.] Sections 21, 23, and 24 were amendments to RCW 9.94A.120, 9.94A.383, and 9.94A.400, respectively. Section 22, an amendment to RCW 9.94A.170, was vetoed by the governor.

**Effective date—1987 c 402:** "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state



government and its existing public institutions, and shall take effect July 1, 1987." [1987 c 402 § 3.]

**Effective date—1986 c 301 § 4:** "Section 4 of this act shall take effect July 1, 1987." [1986 c 301 § 8.]

**Severability—1986 c 257:** See note following RCW 9A.56.010.

**Effective date—1986 c 257 §§ 17-35:** See note following RCW 9.94A.030.

**Effective dates—1984 c 209:** See note following RCW 9.94A.030.

**Effective date—1983 c 163:** "Sections 1 through 5 of this act shall take effect on July 1, 1984." [1983 c 163 § 7.]

**Effective date—1981 c 137:** See RCW 9.94A.905.

**9.94A.137 Work ethic camp program—Eligibility—Sentencing.** (1)(a) An offender is eligible to be sentenced to a work ethic camp if the offender:

(i) Is sentenced to a term of total confinement of not less than sixteen months or more than thirty-six months; and  
(ii) Has no current or prior convictions for any sex offenses or for violent offenses other than drug offenses for manufacturing, possession, delivery, or intent to deliver a controlled substance.

(b) The length of the work ethic camp shall be at least one hundred twenty days and not more than one hundred eighty days. Because of the conversion ratio, earned early release time shall not accrue to offenders who successfully complete the program.

(2) If the sentencing judge determines that the offender is eligible for the work ethic camp and is likely to qualify under subsection (3) of this section, the judge shall impose a sentence within the standard range and may recommend that the offender serve the sentence at a work ethic camp. The sentence shall provide that if the offender successfully completes the program, the department shall convert the period of work ethic camp confinement at the rate of one day of work ethic camp confinement to three days of total standard confinement. In sentencing an offender to the work ethic camp, the court shall specify: (a) That upon completion of the work ethic camp the offender shall be released on community custody for any remaining time of total confinement; (b) the applicable conditions of supervision on community custody status as required by \*RCW 9.94A.120(9)(b) and authorized by \*RCW 9.94A.120(9)(c); and (c) that violation of the conditions may result in a return to total confinement for the balance of the offender's remaining time of confinement.

(3) The department shall place the offender in the work ethic camp program, subject to capacity, unless: (a) The department determines that the offender has physical or mental impairments that would prevent participation and completion of the program; (b) the department determines that the offender's custody level prevents placement in the program; or (c) the offender refuses to agree to the terms and conditions of the program.

(4) An offender who fails to complete the work ethic camp program, who is administratively terminated from the program, or who otherwise violates any conditions of supervision, as defined by the department, shall be reclassified to serve the unexpired term of his or her sentence as ordered by the sentencing judge and shall be subject to all rules relating to earned early release time.

(5) During the last two weeks prior to release from the work ethic camp program the department shall provide the

offender with comprehensive transition training. [1995 1st sp.s. c 19 § 20; 1993 c 338 § 4.]

**\*Reviser's note:** RCW 9.94A.120 was amended by 1995 c 108 and RCW 9.94A.120(9) is now RCW 9.94A.120(10).

**Findings—Purpose—Short title—Severability—Effective date—1995 1st sp.s. c 19:** See notes following RCW 72.09.450.

**Findings—Intent—1993 c 338:** See RCW 72.09.400.

**Severability—Effective date—1993 c 338:** See notes following RCW 72.09.400.

**9.94A.140 Restitution.** (1) If restitution is ordered, the court shall determine the amount of restitution due at the sentencing hearing or within one hundred eighty days. The court may continue the hearing beyond the one hundred eighty days for good cause. The court shall then set a minimum monthly payment that the offender is required to make towards the restitution that is ordered. The court should take into consideration the total amount of the restitution owed, the offender's present, past, and future ability to pay, as well as any assets that the offender may have. During the period of supervision, the community corrections officer may examine the offender to determine if there has been a change in circumstances that warrants an amendment of the monthly payment schedule. The community corrections officer may recommend a change to the schedule of payment and shall inform the court of the recommended change and the reasons for the change. The sentencing court may then reset the monthly minimum payments based on the report from the community corrections officer of the change in circumstances. Restitution ordered by a court pursuant to a criminal conviction shall be based on easily ascertainable damages for injury to or loss of property, actual expenses incurred for treatment for injury to persons, and lost wages resulting from injury. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses, but may include the costs of counseling reasonably related to the offense. The amount of restitution shall not exceed double the amount of the offender's gain or the victim's loss from the commission of the crime. For the purposes of this section, the offender shall remain under the court's jurisdiction for a maximum term of ten years following the offender's release from total confinement or ten years subsequent to the entry of the judgment and sentence, whichever period is longer. The portion of the sentence concerning restitution may be modified as to amount, terms and conditions during the ten-year period, regardless of the expiration of the offender's term of community supervision and regardless of the statutory maximum for the crime. The court may not reduce the total amount of restitution ordered because the offender may lack the ability to pay the total amount. The offender's compliance with the restitution shall be supervised by the department.

(2) Restitution may be ordered whenever the offender is convicted of an offense which results in injury to any person or damage to or loss of property. In addition, restitution may be ordered to pay for an injury, loss, or damage if the offender pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor's recommendation that the offender be required to pay restitution to a victim of an offense or offenses which are not prosecuted pursuant to a plea agreement.

(3) In addition to any sentence that may be imposed, a defendant who has been found guilty of an offense involving fraud or other deceptive practice or an organization which has been found guilty of any such offense may be ordered by the sentencing court to give notice of the conviction to the class of persons or to the sector of the public affected by the conviction or financially interested in the subject matter of the offense by mail, by advertising in designated areas or through designated media, or by other appropriate means.

(4) This section does not limit civil remedies or defenses available to the victim or defendant. The court shall identify in the judgment and sentence the victim or victims entitled to restitution and what amount is due each victim. The state or victim may enforce the court-ordered restitution in the same manner as a judgment in a civil action. Restitution collected through civil enforcement must be paid through the registry of the court and must be distributed proportionately according to each victim's loss when there is more than one victim. [1995 c 231 § 1; 1994 c 271 § 601; 1989 c 252 § 5; 1987 c 281 § 3; 1982 c 192 § 5; 1981 c 137 § 14.]

**Retroactive application—1995 c 231 §§ 1, 2:** "Sections 1 and 2 of this act shall apply retroactively to allow courts to set restitution in cases sentenced prior to July 23, 1995, if:

(1) The court failed to set restitution within sixty days of sentencing as required by RCW 9.94A.140 prior to July 23, 1995;

(2) The defendant was sentenced no more than three hundred sixty-five days before July 23, 1995; and

(3) The defendant is not unfairly prejudiced by the delay.

In those cases, the court may set restitution within one hundred eighty days of July 23, 1995, or at a later hearing set by the court for good cause." [1995 c 231 § 5.]

**Purpose—Severability—1994 c 271:** See notes following RCW 9A.28.020.

**Purpose—Prospective application—Effective dates—Severability—1989 c 252:** See notes following RCW 9.94A.030.

**Effective date—1987 c 281:** See note following RCW 7.68.020.

**9.94A.142 Restitution—Offenses committed after July 1, 1985.** (1) When restitution is ordered, the court shall determine the amount of restitution due at the sentencing hearing or within one hundred eighty days except as provided in subsection (3) of this section. The court may continue the hearing beyond the one hundred eighty days for good cause. The court shall then set a minimum monthly payment that the offender is required to make towards the restitution that is ordered. The court should take into consideration the total amount of the restitution owed, the offender's present, past, and future ability to pay, as well as any assets that the offender may have. During the period of supervision, the community corrections officer may examine the offender to determine if there has been a change in circumstances that warrants an amendment of the monthly payment schedule. The community corrections officer may recommend a change to the schedule of payment and shall inform the court of the recommended change and the reasons for the change. The sentencing court may then reset the monthly minimum payments based on the report from the community corrections officer of the change in circumstances. Restitution ordered by a court pursuant to a criminal conviction shall be based on easily ascertainable damages for injury to or loss of property, actual expenses incurred for treatment for injury to persons, and lost wages resulting from injury. Restitution

shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses, but may include the costs of counseling reasonably related to the offense. The amount of restitution shall not exceed double the amount of the offender's gain or the victim's loss from the commission of the crime. For the purposes of this section, the offender shall remain under the court's jurisdiction for a maximum term of ten years following the offender's release from total confinement or ten years subsequent to the entry of the judgment and sentence, whichever period is longer. The portion of the sentence concerning restitution may be modified as to amount, terms and conditions during the ten-year period, regardless of the expiration of the offender's term of community supervision and regardless of the statutory maximum for the crime. The court may not reduce the total amount of restitution ordered because the offender may lack the ability to pay the total amount. The offender's compliance with the restitution shall be supervised by the department.

(2) Restitution shall be ordered whenever the offender is convicted of an offense which results in injury to any person or damage to or loss of property unless extraordinary circumstances exist which make restitution inappropriate in the court's judgment and the court sets forth such circumstances in the record. In addition, restitution shall be ordered to pay for an injury, loss, or damage if the offender pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor's recommendation that the offender be required to pay restitution to a victim of an offense or offenses which are not prosecuted pursuant to a plea agreement.

(3) Regardless of the provisions of subsections (1) and (2) of this section, the court shall order restitution in all cases where the victim is entitled to benefits under the crime victims' compensation act, chapter 7.68 RCW. If the court does not order restitution and the victim of the crime has been determined to be entitled to benefits under the crime victims' compensation act, the department of labor and industries, as administrator of the crime victims' compensation program, may petition the court within one year of entry of the judgment and sentence for entry of a restitution order. Upon receipt of a petition from the department of labor and industries, the court shall hold a restitution hearing and shall enter a restitution order.

(4) In addition to any sentence that may be imposed, a defendant who has been found guilty of an offense involving fraud or other deceptive practice or an organization which has been found guilty of any such offense may be ordered by the sentencing court to give notice of the conviction to the class of persons or to the sector of the public affected by the conviction or financially interested in the subject matter of the offense by mail, by advertising in designated areas or through designated media, or by other appropriate means.

(5) This section does not limit civil remedies or defenses available to the victim, survivors of the victim, or defendant. The court shall identify in the judgment and sentence the victim or victims entitled to restitution and what amount is due each victim. The state or victim may enforce the court-ordered restitution in the same manner as a judgment in a civil action. Restitution collected through civil enforcement must be paid through the registry of the

court and must be distributed proportionately according to each victim's loss when there is more than one victim.

(6) This section shall apply to offenses committed after July 1, 1985. [1995 c 231 § 2; 1995 c 33 § 4; 1994 c 271 § 602; 1989 c 252 § 6; 1987 c 281 § 4; 1985 c 443 § 10.]

**Reviser's note:** This section was amended by 1995 c 33 § 4 and by 1995 c 231 § 2, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Retroactive application—1995 c 231 §§ 1, 2:** See note following RCW 9.94A.140.

**Purpose—Severability—1994 c 271:** See notes following RCW 9A.28.020.

**Purpose—Prospective application—Effective dates—Severability—1989 c 252:** See notes following RCW 9.94A.030.

**Effective date—1987 c 281:** See note following RCW 7.68.020.

**Severability—Effective date—1985 c 443:** See notes following RCW 7.69.010.

**9.94A.145 Legal financial obligations.** (1) Whenever a person is convicted of a felony, the court may order the payment of a legal financial obligation as part of the sentence. The court must on either the judgment and sentence or on a subsequent order to pay, designate the total amount of a legal financial obligation and segregate this amount among the separate assessments made for restitution, costs, fines, and other assessments required by law. On the same order, the court is also to set a sum that the offender is required to pay on a monthly basis towards satisfying the legal financial obligation. If the court fails to set the offender monthly payment amount, the department shall set the amount. Upon receipt of an offender's monthly payment, after restitution is satisfied, the county clerk shall distribute the payment proportionally among all other fines, costs, and assessments imposed, unless otherwise ordered by the court.

(2) If the court determines that the offender, at the time of sentencing, has the means to pay for the cost of incarceration, the court may require the offender to pay for the cost of incarceration at a rate of fifty dollars per day of incarceration. Payment of other court-ordered financial obligations, including all legal financial obligations and costs of supervision shall take precedence over the payment of the cost of incarceration ordered by the court. All funds recovered from offenders for the cost of incarceration in the county jail shall be remitted to the county and the costs of incarceration in a prison shall be remitted to the department of corrections.

(3) The court may add to the judgment and sentence or subsequent order to pay a statement that a notice of payroll deduction is to be immediately issued. If the court chooses not to order the immediate issuance of a notice of payroll deduction at sentencing, the court shall add to the judgment and sentence or subsequent order to pay a statement that a notice of payroll deduction may be issued or other income-withholding action may be taken, without further notice to the offender if a monthly court-ordered legal financial obligation payment is not paid when due, and an amount equal to or greater than the amount payable for one month is owed.

If a judgment and sentence or subsequent order to pay does not include the statement that a notice of payroll deduction may be issued or other income-withholding action

may be taken if a monthly legal financial obligation payment is past due, the department may serve a notice on the offender stating such requirements and authorizations. Service shall be by personal service or any form of mail requiring a return receipt.

(4) All legal financial obligations that are ordered as a result of a conviction for a felony, may also be enforced in the same manner as a judgment in a civil action by the party or entity to whom the legal financial obligation is owed. Restitution collected through civil enforcement must be paid through the registry of the court and must be distributed proportionately according to each victim's loss when there is more than one victim. The judgment and sentence shall identify the party or entity to whom restitution is owed so that the state, party, or entity may enforce the judgment. These obligations may be enforced at any time during the ten-year period following the offender's release from total confinement or within ten years of entry of the judgment and sentence, whichever period is longer. Independent of the department, the party or entity to whom the legal financial obligation is owed shall have the authority to utilize any other remedies available to the party or entity to collect the legal financial obligation.

(5) In order to assist the court in setting a monthly sum that the offender must pay during the period of supervision, the offender is required to report to the department for purposes of preparing a recommendation to the court. When reporting, the offender is required, under oath, to truthfully and honestly respond to all questions concerning present, past, and future earning capabilities and the location and nature of all property or financial assets. The offender is further required to bring any and all documents as requested by the department.

(6) After completing the investigation, the department shall make a report to the court on the amount of the monthly payment that the offender should be required to make towards a satisfied legal financial obligation.

(7) During the period of supervision, the department may make a recommendation to the court that the offender's monthly payment schedule be modified so as to reflect a change in financial circumstances. If the department sets the monthly payment amount, the department may modify the monthly payment amount without the matter being returned to the court. Also, during the period of supervision, the offender may be required at the request of the department to report to the department for the purposes of reviewing the appropriateness of the collection schedule for the legal financial obligation. During this reporting, the offender is required under oath to truthfully and honestly respond to all questions concerning earning capabilities and the location and nature of all property or financial assets. Also, the offender is required to bring any and all documents as requested by the department in order to prepare the collection schedule.

(8) After the judgment and sentence or payment order is entered, the department shall for any period of supervision be authorized to collect the legal financial obligation from the offender. Any amount collected by the department shall be remitted daily to the county clerk for the purposes of disbursements. The department is authorized to accept credit cards as payment for a legal financial obligation, and any

costs incurred related to accepting credit card payments shall be the responsibility of the offender.

(9) The department or any obligee of the legal financial obligation may seek a mandatory wage assignment for the purposes of obtaining satisfaction for the legal financial obligation pursuant to RCW 9.94A.2001.

(10) The requirement that the offender pay a monthly sum towards a legal financial obligation constitutes a condition or requirement of a sentence and the offender is subject to the penalties as provided in RCW 9.94A.200 for noncompliance.

(11) The county clerk shall provide the department with individualized monthly billings for each offender with an unsatisfied legal financial obligation and shall provide the department with notice of payments by such offenders no less frequently than weekly. [1995 c 231 § 3; 1991 c 93 § 2; 1989 c 252 § 3.]

**Retroactive application—Captions not law—1991 c 93:** See notes following RCW 9.94A.200005.

**Purpose—Prospective application—Effective dates—Severability—1989 c 252:** See notes following RCW 9.94A.030.

**9.94A.150 Leaving correctional facility or release before expiration of sentence prohibited—Exceptions.** No person serving a sentence imposed pursuant to this chapter and committed to the custody of the department shall leave the confines of the correctional facility or be released prior to the expiration of the sentence except as follows:

(1) Except as otherwise provided for in subsection (2) of this section, the term of the sentence of an offender committed to a correctional facility operated by the department, may be reduced by earned early release time in accordance with procedures that shall be developed and promulgated by the correctional agency having jurisdiction in which the offender is confined. The earned early release time shall be for good behavior and good performance, as determined by the correctional agency having jurisdiction. The correctional agency shall not credit the offender with earned early release credits in advance of the offender actually earning the credits. Any program established pursuant to this section shall allow an offender to earn early release credits for presentence incarceration. If an offender is transferred from a county jail to the department of corrections, the county jail facility shall certify to the department the amount of time spent in custody at the facility and the amount of earned early release time. In the case of an offender who has been convicted of a felony committed after July 23, 1995, that involves any applicable deadly weapon enhancements under RCW 9.94A.310 (3) or (4), or both, shall not receive any good time credits or earned early release time for that portion of his or her sentence that results from any deadly weapon enhancements. In the case of an offender convicted of a serious violent offense or a sex offense that is a class A felony committed on or after July 1, 1990, the aggregate earned early release time may not exceed fifteen percent of the sentence. In no other case shall the aggregate earned early release time exceed one-third of the total sentence;

(2) A person convicted of a sex offense or an offense categorized as a serious violent offense, assault in the second degree, assault of a child in the second degree, any crime against a person where it is determined in accordance with

RCW 9.94A.125 that the defendant or an accomplice was armed with a deadly weapon at the time of commission, or any felony offense under chapter 69.50 or 69.52 RCW may become eligible, in accordance with a program developed by the department, for transfer to community custody status in lieu of earned early release time pursuant to subsection (1) of this section;

(3) An offender may leave a correctional facility pursuant to an authorized furlough or leave of absence. In addition, offenders may leave a correctional facility when in the custody of a corrections officer or officers;

(4) The governor, upon recommendation from the clemency and pardons board, may grant an extraordinary release for reasons of serious health problems, senility, advanced age, extraordinary meritorious acts, or other extraordinary circumstances;

(5) No more than the final six months of the sentence may be served in partial confinement designed to aid the offender in finding work and reestablishing himself or herself in the community;

(6) The governor may pardon any offender;

(7) The department of corrections may release an offender from confinement any time within ten days before a release date calculated under this section; and

(8) An offender may leave a correctional facility prior to completion of his sentence if the sentence has been reduced as provided in RCW 9.94A.160.

Notwithstanding any other provisions of this section, an offender sentenced for a felony crime listed in RCW 9.94A.120(4) as subject to a mandatory minimum sentence of total confinement shall not be released from total confinement before the completion of the listed mandatory minimum sentence for that felony crime of conviction unless allowed under RCW 9.94A.120(4). [1995 c 129 § 7 (Initiative Measure No. 159); 1992 c 145 § 8; 1990 c 3 § 202; 1989 c 248 § 2. Prior: 1988 c 153 § 3; 1988 c 3 § 1; 1984 c 209 § 8; 1982 c 192 § 6; 1981 c 137 § 15.]

**Findings and intent—Short title—Severability—Captions not law—1995 c 129 (Initiative Measure No. 159):** See notes following RCW 9.94A.310.

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3:** See RCW 18.155.900 through 18.155.902.

**Application—1989 c 248:** See note following RCW 9.92.151.

**Effective date—Application of increased sanctions—1988 c 153:** See notes following RCW 9.94A.030.

**Effective dates—1984 c 209:** See note following RCW 9.94A.030.

**Effective date—1981 c 137:** See RCW 9.94A.905.

**9.94A.185 Home detention—Conditions.** Home detention may not be imposed for offenders convicted of a violent offense, any sex offense, any drug offense, reckless burning in the first or second degree as defined in RCW 9A.48.040 or 9A.48.050, assault in the third degree as defined in RCW 9A.36.031, assault of a child in the third degree, unlawful imprisonment as defined in RCW 9A.40.040, or harassment as defined in RCW 9A.46.020. Home detention may be imposed for offenders convicted of possession of a controlled substance under RCW 69.50.401(d) or forged prescription for a controlled substance under RCW 69.50.403 if the offender fulfills the participation conditions set forth in this subsection [section] and is monitored for drug use by a treatment alternatives to street

crime program or a comparable court or agency-referred program.

(1) Home detention may be imposed for offenders convicted of burglary in the second degree as defined in RCW 9A.52.030 or residential burglary conditioned upon the offender: (a) Successfully completing twenty-one days in a work release program, (b) having no convictions for burglary in the second degree or residential burglary during the preceding two years and not more than two prior convictions for burglary or residential burglary, (c) having no convictions for a violent felony offense during the preceding two years and not more than two prior convictions for a violent felony offense, (d) having no prior charges of escape, and (e) fulfilling the other conditions of the home detention program.

(2) Participation in a home detention program shall be conditioned upon: (a) The offender obtaining or maintaining current employment or attending a regular course of school study at regularly defined hours, or the offender performing parental duties to offspring or minors normally in the custody of the offender, (b) abiding by the rules of the home detention program, and (c) compliance with court-ordered legal financial obligations. The home detention program may also be made available to offenders whose charges and convictions do not otherwise disqualify them if medical or health-related conditions, concerns or treatment would be better addressed under the home detention program, or where the health and welfare of the offender, other inmates, or staff would be jeopardized by the offender's incarceration. Participation in the home detention program for medical or health-related reasons is conditioned on the offender abiding by the rules of the home detention program and complying with court-ordered restitution. [1995 c 108 § 2.]

**Effective date—1995 c 108:** See note following RCW 9.94A.030.

**9.94A.190 Terms of more than one year or less than one year—Where served—Reimbursement of costs.**

(1) A sentence that includes a term or terms of confinement totaling more than one year shall be served in a facility or institution operated, or utilized under contract, by the state. Except as provided for in subsection (3) of this section, a sentence of not more than one year of confinement shall be served in a facility operated, licensed, or utilized under contract, by the county, or if home detention or work crew has been ordered by the court, in the residence of either the defendant or a member of the defendant's immediate family.

(2) If a county uses a state partial confinement facility for the partial confinement of a person sentenced to confinement for not more than one year, the county shall reimburse the state for the use of the facility as provided for in this subsection. The office of financial management shall set the rate of reimbursement based upon the average per diem cost per offender in the facility. The office of financial management shall determine to what extent, if any, reimbursement shall be reduced or eliminated because of funds provided by the legislature to the department of corrections for the purpose of covering the cost of county use of state partial confinement facilities. The office of financial management shall reestablish reimbursement rates each even-numbered year.

(3) A person who is sentenced for a felony to a term of not more than one year, and who is committed or returned to incarceration in a state facility on another felony conviction, either under the indeterminate sentencing laws, chapter 9.95 RCW, or under this chapter shall serve all terms of confinement, including a sentence of not more than one year, in a facility or institution operated, or utilized under contract, by the state, consistent with the provisions of RCW 9.94A.400.

(4) For sentences imposed pursuant to RCW 9.94A.120(6) which have a sentence range of over one year, notwithstanding any other provision of this section all such sentences regardless of length shall be served in a facility or institution operated, or utilized under contract, by the state. [1995 c 108 § 4; 1991 c 181 § 5; 1988 c 154 § 5; 1986 c 257 § 21; 1984 c 209 § 10; 1981 c 137 § 19.]

**Effective date—1995 c 108:** See note following RCW 9.94A.030.

**Severability—1986 c 257:** See note following RCW 9A.56.010.

**Effective date—1986 c 257 §§ 17-35:** See note following RCW 9.94A.030.

**Effective dates—1984 c 209:** See note following RCW 9.94A.030.

**Effective date—1981 c 137:** See RCW 9.94A.905.

**9.94A.200 Noncompliance with condition or requirement of sentence—Procedure—Penalty.**

(1) If an offender violates any condition or requirement of a sentence, the court may modify its order of judgment and sentence and impose further punishment in accordance with this section.

(2) In cases where conditions from a second or later sentence of community supervision begin prior to the term of the second or later sentence, the court shall treat a violation of such conditions as a violation of the sentence of community supervision currently being served.

(3) If an offender fails to comply with any of the requirements or conditions of a sentence the following provisions apply:

(a)(i) Following the violation, if the offender and the department make a stipulated agreement, the department may impose sanctions such as work release, home detention with electronic monitoring, work crew, community service, inpatient treatment, daily reporting, curfew, educational or counseling sessions, supervision enhanced through electronic monitoring, jail time, or other sanctions available in the community.

(ii) Within seventy-two hours of signing the stipulated agreement, the department shall submit a report to the court and the prosecuting attorney outlining the violation or violations, and sanctions imposed. Within fifteen days of receipt of the report, if the court is not satisfied with the sanctions, the court may schedule a hearing and may modify the department's sanctions. If this occurs, the offender may withdraw from the stipulated agreement.

(iii) If the offender fails to comply with the sanction administratively imposed by the department, the court may take action regarding the original noncompliance. Offender failure to comply with the sanction administratively imposed by the department may be considered an additional violation.

(b) In the absence of a stipulated agreement, or where the court is not satisfied with the department's sanctions as provided in (a) of this subsection, the court, upon the motion of the state, or upon its own motion, shall require the

offender to show cause why the offender should not be punished for the noncompliance. The court may issue a summons or a warrant of arrest for the offender's appearance;

(c) The state has the burden of showing noncompliance by a preponderance of the evidence. If the court finds that the violation has occurred, it may order the offender to be confined for a period not to exceed sixty days for each violation, and may (i) convert a term of partial confinement to total confinement, (ii) convert community service obligation to total or partial confinement, (iii) convert monetary obligations, except restitution and the crime victim penalty assessment, to community service hours at the rate of the state minimum wage as established in RCW 49.46.020 for each hour of community service, or (iv) order one or more of the penalties authorized in (a)(i) of this subsection. Any time served in confinement awaiting a hearing on noncompliance shall be credited against any confinement order by the court; and

(d) If the court finds that the violation was not willful, the court may modify its previous order regarding payment of legal financial obligations and regarding community service obligations.

(4) Nothing in this section prohibits the filing of escape charges if appropriate. [1995 c 167 § 1; 1995 c 142 § 1; 1989 c 252 § 7. Prior: 1988 c 155 § 2; 1988 c 153 § 11; 1984 c 209 § 12; 1981 c 137 § 20.]

**Reviser's note:** This section was amended by 1995 c 142 § 1 and by 1995 c 167 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Purpose—Prospective application—Effective dates—Severability—1989 c 252:** See notes following RCW 9.94A.030.

**Effective date—Application of increased sanctions—1988 c 153:** See notes following RCW 9.94A.030.

**Effective dates—1984 c 209:** See note following RCW 9.92.150.

**Effective date—1981 c 137:** See RCW 9.94A.905.

**9.94A.310 Table 1—Sentencing grid.**

(1)

**TABLE 1**  
**Sentencing Grid**

SERIOUSNESS SCORE	OFFENDER SCORE									
	0	1	2	3	4	5	6	7	8	9 or more
<b>XV</b>	Life Sentence without Parole/Death Penalty									
<b>XIV</b>	23y4m 240- 320	24y4m 250- 333	25y4m 261- 347	26y4m 271- 361	27y4m 281- 374	28y4m 291- 388	30y4m 312- 416	32y10m 338- 450	36y 370- 493	40y 411- 548
<b>XIII</b>	12y 123- 164	13y 134- 178	14y 144- 192	15y 154- 205	16y 165- 219	17y 175- 233	19y 195- 260	21y 216- 288	25y 257- 342	29y 298- 397
<b>XII</b>	9y 93- 123	9y11m 102- 136	10y9m 111- 147	11y8m 120- 160	12y6m 129- 171	13y5m 138- 184	15y9m 162- 216	17y3m 178- 236	20y3m 209- 277	23y3m 240- 318
<b>XI</b>	7y6m 78- 102	8y4m 86- 114	9y2m 95- 125	9y11m 102- 136	10y9m 111- 147	11y7m 120- 158	14y2m 146- 194	15y5m 159- 211	17y11m 185- 245	20y5m 210- 280
<b>X</b>	5y 51- 68	5y6m 57- 75	6y 62- 82	6y6m 67- 89	7y 72- 96	7y6m 77- 102	9y6m 98- 130	10y6m 108- 144	12y6m 129- 171	14y6m 149- 198

<b>IX</b>	3y 31- 41	3y6m 36- 48	4y 41- 54	4y6m 46- 61	5y 51- 68	5y6m 57- 75	7y6m 77- 102	8y6m 87- 116	10y6m 108- 144	12y6m 129- 171
<b>VIII</b>	2y 21- 27	2y6m 26- 34	3y 31- 41	3y6m 36- 48	4y 41- 54	4y6m 46- 61	6y6m 67- 89	7y6m 77- 102	8y6m 87- 116	10y6m 108- 144
<b>VII</b>	18m 15- 20	2y 21- 27	2y6m 26- 34	3y 31- 41	3y6m 36- 48	4y 41- 54	5y6m 57- 75	6y6m 67- 89	7y6m 77- 102	8y6m 87- 116
<b>VI</b>	13m 12+- 14	18m 15- 20	2y 21- 27	2y6m 26- 34	3y 31- 41	3y6m 36- 48	4y6m 46- 61	5y6m 57- 75	6y6m 67- 89	7y6m 77- 102
<b>V</b>	9m 6- 12	13m 12+- 14	15m 13- 17	18m 15- 20	2y2m 22- 29	3y2m 33- 43	4y 41- 54	5y 51- 68	6y 62- 82	7y 72- 96
<b>IV</b>	6m 3- 9	9m 6- 12	13m 12+- 14	15m 13- 17	18m 15- 20	2y2m 22- 29	3y2m 33- 43	4y2m 43- 57	5y2m 53- 70	6y2m 63- 84
<b>III</b>	2m 1- 3	5m 3- 8	8m 4- 12	11m 9- 12	14m 12+- 16	20m 17- 22	2y2m 22- 29	3y2m 33- 43	4y2m 43- 57	5y 51- 68
<b>II</b>		4m 0-90 Days	6m 2- 9	8m 3- 12	13m 4- 14	16m 12+- 18	20m 14- 22	2y2m 17- 29	3y2m 22- 43	4y2m 33- 57
<b>I</b>		0-60 Days	3m 2- 5	4m 2- 6	5m 3- 8	8m 4- 12	13m 12+- 14	16m 14- 18	20m 17- 22	2y2m 22- 29

**NOTE:** Numbers in the first horizontal row of each seriousness category represent sentencing midpoints in years(y) and months(m). Numbers in the second and third rows represent presumptive sentencing ranges in months, or in days if so designated. 12+ equals one year and one day.

(2) For persons convicted of the anticipatory offenses of criminal attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the presumptive sentence is determined by locating the sentencing grid sentence range defined by the appropriate offender score and the seriousness level of the completed crime, and multiplying the range by 75 percent.

(3) The following additional times shall be added to the presumptive sentence for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a firearm as defined in RCW 9.41.010 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any firearm enhancements based on the classification of the completed felony crime. If the offender or an accomplice was armed with a firearm as defined in RCW 9.41.010 and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection as eligible for any firearm enhancements, the following additional times shall be added to the presumptive sentence determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(a) Five years for any felony defined under any law as a class A felony or with a maximum sentence of at least twenty years, or both, and not covered under (f) of this subsection.

(b) Three years for any felony defined under any law as a class B felony or with a maximum sentence of ten years, or both, and not covered under (f) of this subsection.

(c) Eighteen months for any felony defined under any law as a class C felony or with a maximum sentence of five years, or both, and not covered under (f) of this subsection.

(d) If the offender is being sentenced for any firearm enhancements under (a), (b), and/or (c) of this subsection and the offender has previously been sentenced for any deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c) of this subsection or subsection (4) (a), (b), and/or (c) of this section, or both, any and all firearm enhancements under this subsection shall be twice the amount of the enhancement listed.

(e) Notwithstanding any other provision of law, any and all firearm enhancements under this section are mandatory, shall be served in total confinement, and shall not run concurrently with any other sentencing provisions.

(f) The firearm enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun, possessing a stolen firearm, reckless endangerment in the first degree, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun in a felony.

(g) If the presumptive sentence under this section exceeds the statutory maximum for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender as defined in RCW 9.94A.030.

(4) The following additional times shall be added to the presumptive sentence for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a deadly weapon as defined in this chapter other than a firearm as defined in RCW 9.41.010 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any deadly weapon enhancements based on the classification of the completed felony crime. If the offender or an accomplice was armed with a deadly weapon other than a firearm as defined in RCW 9.41.010 and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection as eligible for any deadly weapon enhancements, the following additional times shall be added to the presumptive sentence determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(a) Two years for any felony defined under any law as a class A felony or with a maximum sentence of at least twenty years, or both, and not covered under (f) of this subsection.

(b) One year for any felony defined under any law as a class B felony or with a maximum sentence of ten years, or both, and not covered under (f) of this subsection.

(c) Six months for any felony defined under any law as a class C felony or with a maximum sentence of five years, or both, and not covered under (f) of this subsection.

(d) If the offender is being sentenced under (a), (b), and/or (c) of this subsection for any deadly weapon enhancements and the offender has previously been sentenced for any deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c) of this subsection or subsection (3) (a), (b), and/or (c) of this section, or both, any and all deadly weapon enhancements under this subsection shall be twice the amount of the enhancement listed.

(e) Notwithstanding any other provision of law, any and all deadly weapon enhancements under this section are mandatory, shall be served in total confinement, and shall not run concurrently with any other sentencing provisions.

(f) The deadly weapon enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun, possessing a stolen firearm, reckless endangerment in the first degree, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun in a felony.

(g) If the presumptive sentence under this section exceeds the statutory maximum for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender as defined in RCW 9.94A.030.

(5) The following additional times shall be added to the presumptive sentence if the offender or an accomplice committed the offense while in a county jail or state correctional facility as that term is defined in this chapter and the offender is being sentenced for one of the crimes listed in this subsection. If the offender or an accomplice committed one of the crimes listed in this subsection while in a county jail or state correctional facility as that term is defined in this chapter, and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection, the following additional times shall be added to the presumptive sentence determined under subsection (2) of this section:

(a) Eighteen months for offenses committed under RCW 69.50.401(a)(1)(i) or 69.50.410;

(b) Fifteen months for offenses committed under RCW 69.50.401(a)(1)(ii), (iii), and (iv);

(c) Twelve months for offenses committed under RCW 69.50.401(d).

For the purposes of this subsection, all of the real property of a state correctional facility or county jail shall be deemed to be part of that facility or county jail.

(6) An additional twenty-four months shall be added to the presumptive sentence for any ranked offense involving a violation of chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435. [1995 c 129 § 2 (Initiative Measure No. 159); (1994 sp.s. c 7 § 512 repealed by 1995 c 129 § 19 (Initiative Measure No. 159)); 1992 c 145 § 9; 1991 c 32 § 2; 1990 c 3 § 701. Prior: 1989 c 271 § 101; 1989 c 124 § 1; 1988 c 218 § 1; 1986 c 257 § 22; 1984 c 209 § 16; 1983 c 115 § 2.]

**Findings and intent—1995 c 129 (Initiative Measure No. 159):** "(1) The people of the state of Washington find and declare that:

(a) Armed criminals pose an increasing and major threat to public safety and can turn any crime into serious injury or death.

(b) Criminals carry deadly weapons for several key reasons including: Forcing the victim to comply with their demands; injuring or killing anyone who tries to stop the criminal acts; and aiding the criminal in escaping.

(c) Current law does not sufficiently stigmatize the carrying and use of deadly weapons by criminals, and far too often there are no deadly weapon enhancements provided for many felonies, including murder, arson, manslaughter, and child molestation and many other sex offenses including child luring.

(d) Current law also fails to distinguish between gun-carrying criminals and criminals carrying knives or clubs.

(2) By increasing the penalties for carrying and using deadly weapons by criminals and closing loopholes involving armed criminals, the people intend to:

(a) Stigmatize the carrying and use of any deadly weapons for all felonies with proper deadly weapon enhancements.

(b) Reduce the number of armed offenders by making the carrying and use of the deadly weapon not worth the sentence received upon conviction.

(c) Distinguish between the gun predators and criminals carrying other deadly weapons and provide greatly increased penalties for gun predators and for those offenders committing crimes to acquire firearms.

(d) Bring accountability and certainty into the sentencing system by tracking individual judges and holding them accountable for their sentencing practices in relation to the state's sentencing guidelines for serious crimes." [1995 c 129 § 1 (Initiative Measure No. 159).]

**Short title—1995 c 129 (Initiative Measure No. 159):** "This act shall be known and cited as the hard time for armed crime act." [1995 c 129 § 21 (Initiative Measure No. 159).]

**Severability—1995 c 129 (Initiative Measure No. 159):** "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." [1995 c 129 § 22 (Initiative Measure No. 159).]

**Captions not law—1995 c 129 (Initiative Measure No. 159):** "Captions as used in this act do not constitute any part of the law." [1995 c 129 § 23 (Initiative Measure No. 159).]

**Finding—Intent—Severability—Effective dates—Contingent expiration date—1994 sp.s. c 7:** See notes following RCW 43.70.540.

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3:** See RCW 18.155.900 through 18.155.902.

**Application—1989 c 271 §§ 101-111:** "Sections 101-111 of this act apply to crimes committed on or after July 1, 1989." [1989 c 271 § 114.]

**Severability—1989 c 271:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1989 c 271 § 606.]

**Severability—1986 c 257:** See note following RCW 9A.56.010.

**Effective date—1986 c 257 §§ 17-35:** See note following RCW 9.94A.030.

**Effective dates—1984 c 209:** See note following RCW 9.94A.030.

**9.94A.320 Table 2—Crimes included within each seriousness level.**

TABLE 2

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

XV	Aggravated Murder 1 (RCW 10.95.020)
XIV	Murder 1 (RCW 9A.32.030) Homicide by abuse (RCW 9A.32.055)
XIII	Murder 2 (RCW 9A.32.050)
XII	Assault 1 (RCW 9A.36.011) Assault of a Child 1 (RCW 9A.36.120)
XI	Rape 1 (RCW 9A.44.040) Rape of a Child 1 (RCW 9A.44.073)
X	Kidnapping 1 (RCW 9A.40.020) Rape 2 (RCW 9A.44.050) Rape of a Child 2 (RCW 9A.44.076) Child Molestation 1 (RCW 9A.44.083) Damaging building, etc., by explosion with threat to human being (RCW 70.74.280(1))

Over 18 and deliver heroin or narcotic from Schedule I or II to someone under 18 (RCW 69.50.406)

Leading Organized Crime (RCW 9A.82.060(1)(a))

IX Assault of a Child 2 (RCW 9A.36.130)

Robbery 1 (RCW 9A.56.200)

Manslaughter 1 (RCW 9A.32.060)

Explosive devices prohibited (RCW 70.74.180)

Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))

Endangering life and property by explosives with threat to human being (RCW 70.74.270)

Over 18 and deliver narcotic from Schedule III, IV, or V or a nonnarcotic from Schedule I-V to someone under 18 and 3 years junior (RCW 69.50.406)

Controlled Substance Homicide (RCW 69.50.415)

Sexual Exploitation (RCW 9.68A.040)

Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))

Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)

Arson 1 (RCW 9A.48.020)

Promoting Prostitution 1 (RCW 9A.88.070)

Selling for profit (controlled or counterfeit) any controlled substance (RCW 69.50.410)

Manufacture, deliver, or possess with intent to deliver heroin or cocaine (RCW 69.50.401(a)(1)(i))

Manufacture, deliver, or possess with intent to deliver methamphetamine (RCW 69.50.401(a)(1)(ii))

Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)

Burglary 1 (RCW 9A.52.020)

Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)

Introducing Contraband 1 (RCW 9A.76.140)

Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1) (b) and (c))

VII

Burglary 1 (RCW 9A.52.020)

Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)

Introducing Contraband 1 (RCW 9A.76.140)

Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1) (b) and (c))

Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1) (b) and (c))

Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1) (b) and (c))



- Child Molestation 2 (RCW 9A.44.086)
  - Dealing in depictions of minor engaged in sexually explicit conduct (RCW 9.68A.050)
  - Sending, bringing into state depictions of minor engaged in sexually explicit conduct (RCW 9.68A.060)
  - Involving a minor in drug dealing (RCW 69.50.401(f))
  - Reckless Endangerment 1 (RCW 9A.36.045)
  - Unlawful Possession of a Firearm in the first degree (RCW 9.41.040(1)(a))
- VI
- Bribery (RCW 9A.68.010)
  - Manslaughter 2 (RCW 9A.32.070)
  - Rape of a Child 3 (RCW 9A.44.079)
  - Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)
  - Damaging building, etc., by explosion with no threat to human being (RCW 70.74.280(2))
  - Endangering life and property by explosives with no threat to human being (RCW 70.74.270)
  - Incest 1 (RCW 9A.64.020(1))
  - Manufacture, deliver, or possess with intent to deliver narcotics from Schedule I or II (except heroin or cocaine) (RCW 69.50.401(a)(1)(i))
  - Intimidating a Judge (RCW 9A.72.160)
  - Bail Jumping with Murder 1 (RCW 9A.76.170(2)(a))
  - Theft of a Firearm (RCW 9A.56.300)
- V
- Persistent prison misbehavior (RCW 9.94.070)
  - Criminal Mistreatment 1 (RCW 9A.42.020)
  - Rape 3 (RCW 9A.44.060)
  - Sexual Misconduct with a Minor 1 (RCW 9A.44.093)
  - Child Molestation 3 (RCW 9A.44.089)
  - Kidnapping 2 (RCW 9A.40.030)
  - Extortion 1 (RCW 9A.56.120)
  - Incest 2 (RCW 9A.64.020(2))
  - Perjury 1 (RCW 9A.72.020)
  - Extortionate Extension of Credit (RCW 9A.82.020)
  - Advancing money or property for extortionate extension of credit (RCW 9A.82.030)
- Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)
  - Rendering Criminal Assistance 1 (RCW 9A.76.070)
  - Bail Jumping with class A Felony (RCW 9A.76.170(2)(b))
  - Sexually Violating Human Remains (RCW 9A.44.105)
  - Delivery of imitation controlled substance by person eighteen or over to person under eighteen (RCW 69.52.030(2))
  - Possession of a Stolen Firearm (RCW 9A.56.310)
- IV
- Residential Burglary (RCW 9A.52.025)
  - Theft of Livestock 1 (RCW 9A.56.080)
  - Robbery 2 (RCW 9A.56.210)
  - Assault 2 (RCW 9A.36.021)
  - Escape 1 (RCW 9A.76.110)
  - Arson 2 (RCW 9A.48.030)
  - Commercial Bribery (RCW 9A.68.060)
  - Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)
  - Malicious Harassment (RCW 9A.36.080)
  - Threats to Bomb (RCW 9.61.160)
  - Willful Failure to Return from Furlough (RCW 72.66.060)
  - Hit and Run — Injury Accident (RCW 46.52.020(4))
  - Vehicular Assault (RCW 46.61.522)
  - Manufacture, deliver, or possess with intent to deliver narcotics from Schedule III, IV, or V or nonnarcotics from Schedule I-V (except marijuana or methamphetamines) (RCW 69.50.401(a)(1)(ii) through (iv))
  - Influencing Outcome of Sporting Event (RCW 9A.82.070)
  - Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))
  - Knowingly Trafficking in Stolen Property (RCW 9A.82.050(2))
- III
- Criminal Mistreatment 2 (RCW 9A.42.030)
  - Extortion 2 (RCW 9A.56.130)
  - Unlawful Imprisonment (RCW 9A.40.040)
  - Assault 3 (RCW 9A.36.031)
  - Assault of a Child 3 (RCW 9A.36.140)
  - Custodial Assault (RCW 9A.36.100)

- Unlawful possession of firearm in the second degree (RCW 9.41.040(1)(b))
- Harassment (RCW 9A.46.020)
- Promoting Prostitution 2 (RCW 9A.88.080)
- Willful Failure to Return from Work Release (RCW 72.65.070)
- Burglary 2 (RCW 9A.52.030)
- Introducing Contraband 2 (RCW 9A.76.150)
- Communication with a Minor for Immoral Purposes (RCW 9.68A.090)
- Patronizing a Juvenile Prostitute (RCW 9.68A.100)
- Escape 2 (RCW 9A.76.120)
- Perjury 2 (RCW 9A.72.030)
- Bail Jumping with class B or C Felony (RCW 9A.76.170(2)(c))
- Intimidating a Public Servant (RCW 9A.76.180)
- Tampering with a Witness (RCW 9A.72.120)
- Manufacture, deliver, or possess with intent to deliver marijuana (RCW 69.50.401(a)(1)(ii))
- Delivery of a material in lieu of a controlled substance (RCW 69.50.401(c))
- Manufacture, distribute, or possess with intent to distribute an imitation controlled substance (RCW 69.52.030(1))
- Recklessly Trafficking in Stolen Property (RCW 9A.82.050(1))
- Theft of livestock 2 (RCW 9A.56.080)
- Securities Act violation (RCW 21.20.400)
- II** Unlawful Practice of Law (RCW 2.48.180)
- Malicious Mischief 1 (RCW 9A.48.070)
- Possession of Stolen Property 1 (RCW 9A.56.150)
- Theft 1 (RCW 9A.56.030)
- Trafficking in Insurance Claims (RCW 48.30A.015)
- Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))
- Health Care False Claims (RCW 48.80.030)
- Possession of controlled substance that is either heroin or narcotics from Schedule I or II (RCW 69.50.401(d))
- Possession of phencyclidine (PCP) (RCW 69.50.401(d))
- Create, deliver, or possess a counterfeit controlled substance (RCW 69.50.401(b))
- Computer Trespass 1 (RCW 9A.52.110)
- Escape from Community Custody (RCW 72.09.310)
- I** Theft 2 (RCW 9A.56.040)
- Possession of Stolen Property 2 (RCW 9A.56.160)
- Forgery (RCW 9A.60.020)
- Taking Motor Vehicle Without Permission (RCW 9A.56.070)
- Vehicle Prowl 1 (RCW 9A.52.095)
- Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)
- Malicious Mischief 2 (RCW 9A.48.080)
- Reckless Burning 1 (RCW 9A.48.040)
- Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)
- Unlawful Use of Food Stamps (RCW 9.91.140 (2) and (3))
- False Verification for Welfare (RCW 74.08.055)
- Forged Prescription (RCW 69.41.020)
- Forged Prescription for a Controlled Substance (RCW 69.50.403)
- Possess Controlled Substance that is a Narcotic from Schedule III, IV, or V or Non-narcotic from Schedule I-V (except phencyclidine) (RCW 69.50.401(d))
- [1995 c 385 § 2; 1995 c 285 § 28; 1995 c 129 § 3 (Initiative Measure No. 159). Prior: (1994 sp.s. c 7 § 510 repealed by 1995 c 129 § 19 (Initiative Measure No. 159)); 1994 c 275 § 20; 1994 c 53 § 2; prior: 1992 c 145 § 4; 1992 c 75 § 3; 1991 c 32 § 3; 1990 c 3 § 702; prior: 1989 2nd ex.s. c 1 § 3; 1989 c 412 § 3; 1989 c 405 § 1; 1989 c 271 § 102; 1989 c 99 § 1; prior: 1988 c 218 § 2; 1988 c 145 § 12; 1988 c 62 § 2; prior: 1987 c 224 § 1; 1987 c 187 § 4; 1986 c 257 § 23; 1984 c 209 § 17; 1983 c 115 § 3.]
- Reviser's note:** This section was amended by 1995 c 129 § 3 (Initiative Measure No. 159), 1995 c 285 § 28, and by 1995 c 385 § 2, each without reference to the other. All amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).
- Effective date—1995 c 285:** See RCW 48.30A.900.
- Findings and intent—Short title—Severability—Captions not law—1995 c 129 (Initiative Measure No. 159):** See notes following RCW 9.94A.310.
- Contingent expiration date—1994 sp.s. c 7:** See note following RCW 43.70.540.
- Finding—Intent—Severability—Effective dates—1994 sp.s. c 7:** See notes following RCW 43.70.540.
- Short title—Effective date—1994 c 275:** See notes following RCW 46.04.015.
- Index, part headings not law—Severability—Effective dates—Application—1990 c 3:** See RCW 18.155.900 through 18.155.902.

**Effective date—1989 2nd ex.s. c 1:** See note following RCW 9A.52.025.

**Finding—Intent—1989 c 271 §§ 102, 109, and 110:** See note following RCW 9A.36.050.

**Application—1989 c 271 §§ 101-111:** See note following RCW 9.94A.310.

**Severability—1989 c 271:** See note following RCW 9.94A.310.

**Application—1989 c 99:** "This act applies to crimes committed after July 1, 1989." [1989 c 99 § 2.]

**Effective date—1989 c 99:** "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1989." [1989 c 99 § 3.]

**Effective date—Savings—Application—1988 c 145:** See notes following RCW 9A.44.010.

**Effective date—Application—1987 c 224:** "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1987. It shall apply to crimes committed on or after July 1, 1987." [1987 c 224 § 2.]

**Severability—1986 c 257:** See note following RCW 9A.56.010.

**Effective date—1986 c 257 §§ 17-35:** See note following RCW 9.94A.030.

**Effective dates—1984 c 209:** See note following RCW 9.94A.030.

**9.94A.360 Offender score.** The offender score is measured on the horizontal axis of the sentencing grid. The offender score rules are as follows:

The offender score is the sum of points accrued under this section rounded down to the nearest whole number.

(1) A prior conviction is a conviction which exists before the date of sentencing for the offense for which the offender score is being computed. Convictions entered or sentenced on the same date as the conviction for which the offender score is being computed shall be deemed "other current offenses" within the meaning of RCW 9.94A.400.

(2) Except as provided in subsection (4) of this section, class A and sex prior felony convictions shall always be included in the offender score. Class B prior felony convictions other than sex offenses shall not be included in the offender score, if since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender had spent ten consecutive years in the community without committing any crime that subsequently results in a conviction. Class C prior felony convictions other than sex offenses shall not be included in the offender score if, since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender had spent five consecutive years in the community without committing any crime that subsequently results in a conviction. Serious traffic convictions shall not be included in the offender score if, since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender spent five years in the community without committing any crime that subsequently results in a conviction. This subsection applies to both adult and juvenile prior convictions.

(3) Out-of-state convictions for offenses shall be classified according to the comparable offense definitions and sentences provided by Washington law. Federal

convictions for offenses shall be classified according to the comparable offense definitions and sentences provided by Washington law. If there is no clearly comparable offense under Washington law or the offense is one that is usually considered subject to exclusive federal jurisdiction, the offense shall be scored as a class C felony equivalent if it was a felony under the relevant federal statute.

(4) Always include juvenile convictions for sex offenses and serious violent offenses. Include other class A juvenile felonies only if the offender was 15 or older at the time the juvenile offense was committed. Include other class B and C juvenile felony convictions only if the offender was 15 or older at the time the juvenile offense was committed and the offender was less than 23 at the time the offense for which he or she is being sentenced was committed.

(5) Score prior convictions for felony anticipatory offenses (attempts, criminal solicitations, and criminal conspiracies) the same as if they were convictions for completed offenses.

(6)(a) In the case of multiple prior convictions, for the purpose of computing the offender score, count all convictions separately, except:

(i) Prior adult offenses which were found, under RCW 9.94A.400(1)(a), to encompass the same criminal conduct, shall be counted as one offense, the offense that yields the highest offender score. The current sentencing court shall determine with respect to other prior adult offenses for which sentences were served concurrently whether those offenses shall be counted as one offense or as separate offenses using the "same criminal conduct" analysis found in RCW 9.94A.400(1)(a), and if the court finds that they shall be counted as one offense, then the offense that yields the highest offender score shall be used. The current sentencing court may presume that such other prior adult offenses were not the same criminal conduct from sentences imposed on separate dates, or in separate counties or jurisdictions, or in separate complaints, indictments, or informations;

(ii) Juvenile prior convictions entered or sentenced on the same date shall count as one offense, the offense that yields the highest offender score, except for juvenile prior convictions for violent offenses with separate victims, which shall count as separate offenses; and

(iii) In the case of multiple prior convictions for offenses committed before July 1, 1986, for the purpose of computing the offender score, count all adult convictions served concurrently as one offense, and count all juvenile convictions entered on the same date as one offense. Use the conviction for the offense that yields the highest offender score.

(b) As used in this subsection (6), "served concurrently" means that: (i) The latter sentence was imposed with specific reference to the former; (ii) the concurrent relationship of the sentences was judicially imposed; and (iii) the concurrent timing of the sentences was not the result of a probation or parole revocation on the former offense.

(7) If the present conviction is one of the anticipatory offenses of criminal attempt, solicitation, or conspiracy, count each prior conviction as if the present conviction were for a completed offense.

(8) If the present conviction is for a nonviolent offense and not covered by subsection (12) or (13) of this section,

count one point for each adult prior felony conviction and one point for each juvenile prior violent felony conviction and 1/2 point for each juvenile prior nonviolent felony conviction.

(9) If the present conviction is for a violent offense and not covered in subsection (10), (11), (12), or (13) of this section, count two points for each prior adult and juvenile violent felony conviction, one point for each prior adult nonviolent felony conviction, and 1/2 point for each prior juvenile nonviolent felony conviction.

(10) If the present conviction is for Murder 1 or 2, Assault 1, Assault of a Child 1, Kidnaping 1, Homicide by Abuse, or Rape 1, count three points for prior adult and juvenile convictions for crimes in these categories, two points for each prior adult and juvenile violent conviction (not already counted), one point for each prior adult nonviolent felony conviction, and 1/2 point for each prior juvenile nonviolent felony conviction.

(11) If the present conviction is for Burglary 1, count prior convictions as in subsection (9) of this section; however count two points for each prior adult Burglary 2 or residential burglary conviction, and one point for each prior juvenile Burglary 2 or residential burglary conviction.

(12) If the present conviction is for a felony traffic offense count two points for each adult or juvenile prior conviction for Vehicular Homicide or Vehicular Assault; for each felony offense or serious traffic offense, count one point for each adult and 1/2 point for each juvenile prior conviction.

(13) If the present conviction is for a drug offense count three points for each adult prior felony drug offense conviction and two points for each juvenile drug offense. All other adult and juvenile felonies are scored as in subsection (9) of this section if the current drug offense is violent, or as in subsection (8) of this section if the current drug offense is nonviolent.

(14) If the present conviction is for Willful Failure to Return from Furlough, RCW 72.66.060, Willful Failure to Return from Work Release, RCW 72.65.070, or Escape from Community Custody, RCW 72.09.310, count only prior escape convictions in the offender score. Count adult prior escape convictions as one point and juvenile prior escape convictions as 1/2 point.

(15) If the present conviction is for Escape 1, RCW 9A.76.110, or Escape 2, RCW 9A.76.120, count adult prior convictions as one point and juvenile prior convictions as 1/2 point.

(16) If the present conviction is for Burglary 2 or residential burglary, count priors as in subsection (8) of this section; however, count two points for each adult and juvenile prior Burglary 1 conviction, two points for each adult prior Burglary 2 or residential burglary conviction, and one point for each juvenile prior Burglary 2 or residential burglary conviction.

(17) If the present conviction is for a sex offense, count priors as in subsections (8) through (16) of this section; however count three points for each adult and juvenile prior sex offense conviction.

(18) If the present conviction is for an offense committed while the offender was under community placement, add one point. [1995 c 316 § 1; 1995 c 101 § 1. Prior: 1992 c 145 § 10; 1992 c 75 § 4; 1990 c 3 § 706; 1989 c 271

§ 103; prior: 1988 c 157 § 3; 1988 c 153 § 12; 1987 c 456 § 4; 1986 c 257 § 25; 1984 c 209 § 19; 1983 c 115 § 7.]

**Reviser's note:** This section was amended by 1995 c 101 § 1 and by 1995 c 316 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3:** See RCW 18.155.900 through 18.155.902.

**Application—1989 c 271 §§ 101-111:** See note following RCW 9.94A.310.

**Severability—1989 c 271:** See note following RCW 9.94A.310.

**Application—1988 c 157:** See note following RCW 9.94A.030.

**Effective date—Application of increased sanctions—1988 c 153:** See notes following RCW 9.94A.030.

**Severability—1986 c 257:** See note following RCW 9A.56.010.

**Effective date—1986 c 257 §§ 17-35:** See note following RCW 9.94A.030.

**Effective dates—1984 c 209:** See note following RCW 9.94A.030.

**9.94A.390 Departures from the guidelines.** If the sentencing court finds that an exceptional sentence outside the standard range should be imposed in accordance with RCW 9.94A.120(2), the sentence is subject to review only as provided for in RCW 9.94A.210(4).

The following are illustrative factors which the court may consider in the exercise of its discretion to impose an exceptional sentence. The following are illustrative only and are not intended to be exclusive reasons for exceptional sentences.

(1) Mitigating Circumstances

(a) To a significant degree, the victim was an initiator, willing participant, aggressor, or provoker of the incident.

(b) Before detection, the defendant compensated, or made a good faith effort to compensate, the victim of the criminal conduct for any damage or injury sustained.

(c) The defendant committed the crime under duress, coercion, threat, or compulsion insufficient to constitute a complete defense but which significantly affected his or her conduct.

(d) The defendant, with no apparent predisposition to do so, was induced by others to participate in the crime.

(e) The defendant's capacity to appreciate the wrongfulness of his or her conduct or to conform his or her conduct to the requirements of the law, was significantly impaired (voluntary use of drugs or alcohol is excluded).

(f) The offense was principally accomplished by another person and the defendant manifested extreme caution or sincere concern for the safety or well-being of the victim.

(g) The operation of the multiple offense policy of RCW 9.94A.400 results in a presumptive sentence that is clearly excessive in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

(h) The defendant or the defendant's children suffered a continuing pattern of physical or sexual abuse by the victim of the offense and the offense is a response to that abuse.

(2) Aggravating Circumstances

(a) The defendant's conduct during the commission of the current offense manifested deliberate cruelty to the victim.

(b) The defendant knew or should have known that the victim of the current offense was particularly vulnerable or

incapable of resistance due to extreme youth, advanced age, disability, or ill health.

(c) The current offense was a major economic offense or series of offenses, so identified by a consideration of any of the following factors:

(i) The current offense involved multiple victims or multiple incidents per victim;

(ii) The current offense involved attempted or actual monetary loss substantially greater than typical for the offense;

(iii) The current offense involved a high degree of sophistication or planning or occurred over a lengthy period of time; or

(iv) The defendant used his or her position of trust, confidence, or fiduciary responsibility to facilitate the commission of the current offense.

(d) The current offense was a major violation of the Uniform Controlled Substances Act, chapter 69.50 RCW (VUCSA), related to trafficking in controlled substances, which was more onerous than the typical offense of its statutory definition: The presence of ANY of the following may identify a current offense as a major VUCSA:

(i) The current offense involved at least three separate transactions in which controlled substances were sold, transferred, or possessed with intent to do so;

(ii) The current offense involved an attempted or actual sale or transfer of controlled substances in quantities substantially larger than for personal use;

(iii) The current offense involved the manufacture of controlled substances for use by other parties;

(iv) The circumstances of the current offense reveal the offender to have occupied a high position in the drug distribution hierarchy;

(v) The current offense involved a high degree of sophistication or planning or occurred over a lengthy period of time or involved a broad geographic area of disbursement; or

(vi) The offender used his or her position or status to facilitate the commission of the current offense, including positions of trust, confidence or fiduciary responsibility (e.g., pharmacist, physician, or other medical professional).

(e) The current offense included a finding of sexual motivation pursuant to RCW 9.94A.127.

(f) The offense was part of an ongoing pattern of sexual abuse of the same victim under the age of eighteen years manifested by multiple incidents over a prolonged period of time.

(g) The operation of the multiple offense policy of RCW 9.94A.400 results in a presumptive sentence that is clearly too lenient in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

(h) The defendant's prior unscored misdemeanor or prior unscored foreign criminal history results in a presumptive sentence that is clearly too lenient in light of the purpose of this chapter as expressed in RCW 9.94A.010. [1995 c 316 § 2; 1990 c 3 § 603; 1989 c 408 § 1; 1987 c 131 § 2; 1986 c 257 § 27; 1984 c 209 § 24; 1983 c 115 § 10.]

**Effective date—Application—1990 c 3 §§ 601 through 605:** See note following RCW 9.94A.127.

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3:** See RCW 18.155.900 through 18.155.902.

**Severability—1986 c 257:** See note following RCW 9A.56.010.

**Effective date—1986 c 257 §§ 17 through 35:** See note following RCW 9.94A.030.

**Effective dates—1984 c 209:** See note following RCW 9.94A.030.

#### **9.94A.400 Consecutive or concurrent sentences.**

(1)(a) Except as provided in (b) of this subsection, whenever a person is to be sentenced for two or more current offenses, the sentence range for each current offense shall be determined by using all other current and prior convictions as if they were prior convictions for the purpose of the offender score: PROVIDED, That if the court enters a finding that some or all of the current offenses encompass the same criminal conduct then those current offenses shall be counted as one crime. Sentences imposed under this subsection shall be served concurrently. Consecutive sentences may only be imposed under the exceptional sentence provisions of RCW 9.94A.120 and 9.94A.390(2)(f) or any other provision of RCW 9.94A.390. "Same criminal conduct," as used in this subsection, means two or more crimes that require the same criminal intent, are committed at the same time and place, and involve the same victim. This definition does not apply in cases involving vehicular assault or vehicular homicide if the victims occupied the same vehicle. However, the sentencing judge may consider multiple victims in such instances as an aggravating circumstance under RCW 9.94A.390.

(b) Whenever a person is convicted of two or more serious violent offenses, as defined in RCW 9.94A.030, arising from separate and distinct criminal conduct, the sentence range for the offense with the highest seriousness level under RCW 9.94A.320 shall be determined using the offender's prior convictions and other current convictions that are not serious violent offenses in the offender score and the sentence range for other serious violent offenses shall be determined by using an offender score of zero. The sentence range for any offenses that are not serious violent offenses shall be determined according to (a) of this subsection. All sentences imposed under (b) of this subsection shall be served consecutively to each other and concurrently with sentences imposed under (a) of this subsection.

(2)(a) Except as provided in (b) of this subsection, whenever a person while under sentence of felony commits another felony and is sentenced to another term of confinement, the latter term shall not begin until expiration of all prior terms.

(b) Whenever a second or later felony conviction results in community supervision with conditions not currently in effect, under the prior sentence or sentences of community supervision the court may require that the conditions of community supervision contained in the second or later sentence begin during the immediate term of community supervision and continue throughout the duration of the consecutive term of community supervision.

(3) Subject to subsections (1) and (2) of this section, whenever a person is sentenced for a felony that was committed while the person was not under sentence of a felony, the sentence shall run concurrently with any felony sentence which has been imposed by any court in this or another state or by a federal court subsequent to the commission of the crime being sentenced unless the court

pronouncing the current sentence expressly orders that they be served consecutively.

(4) Whenever any person granted probation under RCW 9.95.210 or 9.92.060, or both, has the probationary sentence revoked and a prison sentence imposed, that sentence shall run consecutively to any sentence imposed pursuant to this chapter, unless the court pronouncing the subsequent sentence expressly orders that they be served concurrently.

(5) However, in the case of consecutive sentences, all periods of total confinement shall be served before any partial confinement, community service, community supervision, or any other requirement or conditions of any of the sentences. Except for exceptional sentences as authorized under RCW 9.94A.120(2), if two or more sentences that run consecutively include periods of community supervision, the aggregate of the community supervision period shall not exceed twenty-four months. [1995 c 167 § 2; 1990 c 3 § 704. Prior: 1988 c 157 § 5; 1988 c 143 § 24; 1987 c 456 § 5; 1986 c 257 § 28; 1984 c 209 § 25; 1983 c 115 § 11.]

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3:** See RCW 18.155.900 through 18.155.902.

**Application—1988 c 157:** See note following RCW 9.94A.030.

**Applicability—1988 c 143 §§ 21-24:** See note following RCW 9.94A.120.

**Severability—1986 c 257:** See note following RCW 9A.56.010.

**Effective date—1986 c 257 §§ 17-35:** See note following RCW 9.94A.030.

**Effective dates—1984 c 209:** See note following RCW 9.94A.030.

**9.94A.440 Evidentiary sufficiency.** (1) Decision not to prosecute.

**STANDARD:** A prosecuting attorney may decline to prosecute, even though technically sufficient evidence to prosecute exists, in situations where prosecution would serve no public purpose, would defeat the underlying purpose of the law in question or would result in decreased respect for the law.

**GUIDELINE/COMMENTARY:**

**Examples**

The following are examples of reasons not to prosecute which could satisfy the standard.

(a) **Contrary to Legislative Intent** - It may be proper to decline to charge where the application of criminal sanctions would be clearly contrary to the intent of the legislature in enacting the particular statute.

(b) **Antiquated Statute** - It may be proper to decline to charge where the statute in question is antiquated in that:

(i) It has not been enforced for many years; and

(ii) Most members of society act as if it were no longer in existence; and

(iii) It serves no deterrent or protective purpose in today's society; and

(iv) The statute has not been recently reconsidered by the legislature.

This reason is not to be construed as the basis for declining cases because the law in question is unpopular or because it is difficult to enforce.

(c) **De Minimis Violation** - It may be proper to decline to charge where the violation of law is only technical or insubstantial and where no public interest or deterrent purpose would be served by prosecution.

(d) **Confinement on Other Charges** - It may be proper to decline to charge because the accused has been sentenced on another charge to a lengthy period of confinement; and

(i) Conviction of the new offense would not merit any additional direct or collateral punishment;

(ii) The new offense is either a misdemeanor or a felony which is not particularly aggravated; and

(iii) Conviction of the new offense would not serve any significant deterrent purpose.

(e) **Pending Conviction on Another Charge** - It may be proper to decline to charge because the accused is facing a pending prosecution in the same or another county; and

(i) Conviction of the new offense would not merit any additional direct or collateral punishment;

(ii) Conviction in the pending prosecution is imminent;

(iii) The new offense is either a misdemeanor or a felony which is not particularly aggravated; and

(iv) Conviction of the new offense would not serve any significant deterrent purpose.

(f) **High Disproportionate Cost of Prosecution** - It may be proper to decline to charge where the cost of locating or transporting, or the burden on, prosecution witnesses is highly disproportionate to the importance of prosecuting the offense in question. This reason should be limited to minor cases and should not be relied upon in serious cases.

(g) **Improper Motives of Complainant** - It may be proper to decline charges because the motives of the complainant are improper and prosecution would serve no public purpose, would defeat the underlying purpose of the law in question or would result in decreased respect for the law.

(h) **Immunity** - It may be proper to decline to charge where immunity is to be given to an accused in order to prosecute another where the accused's information or testimony will reasonably lead to the conviction of others who are responsible for more serious criminal conduct or who represent a greater danger to the public interest.

(i) **Victim Request** - It may be proper to decline to charge because the victim requests that no criminal charges be filed and the case involves the following crimes or situations:

(i) Assault cases where the victim has suffered little or no injury;

(ii) Crimes against property, not involving violence, where no major loss was suffered;

(iii) Where doing so would not jeopardize the safety of society.

Care should be taken to insure that the victim's request is freely made and is not the product of threats or pressure by the accused.

The presence of these factors may also justify the decision to dismiss a prosecution which has been commenced.

**Notification**

The prosecutor is encouraged to notify the victim, when practical, and the law enforcement personnel, of the decision not to prosecute.

(2) **Decision to prosecute.**

**STANDARD:**

Crimes against persons will be filed if sufficient admissible evidence exists, which, when considered with the most plausible, reasonably foreseeable defense that could be raised under the evidence, would justify conviction by a

reasonable and objective fact-finder. With regard to offenses prohibited by RCW 9A.44.040, 9A.44.050, 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, 9A.44.089, and 9A.64.020 the prosecutor should avoid pre-filing agreements or diversions intended to place the accused in a program of treatment or counseling, so that treatment, if determined to be beneficial, can be provided pursuant to \*RCW 9.94A.120(7).

Crimes against property/other crimes will be filed if the admissible evidence is of such convincing force as to make it probable that a reasonable and objective fact-finder would convict after hearing all the admissible evidence and the most plausible defense that could be raised.

See table below for the crimes within these categories.

#### CATEGORIZATION OF CRIMES FOR PROSECUTING STANDARDS

##### CRIMES AGAINST PERSONS

Aggravated Murder  
 1st Degree Murder  
 2nd Degree Murder  
 1st Degree Kidnaping  
 1st Degree Assault  
 1st Degree Assault of a Child  
 1st Degree Rape  
 1st Degree Robbery  
 1st Degree Rape of a Child  
 1st Degree Arson  
 2nd Degree Kidnaping  
 2nd Degree Assault  
 2nd Degree Assault of a Child  
 2nd Degree Rape  
 2nd Degree Robbery  
 1st Degree Burglary  
 1st Degree Manslaughter  
 2nd Degree Manslaughter  
 1st Degree Extortion  
 Indecent Liberties  
 Incest  
 2nd Degree Rape of a Child  
 Vehicular Homicide  
 Vehicular Assault  
 3rd Degree Rape  
 3rd Degree Rape of a Child  
 1st Degree Child Molestation  
 2nd Degree Child Molestation  
 3rd Degree Child Molestation  
 2nd Degree Extortion  
 1st Degree Promoting Prostitution  
 Intimidating a Juror  
 Communication with a Minor  
 Intimidating a Witness  
 Intimidating a Public Servant  
 Bomb Threat (if against person)  
 3rd Degree Assault  
 3rd Degree Assault of a Child  
 Unlawful Imprisonment  
 Promoting a Suicide Attempt  
 Riot (if against person)

##### CRIMES AGAINST PROPERTY/OTHER CRIMES

2nd Degree Arson  
 1st Degree Escape  
 2nd Degree Burglary  
 1st Degree Theft  
 1st Degree Perjury  
 1st Degree Introducing Contraband  
 1st Degree Possession of Stolen Property  
 Bribery  
 Bribing a Witness  
 Bribe received by a Witness  
 Bomb Threat (if against property)  
 1st Degree Malicious Mischief  
 2nd Degree Theft  
 2nd Degree Escape  
 2nd Degree Introducing Contraband  
 2nd Degree Possession of Stolen Property  
 2nd Degree Malicious Mischief  
 1st Degree Reckless Burning  
 Taking a Motor Vehicle without Authorization  
 Forgery  
 2nd Degree Perjury  
 2nd Degree Promoting Prostitution  
 Tampering with a Witness  
 Trading in Public Office  
 Trading in Special Influence  
 Receiving/Granting Unlawful Compensation  
 Bigamy  
 Eluding a Pursuing Police Vehicle  
 Willful Failure to Return from Furlough  
 Escape from Community Custody  
 Riot (if against property)  
 Thefts of Livestock

##### ALL OTHER UNCLASSIFIED FELONIES

Selection of Charges/Degree of Charge

(1) The prosecutor should file charges which adequately describe the nature of defendant's conduct. Other offenses may be charged only if they are necessary to ensure that the charges:

(a) Will significantly enhance the strength of the state's case at trial; or

(b) Will result in restitution to all victims.

(2) The prosecutor should not overcharge to obtain a guilty plea. Overcharging includes:

(a) Charging a higher degree;

(b) Charging additional counts.

This standard is intended to direct prosecutors to charge those crimes which demonstrate the nature and seriousness of a defendant's criminal conduct, but to decline to charge crimes which are not necessary to such an indication. Crimes which do not merge as a matter of law, but which arise from the same course of conduct, do not all have to be charged.

##### GUIDELINES/COMMENTARY:

###### Police Investigation

A prosecuting attorney is dependent upon law enforcement agencies to conduct the necessary factual investigation which must precede the decision to prosecute. The prosecuting attorney shall ensure that a thorough factual investigation has been conducted before a decision to

prosecute is made. In ordinary circumstances the investigation should include the following:

- (1) The interviewing of all material witnesses, together with the obtaining of written statements whenever possible;
- (2) The completion of necessary laboratory tests; and
- (3) The obtaining, in accordance with constitutional requirements, of the suspect's version of the events.

If the initial investigation is incomplete, a prosecuting attorney should insist upon further investigation before a decision to prosecute is made, and specify what the investigation needs to include.

#### Exceptions

In certain situations, a prosecuting attorney may authorize filing of a criminal complaint before the investigation is complete if:

- (1) Probable cause exists to believe the suspect is guilty; and
- (2) The suspect presents a danger to the community or is likely to flee if not apprehended; or
- (3) The arrest of the suspect is necessary to complete the investigation of the crime.

In the event that the exception to the standard is applied, the prosecuting attorney shall obtain a commitment from the law enforcement agency involved to complete the investigation in a timely manner. If the subsequent investigation does not produce sufficient evidence to meet the normal charging standard, the complaint should be dismissed.

#### Investigation Techniques

The prosecutor should be fully advised of the investigatory techniques that were used in the case investigation including:

- (1) Polygraph testing;
- (2) Hypnosis;
- (3) Electronic surveillance;
- (4) Use of informants.

#### Pre-Filing Discussions with Defendant

Discussions with the defendant or his/her representative regarding the selection or disposition of charges may occur prior to the filing of charges, and potential agreements can be reached.

#### Pre-Filing Discussions with Victim(s)

Discussions with the victim(s) or victims' representatives regarding the selection or disposition of charges may occur before the filing of charges. The discussions may be considered by the prosecutor in charging and disposition decisions, and should be considered before reaching any agreement with the defendant regarding these decisions. [1995 c 288 § 3. Prior: 1992 c 145 § 11; 1992 c 75 § 5; 1989 c 332 § 2; 1988 c 145 § 13; 1986 c 257 § 30; 1983 c 115 § 15.]

**\*Reviser's note:** RCW 9.94A.120 was amended by 1995 c 108 § 3, and the provisions of former subsection (7) are now contained in subsection (8).

**Effective date—Savings—Application—1988 c 145:** See notes following RCW 9A.44.010.

**Severability—1986 c 257:** See note following RCW 9A.56.010.

**Effective date—1986 c 257 §§ 17-35:** See note following RCW 9.94A.030.

**9.94A.470 Armed offenders.** Notwithstanding the current placement or listing of crimes in categories or classifications of prosecuting standards for deciding to

prosecute under RCW 9.94A.440(2), any and all felony crimes involving any deadly weapon special verdict under RCW 9.94A.125, any deadly weapon enhancements under RCW 9.94A.310 (3) or (4), or both, and any and all felony crimes as defined in RCW 9.94A.310 (3)(f) or (4)(f), or both, which are excluded from the deadly weapon enhancements shall all be treated as crimes against a person and subject to the prosecuting standards for deciding to prosecute under RCW 9.94A.440(2) as crimes against persons. [1995 c 129 § 4 (Initiative Measure No. 159).]

**Findings and intent—Short title—Severability—Captions not law—1995 c 129 (Initiative Measure No. 159):** See notes following RCW 9.94A.310.

## Chapter 9.95

### INDETERMINATE SENTENCES

(Formerly: Prison terms, paroles, and probation)

#### Sections

- |          |  |
|----------|--|
| 9.95.210 | Conditions of probation.   |
| 9.95.212 | Standards for supervision of misdemeanor probationers—<br>Report to the legislature. |
| 9.95.214 | Assessment for supervision of misdemeanor probationers.                              |

**9.95.210 Conditions of probation.** (1) In granting probation, the court may suspend the imposition or the execution of the sentence and may direct that the suspension may continue upon such conditions and for such time as it shall designate, not exceeding the maximum term of sentence or two years, whichever is longer.

(2) In the order granting probation and as a condition thereof, the court may in its discretion imprison the defendant in the county jail for a period not exceeding one year and may fine the defendant any sum not exceeding the statutory limit for the offense committed, and court costs. As a condition of probation, the court shall require the payment of the penalty assessment required by RCW 7.68.035. The court may also require the defendant to make such monetary payments, on such terms as it deems appropriate under the circumstances, as are necessary: (a) To comply with any order of the court for the payment of family support; (b) to make restitution to any person or persons who may have suffered loss or damage by reason of the commission of the crime in question or when the offender pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor's recommendation that the offender be required to pay restitution to a victim of an offense or offenses which are not prosecuted pursuant to a plea agreement; (c) to pay such fine as may be imposed and court costs, including reimbursement of the state for costs of extradition if return to this state by extradition was required; (d) following consideration of the financial condition of the person subject to possible electronic monitoring, to pay for the costs of electronic monitoring if that monitoring was required by the court as a condition of release from custody or as a condition of probation; (e) to contribute to a county or interlocal drug fund; and (f) to make restitution to a public agency for the costs of an emergency response under RCW 38.52.430, and may require bonds for the faithful observance of any and all conditions imposed in the probation.



(3) The court shall order restitution in all cases where the victim is entitled to benefits under the crime victims' compensation act, chapter 7.68 RCW. If the court does not order restitution and the victim of the crime has been determined to be entitled to benefits under the crime victims' compensation act, the department of labor and industries, as administrator of the crime victims' compensation program, may petition the court within one year of imposition of the sentence for entry of a restitution order. Upon receipt of a petition from the department of labor and industries, the court shall hold a restitution hearing and shall enter a restitution order.

(4) In granting probation, the court may order the probationer to report to the secretary of corrections or such officer as the secretary may designate and as a condition of the probation to follow the instructions of the secretary.

(5) If the probationer has been ordered to make restitution and the court has ordered supervision, the officer supervising the probationer shall make a reasonable effort to ascertain whether restitution has been made. If the court has ordered supervision and restitution has not been made as ordered, the officer shall inform the prosecutor of that violation of the terms of probation not less than three months prior to the termination of the probation period. The secretary of corrections will promulgate rules and regulations for the conduct of the person during the term of probation. For defendants found guilty in district court, like functions as the secretary performs in regard to probation may be performed by probation officers employed for that purpose by the county legislative authority of the county wherein the court is located. [1995 1st sp.s. c 19 § 29; 1995 c 33 § 6; 1993 c 251 § 3; 1992 c 86 § 1; 1987 c 202 § 146; 1984 c 46 § 1; 1983 c 156 § 4; 1982 1st ex.s. c 47 § 10; 1982 1st ex.s. c 8 § 5; 1981 c 136 § 42; 1980 c 19 § 1. Prior: 1979 c 141 § 7; 1979 c 29 § 2; 1969 c 29 § 1; 1967 c 200 § 8; 1967 c 134 § 16; 1957 c 227 § 4; prior: 1949 c 77 § 1; 1939 c 125 § 1, part; Rem. Supp. 1949 § 10249-5b.]

**Findings—Purpose—Short title—Severability—Effective date—** 1995 1st sp.s. c 19: See notes following RCW 72.09.450.

**Finding—Intent—1993 c 251:** See note following RCW 38.52.430.

**Intent—1987 c 202:** See note following RCW 2.04.190.

**Severability—1982 1st ex.s. c 47:** See note following RCW 9.41.190.

**Intent—Reports—1982 1st ex.s. c 8:** See note following RCW 7.68.035.

**Effective date—1981 c 136:** See RCW 72.09.900.

**Severability—1939 c 125:** See note following RCW 9.95.200.

#### *Restitution*

*alternative to fine:* RCW 9A.20.030.

*condition to suspending sentence:* RCW 9.92.060.

*disposition when victim not found or dead:* RCW 7.68.290.

*Termination of suspended sentence, restoration of civil rights:* RCW 9.92.066.

*Violations of probation conditions, rearrest, detention:* RCW 72.04A.090.

**9.95.212 Standards for supervision of misdemeanor probationers—Report to the legislature.** (1) The Washington state law and justice advisory council, appointed under RCW 72.09.300(7), shall by October 1, 1995, develop proposed standards for the supervision of misdemeanor probationers sentenced by superior courts under RCW 9.92.060 or 9.95.210. In developing the standards, the

council shall consider realistic current funding levels or reasonable expansions thereof, the recommendations of the department of corrections, county probation departments, superior and district court judges, and the misdemeanor corrections association. The supervision standards shall establish classifications of misdemeanor probationers based upon the seriousness of the offense, the perceived risks to the community, and other relevant factors. The standards may provide discretion to officials supervising misdemeanor probationers to adjust the supervision standards, for good cause, based upon individual circumstances surrounding the probationer. The supervision standards shall include provisions for reciprocal supervision of offenders who are sentenced in counties other than their counties of residence.

(2) The department of corrections shall report to the legislature by December 1, 1995, the estimated cost of fully implementing the proposed standards. The report shall rank by relative costs each of the elements of the proposed standards and shall identify the total daily supervision cost per offender. The report shall also include an accounting of the amount of supervision fees assessed and collected by the department under RCW 9.95.214. [1995 1st sp.s. c 19 § 31.]

**Findings—Purpose—Short title—Severability—Effective date—** 1995 1st sp.s. c 19: See notes following RCW 72.09.450.

**9.95.214 Assessment for supervision of misdemeanor probationers.** Whenever a defendant convicted of a misdemeanor or gross misdemeanor is placed on probation under RCW 9.92.060 or 9.95.210, and the defendant is supervised by the department of corrections, the department may assess and collect from the defendant for the duration of the term of supervision a monthly assessment not to exceed one hundred dollars per month. This assessment shall be paid to the department and shall be applied, along with funds appropriated by the legislature, toward the payment or part payment of the cost of supervising the defendant. [1995 1st sp.s. c 19 § 32.]

**Findings—Purpose—Short title—Severability—Effective date—** 1995 1st sp.s. c 19: See notes following RCW 72.09.450.

## Title 9A

### WASHINGTON CRIMINAL CODE

(See also Crimes and Punishments, Title 9 RCW)

#### Chapters

- 9A.04 Preliminary article.
- 9A.16 Defenses.
- 9A.36 Assault—Physical harm.
- 9A.40 Kidnapping, unlawful imprisonment, and custodial interference.
- 9A.44 Sex offenses.
- 9A.48 Arson, reckless burning, and malicious mischief.
- 9A.52 Burglary and trespass.
- 9A.56 Theft and robbery.
- 9A.68 Bribery and corrupt influence.
- 9A.72 Perjury and interference with official proceedings.
- 9A.76 Obstructing governmental operation.

- 9A.82 Criminal profiteering act.**  
**9A.88 Indecent exposure—Prostitution.**

### Chapter 9A.04

#### PRELIMINARY ARTICLE

##### Sections

9A.04.080 Limitation of actions.

**9A.04.080 Limitation of actions.** (1) Prosecutions for criminal offenses shall not be commenced after the periods prescribed in this section.

(a) The following offenses may be prosecuted at any time after their commission:

- (i) Murder;
- (ii) Homicide by abuse;
- (iii) Arson if a death results.

(b) The following offenses shall not be prosecuted more than ten years after their commission:

(i) Any felony committed by a public officer if the commission is in connection with the duties of his or her office or constitutes a breach of his or her public duty or a violation of the oath of office;

(ii) Arson if no death results; or

(iii) Violations of RCW 9A.44.040 or 9A.44.050 if the rape is reported to a law enforcement agency within one year of its commission; except that if the victim is under fourteen years of age when the rape is committed and the rape is reported to a law enforcement agency within one year of its commission, the violation may be prosecuted up to three years after the victim's eighteenth birthday or up to ten years after the rape's commission, whichever is later. If a violation of RCW 9A.44.040 or 9A.44.050 is not reported within one year, the rape may not be prosecuted: (A) More than three years after its commission if the violation was committed against a victim fourteen years of age or older; or (B) more than three years after the victim's eighteenth birthday or more than seven years after the rape's commission, whichever is later, if the violation was committed against a victim under fourteen years of age.

(c) Violations of the following statutes shall not be prosecuted more than three years after the victim's eighteenth birthday or more than seven years after their commission, whichever is later: RCW 9A.44.073, 9A.44.076, 9A.44.083, 9A.44.086, \*9A.44.070, 9A.44.080, 9A.44.100(1)(b), or 9A.64.020.

(d) The following offenses shall not be prosecuted more than six years after their commission: Violations of RCW 9A.82.060 or 9A.82.080.

(e) The following offenses shall not be prosecuted more than five years after their commission: Any class C felony under chapter 74.09, 82.36, or 82.38 RCW.

(f) Bigamy shall not be prosecuted more than three years after the time specified in RCW 9A.64.010.

(g) No other felony may be prosecuted more than three years after its commission.

(h) No gross misdemeanor may be prosecuted more than two years after its commission.

(i) No misdemeanor may be prosecuted more than one year after its commission.

(2) The periods of limitation prescribed in subsection (1) of this section do not run during any time when the person charged is not usually and publicly resident within this state.

(3) If, before the end of a period of limitation prescribed in subsection (1) of this section, an indictment has been found or a complaint or an information has been filed, and the indictment, complaint, or information is set aside, then the period of limitation is extended by a period equal to the length of time from the finding or filing to the setting aside. [1995 c 287 § 5; 1995 c 17 § 1; 1993 c 214 § 1; 1989 c 317 § 3; 1988 c 145 § 14. Prior: 1986 c 257 § 13; 1986 c 85 § 1; prior: 1985 c 455 § 19; 1985 c 186 § 1; 1984 c 270 § 18; 1982 c 129 § 1; 1981 c 203 § 1; 1975 1st ex.s. c 260 § 9A.04.080.]

**Reviser's note:** \*(1) RCW 9A.44.070 and 9A.44.080 were repealed by 1988 c 145 § 24.

(2) This section was amended by 1995 c 17 § 1 and by 1995 c 287 § 5, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Intent—1989 c 317:** See note following RCW 4.16.340.

**Effective date—Savings—Application—1988 c 145:** See notes following RCW 9A.44.010.

**Severability—1986 c 257:** See note following RCW 9A.56.010.

**Effective date—Severability—1985 c 455:** See RCW 9A.82.902 and 9A.82.904.

**Severability—Effective date—1984 c 270:** See RCW 9A.82.900 and 9A.82.901.

**Severability—1982 c 129:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 c 129 § 11.]

### Chapter 9A.16

#### DEFENSES

##### Sections

9A.16.110 Defending against violent crime—Reimbursement.

**9A.16.110 Defending against violent crime—Reimbursement.** (1) No person in the state shall be placed in legal jeopardy of any kind whatsoever for protecting by any reasonable means necessary, himself or herself, his or her family, or his or her real or personal property, or for coming to the aid of another who is in imminent danger of or the victim of assault, robbery, kidnapping, arson, burglary, rape, murder, or any other violent crime as defined in RCW 9.94A.030.

(2) When a person charged with a crime listed in subsection (1) of this section is found not guilty by reason of self-defense, the state of Washington shall reimburse the defendant for all reasonable costs, including loss of time, legal fees incurred, and other expenses involved in his or her defense. This reimbursement is not an independent cause of action. To award these reasonable costs the trier of fact must find that the defendant's claim of self-defense was sustained by a preponderance of the evidence. If the trier of fact makes a determination of self-defense, the judge shall determine the amount of the award.

(3) Notwithstanding a finding that a defendant's actions were justified by self-defense, if the trier of fact also determines that the defendant was engaged in criminal

conduct substantially related to the events giving rise to the charges filed against the defendant the judge may deny or reduce the amount of the award. In determining the amount of the award, the judge shall also consider the seriousness of the initial criminal conduct.

Nothing in this section precludes the legislature from using the sundry claims process to grant an award where none was granted under this section or to grant a higher award than one granted under this section.

(4) Whenever the issue of self-defense under this section is decided by a judge, the judge shall consider the same questions as must be answered in the special verdict under subsection (4) [(5)] of this section.

(5) Whenever the issue of self-defense under this section has been submitted to a jury, and the jury has found the defendant not guilty, the court shall instruct the jury to return a special verdict in substantially the following form:

- |  |           |
|--|-----------|
|  | answer    |
|  | yes or no |
| 1. Was the finding of not guilty based upon self-defense?  | . . . . . |
| 2. If your answer to question 1 is no, do not answer the remaining question.   |           |
| 3. If your answer to question 1 is yes, was the defendant:   |           |
| a. Protecting himself or herself?  | . . . . . |
| b. Protecting his or her family?   | . . . . . |
| c. Protecting his or her property?   | . . . . . |
| d. Coming to the aid of another who was in imminent danger of a heinous crime?   | . . . . . |
| e. Coming to the aid of another who was the victim of a heinous crime?   | . . . . . |
| f. Engaged in criminal conduct substantially related to the events giving rise to the crime with which the defendant is charged? . . . . . |           |

[1995 c 44 § 1; 1989 c 94 § 1; 1977 ex.s. c 206 § 8. Formerly RCW 9.01.200.]

**Use of deadly force—Legislative recognition:** See note following RCW 9A.16.040.

**Chapter 9A.36  
ASSAULT—PHYSICAL HARM**

Sections  
9A.36.045 Reckless endangerment in the first degree.

**9A.36.045 Reckless endangerment in the first degree.** (1) A person is guilty of reckless endangerment in the first degree when he or she recklessly discharges a firearm as defined in RCW 9.41.010 in a manner which creates a substantial risk of death or serious physical injury to another person and the discharge is either from a motor vehicle or from the immediate area of a motor vehicle that was used to transport the shooter or the firearm, or both, to the scene of the discharge.

(2) A person who unlawfully discharges a firearm from a moving motor vehicle may be inferred to have engaged in reckless conduct, unless the discharge is shown by evidence

satisfactory to the trier of fact to have been made without such recklessness.

(3) Reckless endangerment in the first degree is a class B felony. [1995 c 129 § 8 (Initiative Measure No. 159); (1994 sp.s. c 7 § 511 repealed by 1995 c 129 § 19 (Initiative Measure No. 159)); 1989 c 271 § 109.]

**Findings and intent—Short title—Severability—Captions not law—1995 c 129 (Initiative Measure No. 159):** See notes following RCW 9A.94A.310.

**Finding—Intent—Severability—Effective dates—Contingent expiration date—1994 sp.s. c 7:** See notes following RCW 43.70.540.

**Finding—Intent—1989 c 271 §§ 102, 109, and 110:** See note following RCW 9A.36.050.

**Application—1989 c 271 §§ 101-111:** See note following RCW 9.94A.310.

**Severability—1989 c 271:** See note following RCW 9.94A.310.

**Chapter 9A.40  
KIDNAPPING, UNLAWFUL IMPRISONMENT, AND  
CUSTODIAL INTERFERENCE**

Sections  
9A.40.090 Luring.

**9A.40.090 Luring.** A person commits the crime of luring if the person:

(1)(a) Orders, lures, or attempts to lure a minor or a person with a developmental disability into any area or structure that is obscured from or inaccessible to the public or into a motor vehicle;

(b) Does not have the consent of the minor's parent or guardian or of the guardian of the person with a developmental disability; and

(c) Is unknown to the child or developmentally disabled person.

(2) It is a defense to luring, which the defendant must prove by a preponderance of the evidence, that the defendant's actions were reasonable under the circumstances and the defendant did not have any intent to harm the health, safety, or welfare of the minor or the person with the developmental disability.

(3) For purposes of this section:

(a) "Minor" means a person under the age of sixteen;

(b) "Person with a developmental disability" means a person with a developmental disability as defined in RCW 71A.10.020.

(4) Luring is a class C felony. [1995 c 156 § 1; 1993 c 509 § 1.]

**Chapter 9A.44  
SEX OFFENSES**

Sections  
9A.44.120 Admissibility of child's statement—Conditions.  
9A.44.130 Registration of sex offenders—Procedures—Definition—Penalties.  
9A.44.135 Address verification.  
9A.44.140 Registration of sex offenders—End of duty to register.

**9A.44.120 Admissibility of child's statement—Conditions.** A statement made by a child when under the

age of ten describing any act of sexual contact performed with or on the child by another, describing any attempted act of sexual contact with or on the child by another, or describing any act of physical abuse of the child by another that results in substantial bodily harm as defined by RCW 9A.04.110, not otherwise admissible by statute or court rule, is admissible in evidence in dependency proceedings under Title 13 RCW and criminal proceedings, including juvenile offense adjudications, in the courts of the state of Washington if:

(1) The court finds, in a hearing conducted outside the presence of the jury, that the time, content, and circumstances of the statement provide sufficient indicia of reliability; and

(2) The child either:

(a) Testifies at the proceedings; or

(b) Is unavailable as a witness: PROVIDED, That when the child is unavailable as a witness, such statement may be admitted only if there is corroborative evidence of the act.

A statement may not be admitted under this section unless the proponent of the statement makes known to the adverse party his or her intention to offer the statement and the particulars of the statement sufficiently in advance of the proceedings to provide the adverse party with a fair opportunity to prepare to meet the statement. [1995 c 76 § 1; 1991 c 169 § 1; 1985 c 404 § 1; 1982 c 129 § 2.]

**Severability—1982 c 129:** See note following RCW 9A.04.080.

**9A.44.130 Registration of sex offenders—Procedures—Definition—Penalties.** (1) Any adult or juvenile residing in this state who has been found to have committed or has been convicted of any sex offense, or who has been found not guilty by reason of insanity under chapter 10.77 RCW of committing any sex offense, shall register with the county sheriff for the county of the person's residence.

(2) The person shall provide the county sheriff with the following information when registering: (a) Name; (b) address; (c) date and place of birth; (d) place of employment; (e) crime for which convicted; (f) date and place of conviction; (g) aliases used; and (h) social security number.

(3)(a) Sex offenders shall register within the following deadlines. For purposes of this section the term "conviction" refers to adult convictions and juvenile adjudications for sex offenses:

(i) **SEX OFFENDERS IN CUSTODY.** Sex offenders who committed a sex offense on, before, or after February 28, 1990, and who, on or after July 28, 1991, are in custody, as a result of that offense, of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility, must register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence. The agency that has jurisdiction over the offender shall provide notice to the sex offender of the duty to register. Failure to register within twenty-four hours of release constitutes a violation of this section and is punishable as provided in subsection (7) of this section.

(ii) **SEX OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL JURISDICTION.** Sex

offenders, who, on July 28, 1991, are not in custody but are under the jurisdiction of the indeterminate sentence review board or under the department of correction's active supervision, as defined by the department of corrections, the state department of social and health services, or a local division of youth services, for sex offenses committed before, on, or after February 28, 1990, must register within ten days of July 28, 1991. A change in supervision status of a sex offender who was required to register under this subsection (3)(a)(ii) as of July 28, 1991, shall not relieve the offender of the duty to register or to reregister following a change in residence. The obligation to register shall only cease pursuant to RCW 9A.44.140.

(iii) **SEX OFFENDERS UNDER FEDERAL JURISDICTION.** Sex offenders who, on or after July 23, 1995, as a result of that offense are in the custody of the United States bureau of prisons or other federal or military correctional agency for sex offenses committed before, on, or after February 28, 1990, must register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence. Sex offenders who, on July 23, 1995, are not in custody but are under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military parole board for sex offenses committed before, on, or after February 28, 1990, must register within ten days of July 23, 1995. A change in supervision status of a sex offender who was required to register under this subsection (3)(a)(iii) as of July 23, 1995, shall not relieve the offender of the duty to register or to reregister following a change in residence. The obligation to register shall only cease pursuant to RCW 9A.44.140.

(iv) **SEX OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED.** Sex offenders who are convicted of a sex offense on or after July 28, 1991, for a sex offense that was committed on or after February 28, 1990, but who are not sentenced to serve a term of confinement immediately upon sentencing, shall report to the county sheriff to register immediately upon completion of being sentenced.

(v) **SEX OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON RESIDENTS.** Sex offenders who move to Washington state from another state or a foreign country that are not under the jurisdiction of the state department of corrections, the indeterminate sentence review board, or the state department of social and health services at the time of moving to Washington, must register within thirty days of establishing residence or reestablishing residence if the person is a former Washington resident. The duty to register under this subsection applies to sex offenders convicted under the laws of another state or a foreign country, federal or military statutes, or Washington state for offenses committed on or after February 28, 1990. Sex offenders from other states or a foreign country who, when they move to Washington, are under the jurisdiction of the department of corrections, the indeterminate sentence review board, or the department of social and health services must register within twenty-four hours of moving to Washington. The agency that has jurisdiction over the offender shall notify the offender of the registration requirements before the offender moves to Washington.

(vi) **SEX OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY.** Any adult or juvenile who has

been found not guilty by reason of insanity under chapter 10.77 RCW of committing a sex offense on, before, or after February 28, 1990, and who, on or after July 23, 1995, is in custody, as a result of that finding, of the state department of social and health services, must register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence. The state department of social and health services shall provide notice to the adult or juvenile in its custody of the duty to register. Any adult or juvenile who has been found not guilty by reason of insanity of committing a sex offense on, before, or after February 28, 1990, but who was released prior to July 23, 1995, shall be required to register within twenty-four hours of receiving notice of this registration requirement. The state department of social and health services shall make reasonable attempts within available resources to notify offenders who were released prior to July 23, 1995. Failure to register within twenty-four hours of release, or of receiving notice, constitutes a violation of this section and is punishable as provided in subsection (7) of this section.

(b) Failure to register within the time required under this section constitutes a per se violation of this section and is punishable as provided in subsection (7) of this section. The county sheriff shall not be required to determine whether the person is living within the county.

(c) An arrest on charges of failure to register, service of an information, or a complaint for a violation of this section, or arraignment on charges for a violation of this section, constitutes actual notice of the duty to register. Any person charged with the crime of failure to register under this section who asserts as a defense the lack of notice of the duty to register shall register immediately following actual notice of the duty through arrest, service, or arraignment. Failure to register as required under this subsection (c) constitutes grounds for filing another charge of failing to register. Registering following arrest, service, or arraignment on charges shall not relieve the offender from criminal liability for failure to register prior to the filing of the original charge.

(d) The deadlines for the duty to register under this section do not relieve any sex offender of the duty to register under this section as it existed prior to July 28, 1991.

(4) If any person required to register pursuant to this section changes his or her residence address within the same county, the person must send written notice of the change of address to the county sheriff within ten days of moving. If any person required to register pursuant to this section moves to a new county, the person must register with the county sheriff in the new county within ten days of moving. The person must also send written notice within ten days of the change of address in the new county to the county sheriff with whom the person last registered. If any person required to register pursuant to this section moves out of Washington state, the person must also send written notice within ten days of moving to the new state or a foreign country to the county sheriff with whom the person last registered in Washington state.

(5) The county sheriff shall obtain a photograph of the individual and shall obtain a copy of the individual's fingerprints.

(6) "Sex offense" for the purpose of RCW 9A.44.130, 10.01.200, 43.43.540, 70.48.470, and 72.09.330 means any offense defined as a sex offense by RCW 9.94A.030 and any violation of RCW 9.68A.090 as well as any gross misdemeanor that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a sex offense under RCW 9.94A.030.

(7) A person who knowingly fails to register or who moves without notifying the county sheriff as required by this section is guilty of a class C felony if the crime for which the individual was convicted was a class A felony or a federal or out-of-state conviction for an offense that under the laws of this state would be a class A felony. If the crime was other than a class A felony or a federal or out-of-state conviction for an offense that under the laws of this state would be a class A felony, violation of this section is a gross misdemeanor. [1995 c 268 § 3; 1995 c 248 § 1; 1995 c 195 § 1; 1994 c 84 § 2; 1991 c 274 § 2; 1990 c 3 § 402.]

**Reviser's note:** This section was amended by 1995 c 195 § 1, 1995 c 248 § 1, and by 1995 c 268 § 3, each without reference to the other. All amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Purpose—1995 c 268:** See note following RCW 9.94A.030.

**Intent—1994 c 84:** "This act is intended to clarify existing law and is not intended to reflect a substantive change in the law." [1994 c 84 § 1.]

**Finding and intent—1991 c 274:** "The legislature finds that sex offender registration has assisted law enforcement agencies in protecting their communities. This act is intended to clarify and amend the deadlines for sex offenders to register. This act's clarification or amendment of RCW 9A.44.130 does not relieve the obligation of sex offenders to comply with the registration requirements of RCW 9A.44.130 as that statute exists before July 28, 1991." [1991 c 274 § 1.]

**Finding—Policy—1990 c 3 § 402:** "The legislature finds that sex offenders often pose a high risk of reoffense, and that law enforcement's efforts to protect their communities, conduct investigations, and quickly apprehend offenders who commit sex offenses, are impaired by the lack of information available to law enforcement agencies about convicted sex offenders who live within the law enforcement agency's jurisdiction. Therefore, this state's policy is to assist local law enforcement agencies' efforts to protect their communities by regulating sex offenders by requiring sex offenders to register with local law enforcement agencies as provided in RCW 9A.44.130." [1990 c 3 § 401.]

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3:** See RCW 18.155.900 through 18.155.902.

**9A.44.135 Address verification.** When a sex offender registers with the county sheriff pursuant to RCW 9A.44.130, the county sheriff shall make reasonable attempts to verify that the sex offender is residing at the registered address. Reasonable attempts at verifying an address shall include at a minimum sending certified mail, with return receipt requested, to the sex offender at the registered address, and if the return receipt is not signed by the sex offender, talking in person with the residents living at the address. The sheriff shall make reasonable attempts to locate any sex offender who cannot be located at the registered address. [1995 c 248 § 3.]

**9A.44.140 Registration of sex offenders—End of duty to register.** (1) The duty to register under RCW 9A.44.130 shall end:

(a) For a person convicted of a class A felony: Such person may only be relieved of the duty to register under subsection (3) or (4) of this section.

(b) For a person convicted of a class B felony: Fifteen years after the last date of release from confinement, if any, (including full-time residential treatment) pursuant to the conviction, or entry of the judgment and sentence, if the person has spent fifteen consecutive years in the community without being convicted of any new offenses.

(c) For a person convicted of a class C felony or any violation of RCW 9.68A.090 or an attempt, solicitation, or conspiracy to commit a class C felony: Ten years after the last date of release from confinement, if any, (including full-time residential treatment) pursuant to the conviction, or entry of the judgment and sentence, if the person has spent ten consecutive years in the community without being convicted of any new offenses.

(2) The provisions of subsection (1) of this section shall apply equally to a person who has been found not guilty by reason of insanity under chapter 10.77 RCW of a sex offense.

(3) Any person having a duty to register under RCW 9A.44.130 may petition the superior court to be relieved of that duty. The petition shall be made to the court in which the petitioner was convicted of the offense that subjects him or her to the duty to register, or, in the case of convictions in other states, a foreign country, or a federal or military court, to the court in Thurston county. The prosecuting attorney of the county shall be named and served as the respondent in any such petition. The court shall consider the nature of the registrable offense committed, and the criminal and relevant noncriminal behavior of the petitioner both before and after conviction, and may consider other factors. Except as provided in subsection (4) of this section, the court may relieve the petitioner of the duty to register only if the petitioner shows, with clear and convincing evidence, that future registration of the petitioner will not serve the purposes of RCW 9A.44.130, 10.01.200, 43.43.540, 46.20.187, 70.48.470, and 72.09.330.

(4) An offender having a duty to register under RCW 9A.44.130 for a sex offense committed when the offender was a juvenile may petition the superior court to be relieved of that duty. The court shall consider the nature of the registrable offense committed, and the criminal and relevant noncriminal behavior of the petitioner both before and after adjudication, and may consider other factors. The court may relieve the petitioner of the duty to register for a sex offense that was committed while the petitioner was fifteen years of age or older only if the petitioner shows, with clear and convincing evidence, that future registration of the petitioner will not serve the purposes of RCW 9A.44.130, 10.01.200, 43.43.540, 46.20.187, 70.48.470, and 72.09.330. The court may relieve the petitioner of the duty to register for a sex offense that was committed while the petitioner was under the age of fifteen if the petitioner (a) has not been adjudicated of any additional sex offenses during the twenty-four months following the adjudication for the sex offense giving rise to the duty to register, and (b) the petitioner proves by a preponderance of the evidence that future registration of the petitioner will not serve the purposes of RCW 9A.44.130, 10.01.200, 43.43.540, 46.20.187, 70.48.470, and 72.09.330.

(5) Unless relieved of the duty to register pursuant to this section, a violation of RCW 9A.44.130 is an ongoing offense for purposes of the statute of limitations under RCW 9A.04.080.

(6) Nothing in RCW 9.94A.220 relating to discharge of an offender shall be construed as operating to relieve the offender of his or her duty to register pursuant to RCW 9A.44.130. [1995 c 268 § 4; 1995 c 248 § 2; 1995 c 195 § 2; 1991 c 274 § 3; 1990 c 3 § 408.]

**Reviser's note:** This section was amended by 1995 c 195 § 2, 1995 c 248 § 2, and by 1995 c 268 § 4, each without reference to the other. All amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Purpose—1995 c 268:** See note following RCW 9.94A.030.

**Finding and intent—1991 c 274:** See note following RCW 9A.44.130.

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3:** See RCW 18.155.900 through 18.155.902.

### Chapter 9A.48

#### ARSON, RECKLESS BURNING, AND MALICIOUS MISCHIEF

##### Sections

9A.48.110 Defacing a state monument.

**9A.48.110 Defacing a state monument.** (1) A person is guilty of defacing a state monument if he or she knowingly defaces a monument or memorial on the state capitol campus or other state property.

(2) Defacing a state monument is a misdemeanor. [1995 c 66 § 1.]

### Chapter 9A.52

#### BURGLARY AND TRESPASS

##### Sections

9A.52.020 Burglary in the first degree.

**9A.52.020 Burglary in the first degree.** (1) A person is guilty of burglary in the first degree if, with intent to commit a crime against a person or property therein, he or she enters or remains unlawfully in a building and if, in entering or while in the building or in immediate flight therefrom, the actor or another participant in the crime (a) is armed with a deadly weapon, or (b) assaults any person therein.

(2) Burglary in the first degree is a class A felony. [1995 c 129 § 9 (Initiative Measure No. 159); 1975 1st ex.s. c 260 § 9A.52.020.]

**Findings and intent—Short title—Severability—Captions not law—1995 c 129 (Initiative Measure No. 159):** See notes following RCW 9.94A.310.

### Chapter 9A.56

#### THEFT AND ROBBERY

##### Sections

9A.56.010 Definitions.

9A.56.030 Theft in the first degree—Other than firearm.

9A.56.040 Theft in the second degree—Other than firearm.

- 9A.56.150 Possessing stolen property in the first degree—Other than firearm.
- 9A.56.160 Possessing stolen property in the second degree—Other than firearm.
- 9A.56.220 Theft of subscription television services.
- 9A.56.230 Unlawful sale of subscription television services.
- 9A.56.250 Civil cause of action.
- 9A.56.262 Theft of telecommunication services.
- 9A.56.264 Unlawful manufacture of telecommunication device.
- 9A.56.266 Unlawful sale of telecommunication device.
- 9A.56.268 Civil cause of action.
- 9A.56.300 Theft of a firearm.
- 9A.56.310 Possessing a stolen firearm.

**9A.56.010 Definitions.** The following definitions are applicable in this chapter unless the context otherwise requires:

(1) "Appropriate lost or misdelivered property or services" means obtaining or exerting control over the property or services of another which the actor knows to have been lost or mislaid, or to have been delivered under a mistake as to identity of the recipient or as to the nature or amount of the property;

(2) "By color or aid of deception" means that the deception operated to bring about the obtaining of the property or services; it is not necessary that deception be the sole means of obtaining the property or services;

(3) "Access device" means any card, plate, code, account number, or other means of account access that can be used alone or in conjunction with another access device to obtain money, goods, services, or anything else of value, or that can be used to initiate a transfer of funds, other than a transfer originated solely by paper instrument;

(4) "Deception" occurs when an actor knowingly:

(a) Creates or confirms another's false impression which the actor knows to be false; or

(b) Fails to correct another's impression which the actor previously has created or confirmed; or

(c) Prevents another from acquiring information material to the disposition of the property involved; or

(d) Transfers or encumbers property without disclosing a lien, adverse claim, or other legal impediment to the enjoyment of the property, whether that impediment is or is not valid, or is or is not a matter of official record; or

(e) Promises performance which the actor does not intend to perform or knows will not be performed.

(5) "Deprive" in addition to its common meaning means to make unauthorized use or an unauthorized copy of records, information, data, trade secrets, or computer programs;

(6) "Obtain control over" in addition to its common meaning, means:

(a) In relation to property, to bring about a transfer or purported transfer to the obtainer or another of a legally recognized interest in the property; or

(b) In relation to labor or service, to secure performance thereof for the benefits of the obtainer or another;

(7) "Wrongfully obtains" or "exerts unauthorized control" means:

(a) To take the property or services of another;

(b) Having any property or services in one's possession, custody or control as bailee, factor, pledgee, servant, attorney, agent, employee, trustee, executor, administrator, guardian, or officer of any person, estate, association, or

corporation, or as a public officer, or person authorized by agreement or competent authority to take or hold such possession, custody, or control, to secrete, withhold, or appropriate the same to his or her own use or to the use of any person other than the true owner or person entitled thereto; or

(c) Having any property or services in one's possession, custody, or control as partner, to secrete, withhold, or appropriate the same to his or her use or to the use of any person other than the true owner or person entitled thereto, where such use is unauthorized by the partnership agreement;

(8) "Owner" means a person, other than the actor, who has possession of or any other interest in the property or services involved, and without whose consent the actor has no authority to exert control over the property or services;

(9) "Receive" includes, but is not limited to, acquiring title, possession, control, or a security interest, or any other interest in the property;

(10) "Services" includes, but is not limited to, labor, professional services, transportation services, electronic computer services, the supplying of hotel accommodations, restaurant services, entertainment, the supplying of equipment for use, and the supplying of commodities of a public utility nature such as gas, electricity, steam, and water;

(11) "Stolen" means obtained by theft, robbery, or extortion;

(12) "Subscription television service" means cable or encrypted video and related audio and data services intended for viewing on a home television by authorized members of the public only, who have agreed to pay a fee for the service. Subscription services include but are not limited to those video services presently delivered by coaxial cable, fiber optic cable, terrestrial microwave, television broadcast, and satellite transmission;

(13) "Telecommunication device" means (a) any type of instrument, device, machine, or equipment that is capable of transmitting or receiving telephonic or electronic communications; or (b) any part of such an instrument, device, machine, or equipment, or any computer circuit, computer chip, electronic mechanism, or other component, that is capable of facilitating the transmission or reception of telephonic or electronic communications;

(14) "Telecommunication service" includes any service other than subscription television service provided for a charge or compensation to facilitate the transmission, transfer, or reception of a telephonic communication or an electronic communication;

(15) Value. (a) "Value" means the market value of the property or services at the time and in the approximate area of the criminal act.

(b) Whether or not they have been issued or delivered, written instruments, except those having a readily ascertained market value, shall be evaluated as follows:

(i) The value of an instrument constituting an evidence of debt, such as a check, draft, or promissory note, shall be deemed the amount due or collectible thereon or thereby, that figure ordinarily being the face amount of the indebtedness less any portion thereof which has been satisfied;

(ii) The value of a ticket or equivalent instrument which evidences a right to receive transportation, entertainment, or

other service shall be deemed the price stated thereon, if any; and if no price is stated thereon, the value shall be deemed the price of such ticket or equivalent instrument which the issuer charged the general public;

(iii) The value of any other instrument that creates, releases, discharges, or otherwise affects any valuable legal right, privilege, or obligation shall be deemed the greatest amount of economic loss which the owner of the instrument might reasonably suffer by virtue of the loss of the instrument.

(c) Whenever any series of transactions which constitute theft, would, when considered separately, constitute theft in the third degree because of value, and said series of transactions are a part of a common scheme or plan, then the transactions may be aggregated in one count and the sum of the value of all said transactions shall be the value considered in determining the degree of theft involved.

(d) Whenever any person is charged with possessing stolen property and such person has unlawfully in his possession at the same time the stolen property of more than one person, then the stolen property possessed may be aggregated in one count and the sum of the value of all said stolen property shall be the value considered in determining the degree of theft involved.

(e) Property or services having value that cannot be ascertained pursuant to the standards set forth above shall be deemed to be of a value not exceeding two hundred and fifty dollars;

(16) "Shopping cart" means a basket mounted on wheels or similar container generally used in a retail establishment by a customer for the purpose of transporting goods of any kind;

(17) "Parking area" means a parking lot or other property provided by retailers for use by a customer for parking an automobile or other vehicle. [1995 c 92 § 1; 1987 c 140 § 1; 1986 c 257 § 2; 1985 c 382 § 1; 1984 c 273 § 6; 1975-'76 2nd ex.s. c 38 § 8; 1975 1st ex.s. c 260 § 9A.56.010.]

**Severability—1986 c 257:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1986 c 257 § 37.]

**Severability—1985 c 382:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1985 c 382 § 3.]

**Effective date—Severability—1975-'76 2nd ex.s. c 38:** See notes following RCW 9A.08.020.

**9A.56.030 Theft in the first degree—Other than firearm.** (1) A person is guilty of theft in the first degree if he or she commits theft of:

(a) Property or services which exceed(s) one thousand five hundred dollars in value other than a firearm as defined in RCW 9.41.010; or

(b) Property of any value other than a firearm as defined in RCW 9.41.010 taken from the person of another.

(2) Theft in the first degree is a class B felony. [1995 c 129 § 11 (Initiative Measure No. 159); 1975 1st ex.s. c 260 § 9A.56.030.]

**Findings and intent—Short title—Severability—Captions not law—1995 c 129 (Initiative Measure No. 159):** See notes following RCW 9.94A.310.

*Civil action for shoplifting by adults, minors: RCW 4.24.230.*

**9A.56.040 Theft in the second degree—Other than firearm.** (1) A person is guilty of theft in the second degree if he or she commits theft of:

(a) Property or services which exceed(s) two hundred and fifty dollars in value other than a firearm as defined in RCW 9.41.010, but does not exceed one thousand five hundred dollars in value; or

(b) A public record, writing, or instrument kept, filed, or deposited according to law with or in the keeping of any public office or public servant; or

(c) An access device; or

(d) A motor vehicle, of a value less than one thousand five hundred dollars.

(2) Theft in the second degree is a class C felony. [1995 c 129 § 12 (Initiative Measure No. 159); 1994 sp.s. c 7 § 433; 1987 c 140 § 2; 1982 1st ex.s. c 47 § 15; 1975 1st ex.s. c 260 § 9A.56.040.]

**Findings and intent—Short title—Severability—Captions not law—1995 c 129 (Initiative Measure No. 159):** See notes following RCW 9.94A.310.

**Finding—Intent—Severability—1994 sp.s. c 7:** See notes following RCW 43.70.540.

**Effective date—1994 sp.s. c 7 §§ 401-410, 413-416, 418-437, and 439-460:** See note following RCW 9.41.010.

**Severability—1982 1st ex.s. c 47:** See note following RCW 9.41.190.

*Civil action for shoplifting by adults, minors: RCW 4.24.230.*

**9A.56.150 Possessing stolen property in the first degree—Other than firearm.** (1) A person is guilty of possessing stolen property in the first degree if he or she possesses stolen property other than a firearm as defined in RCW 9.41.010 which exceeds one thousand five hundred dollars in value.

(2) Possessing stolen property in the first degree is a class B felony. [1995 c 129 § 14 (Initiative Measure No. 159); 1975 1st ex.s. c 260 § 9A.56.150.]

**Findings and intent—Short title—Severability—Captions not law—1995 c 129 (Initiative Measure No. 159):** See notes following RCW 9.94A.310.

**9A.56.160 Possessing stolen property in the second degree—Other than firearm.** (1) A person is guilty of possessing stolen property in the second degree if:

(a) He or she possesses stolen property other than a firearm as defined in RCW 9.41.010 which exceeds two hundred fifty dollars in value but does not exceed one thousand five hundred dollars in value; or

(b) He or she possesses a stolen public record, writing or instrument kept, filed, or deposited according to law; or

(c) He or she possesses a stolen access device; or

(d) He or she possesses a stolen motor vehicle of a value less than one thousand five hundred dollars.

(2) Possessing stolen property in the second degree is a class C felony. [1995 c 129 § 15 (Initiative Measure No. 159); 1994 sp.s. c 7 § 434; 1987 c 140 § 4; 1975 1st ex.s. c 260 § 9A.56.160.]

**Findings and intent—Short title—Severability—Captions not law—1995 c 129 (Initiative Measure No. 159):** See notes following RCW 9.94A.310.



**Finding—Intent—Severability—1994 sp.s. c 7:** See notes following RCW 43.70.540.

**Effective date—1994 sp.s. c 7 §§ 401-410, 413-416, 418-437, and 439-460:** See note following RCW 9.41.010.

**9A.56.220 Theft of subscription television services.**

(1) A person is guilty of theft of subscription television services if, with intent to avoid payment of the lawful charge of a subscription television service, he or she:

(a) Obtains or attempts to obtain subscription television service from a subscription television service company by trick, artifice, deception, use of a device or decoder, or other fraudulent means without authority from the company providing the service;

(b) Assists or instructs a person in obtaining or attempting to obtain subscription television service without authority of the company providing the service;

(c) Makes or maintains a connection or connections, whether physical, electrical, mechanical, acoustical, or by other means, with cables, wires, components, or other devices used for the distribution of subscription television services without authority from the company providing the services;

(d) Makes or maintains a modification or alteration to a device installed with the authorization of a subscription television service company for the purpose of interception or receiving a program or other service carried by the company that the person is not authorized by the company to receive; or

(e) Possesses without authority a device designed in whole or in part to receive subscription television services offered for sale by the subscription television service company, regardless of whether the program or services are encoded, filtered, scrambled, or otherwise made unintelligible, or to perform or facilitate the performance of any other acts set out in (a) through (d) of this subsection for the reception of subscription television services without authority.

(2) Theft of subscription television services is a gross misdemeanor. [1995 c 92 § 2; 1989 c 11 § 1; 1985 c 430 § 1.]

**Severability—1989 c 11:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1989 c 11 § 33.]

**Severability—1985 c 430:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1985 c 430 § 7.]

**9A.56.230 Unlawful sale of subscription television services.** (1) A person is guilty of unlawful sale of subscription television services if, with intent to avoid payment or to facilitate the avoidance of payment of the lawful charge for any subscription television service, he or she, without authorization from the subscription television service company:

(a) Publishes or advertises for sale a plan for a device that is designed in whole or in part to receive subscription television or services offered for sale by the subscription television service company, regardless of whether the programming or services are encoded, filtered, scrambled, or otherwise made unintelligible;

(b) Advertises for sale or lease a device or kit for a device designed in whole or in part to receive subscription television services offered for sale by the subscription television service company, regardless of whether the programming or services are encoded, filtered, scrambled, or otherwise made unintelligible; or

(c) Manufactures, imports into the state of Washington, distributes, sells, leases, or offers for sale or lease a device, plan, or kit for a device designed in whole or in part to receive subscription television services offered for sale by the subscription television service company, regardless of whether the programming or services are encoded, filtered, scrambled, or otherwise made unintelligible.

(2) Unlawful sale of subscription television services is a class C felony. [1995 c 92 § 3; 1985 c 430 § 2.]

**Severability—1985 c 430:** See note following RCW 9A.56.220.

**9A.56.250 Civil cause of action.** (1) In addition to the criminal penalties provided in RCW 9A.56.220 and 9A.56.230, there is created a civil cause of action for theft of subscription television services and for unlawful sale of subscription television services.

(2) A person who sustains injury to his or her person, business, or property by an act described in RCW 9A.56.220 or 9A.56.230 may file an action in superior court for recovery of damages and the costs of the suit, including reasonable investigative and attorneys' fees and costs.

(3) Upon finding a violation of RCW 9A.56.220 or 9A.56.230, in addition to the remedies described in this section, the court may impose a civil penalty not exceeding twenty-five thousand dollars.

(4) The superior court may grant temporary and final injunctions on such terms as it deems reasonable to prevent or restrain violations of RCW 9A.56.220 and 9A.56.230. [1995 c 92 § 4; 1985 c 430 § 4.]

**Severability—1985 c 430:** See note following RCW 9A.56.220.

**9A.56.262 Theft of telecommunication services.** (1) A person is guilty of theft of telecommunication services if he or she knowingly and with intent to avoid payment:

(a) Uses a telecommunication device to obtain telecommunication services without having entered into a prior agreement with a telecommunication service provider to pay for the telecommunication services; or

(b) Possesses a telecommunication device.

(2) Theft of telecommunication services is a class C felony. [1995 c 92 § 6.]

**9A.56.264 Unlawful manufacture of telecommunication device.** (1) A person is guilty of unlawful manufacture of a telecommunication device if he or she knowingly and with intent to avoid payment or to facilitate avoidance of payment:

(a) Manufactures, produces, or assembles a telecommunication device;

(b) Modifies, alters, programs, or reprograms a telecommunication device to be capable of acquiring or of facilitating the acquisition of telecommunication service without the consent of the telecommunication service provider; or

(c) Writes, creates, or modifies a computer program that he or she knows is thereby capable of being used to manufacture a telecommunication device.

(2) Unlawful manufacture of a telecommunication device is a class C felony. [1995 c 92 § 7.]

**9A.56.266 Unlawful sale of telecommunication device.** (1) A person is guilty of unlawful sale of a telecommunication device if he or she sells, leases, exchanges, or offers to sell, lease, or exchange:

(a) A telecommunication device, knowing that the purchaser, lessee, or recipient, or a third person, intends to use the device to avoid payment or to facilitate avoidance of payment for telecommunication services; or

(b) Any material, including data, computer software, or other information and equipment, knowing that the purchaser, lessee, or recipient, or a third person, intends to use the material to avoid payment or to facilitate avoidance of payment for telecommunication services.

(2) Unlawful sale of a telecommunication device is a class C felony. [1995 c 92 § 8.]

**9A.56.268 Civil cause of action.** (1) In addition to the criminal penalties provided in RCW 9A.56.262 through 9A.56.266, there is created a civil cause of action for theft of telecommunication services, for unlawful manufacture of a telecommunication device, and for unlawful sale of a telecommunication device.

(2) A person who sustains injury to his or her person, business, or property by an act described in RCW 9A.56.262, 9A.56.264, or 9A.56.266 may file an action in superior court for recovery of damages and the costs of the suit, including reasonable investigative and attorneys' fees and costs.

(3) Upon finding a violation of 9A.56.262, 9A.56.264, or 9A.56.266, in addition to the remedies described in this section, the court may impose a civil penalty not exceeding twenty-five thousand dollars.

(4) The superior court may grant temporary and final injunctions on such terms as it deems reasonable to prevent or restrain violations of RCW 9A.56.262 through 9A.56.266. [1995 c 92 § 9.]

**9A.56.300 Theft of a firearm.** (1) A person is guilty of theft of a firearm if he or she commits a theft of any firearm.

(2) This section applies regardless of the value of the firearm taken in the theft.

(3) Each firearm taken in the theft under this section is a separate offense.

(4) The definition of "theft" and the defense allowed against the prosecution for theft under RCW 9A.56.020 shall apply to the crime of theft of a firearm.

(5) As used in this section, "firearm" means any firearm as defined in RCW 9.41.010.

(6) Theft of a firearm is a class B felony. [1995 c 129 § 10 (Initiative Measure No. 159); 1994 sp.s. c 7 § 432.]

**Findings and intent—Short title—Severability—Captions not law—1995 c 129 (Initiative Measure No. 159):** See notes following RCW 9.94A.310.

**Finding—Intent—Severability—1994 sp.s. c 7:** See notes following RCW 43.70.540.

**Effective date—1994 sp.s. c 7 §§ 401-410, 413-416, 418-437, and 439-460:** See note following RCW 9.41.010.

**9A.56.310 Possessing a stolen firearm.** (1) A person is guilty of possessing a stolen firearm if he or she possesses, carries, delivers, sells, or is in control of a stolen firearm.

(2) This section applies regardless of the stolen firearm's value.

(3) Each stolen firearm possessed under this section is a separate offense.

(4) The definition of "possessing stolen property" and the defense allowed against the prosecution for possessing stolen property under RCW 9A.56.140 shall apply to the crime of possessing a stolen firearm.

(5) As used in this section, "firearm" means any firearm as defined in RCW 9.41.010.

(6) Possessing a stolen firearm is a class B felony. [1995 c 129 § 13 (Initiative Measure No. 159).]

**Findings and intent—Short title—Severability—Captions not law—1995 c 129 (Initiative Measure No. 159):** See notes following RCW 9.94A.310.

## Chapter 9A.68

### BRIBERY AND CORRUPT INFLUENCE

#### Sections

9A.68.060 Definitions—Commercial bribery.

#### 9A.68.060 Definitions—Commercial bribery.

(1) For purposes of this section:

(a) "Claimant" means a person who has or is believed by an actor to have an insurance claim.

(b) "Service provider" means a person who directly or indirectly provides, advertises, or otherwise claims to provide services.

(c) "Services" means health care services, motor vehicle body or other motor vehicle repair, and preparing, processing, presenting, or negotiating an insurance claim.

(d) "Trusted person" means:

(i) An agent, employee, or partner of another;

(ii) An administrator, executor, conservator, guardian, receiver, or trustee of a person or an estate, or any other person acting in a fiduciary capacity;

(iii) An accountant, appraiser, attorney, physician, or other professional adviser;

(iv) An officer or director of a corporation, or any other person who participates in the affairs of a corporation, partnership, or unincorporated association; or

(v) An arbitrator, mediator, or other purportedly disinterested adjudicator or referee.

(2) A person is guilty of commercial bribery if:

(a) He or she offers, confers, or agrees to confer a pecuniary benefit directly or indirectly upon a trusted person under a request, agreement, or understanding that the trusted person will violate a duty of fidelity or trust arising from his or her position as a trusted person;

(b) Being a trusted person, he or she requests, accepts, or agrees to accept a pecuniary benefit for himself, herself, or another under a request, agreement, or understanding that

he or she will violate a duty of fidelity or trust arising from his or her position as a trusted person; or

(c) Being an employee or agent of an insurer, he or she requests, accepts, or agrees to accept a pecuniary benefit for himself or herself, or a person other than the insurer, under a request, agreement, or understanding that he or she will or a threat that he or she will not refer or induce claimants to have services performed by a service provider.

(3) It is not a defense to a prosecution under this section that the person sought to be influenced was not qualified to act in the desired way, whether because the person had not yet assumed his or her position, lacked authority, or for any other reason.

(4) Commercial bribery is a class B felony. [1995 c 285 § 29.]

**Effective date—1995 c 285:** See RCW 48.30A.900.

### Chapter 9A.72

## PERJURY AND INTERFERENCE WITH OFFICIAL PROCEEDINGS

### Sections

9A.72.010 Definitions.

9A.72.030 Perjury in the second degree.

**9A.72.010 Definitions.** The following definitions are applicable in this chapter unless the context otherwise requires:

(1) "Materially false statement" means any false statement oral or written, regardless of its admissibility under the rules of evidence, which could have affected the course or outcome of the proceeding; whether a false statement is material shall be determined by the court as a matter of law;

(2) "Oath" includes an affirmation and every other mode authorized by law of attesting to the truth of that which is stated; in this chapter, written statements shall be treated as if made under oath if:

(a) The statement was made on or pursuant to instructions on an official form bearing notice, authorized by law, to the effect that false statements made therein are punishable;

(b) The statement recites that it was made under oath, the declarant was aware of such recitation at the time he or she made the statement, intended that the statement should be represented as a sworn statement, and the statement was in fact so represented by its delivery or utterance with the signed jurat of an officer authorized to administer oaths appended thereto; or

(c) It is a statement, declaration, verification, or certificate, made within or outside the state of Washington, which is certified or declared to be true under penalty of perjury as provided in RCW 9A.72.085.

(3) An oath is "required or authorized by law" when the use of the oath is specifically provided for by statute or regulatory provision or when the oath is administered by a person authorized by state or federal law to administer oaths;

(4) "Official proceeding" means a proceeding heard before any legislative, judicial, administrative, or other government agency or official authorized to hear evidence under oath, including any referee, hearing examiner, com-

missioner, notary, or other person taking testimony or depositions;

(5) "Juror" means any person who is a member of any jury, including a grand jury, impaneled by any court of this state or by any public servant authorized by law to impanel a jury; the term juror also includes any person who has been drawn or summoned to attend as a prospective juror;

(6) "Testimony" includes oral or written statements, documents, or any other material that may be offered by a witness in an official proceeding. [1995 c 285 § 30; 1981 c 187 § 1; 1975 1st ex.s. c 260 § 9A.72.010.]

**Effective date—1995 c 285:** See RCW 48.30A.900.

**9A.72.030 Perjury in the second degree.** (1) A person is guilty of perjury in the second degree if, in an examination under oath under the terms of a contract of insurance, or with intent to mislead a public servant in the performance of his or her duty, he or she makes a materially false statement, which he or she knows to be false under an oath required or authorized by law.

(2) Perjury in the second degree is a class C felony. [1995 c 285 § 31; 1975 1st ex.s. c 260 § 9A.72.030.]

**Effective date—1995 c 285:** See RCW 48.30A.900.

### Chapter 9A.76

## OBSTRUCTING GOVERNMENTAL OPERATION

### Sections

9A.76.020 Obstructing a law enforcement officer.

9A.76.120 Escape in the second degree.

9A.76.175 Making a false or misleading statement to a public servant.

### 9A.76.020 Obstructing a law enforcement officer.

(1) A person is guilty of obstructing a law enforcement officer if the person willfully hinders, delays, or obstructs any law enforcement officer in the discharge of his or her official powers or duties.

(2) "Law enforcement officer" means any general authority, limited authority, or specially commissioned Washington peace officer or federal peace officer as those terms are defined in RCW 10.93.020, and other public officers who are responsible for enforcement of fire, building, zoning, and life and safety codes.

(3) Obstructing a law enforcement officer is a gross misdemeanor. [1995 c 285 § 33; 1994 c 196 § 1; 1975 1st ex.s. c 260 § 9A.76.020.]

**Effective date—1995 c 285:** See RCW 48.30A.900.

**9A.76.120 Escape in the second degree.** (1) A person is guilty of escape in the second degree if:

(a) He or she escapes from a detention facility;

(b) Having been charged with a felony or an equivalent juvenile offense, he or she escapes from custody; or

(c) Having been found to be a sexually violent predator and being under an order of conditional release, he or she leaves the state of Washington without prior court authorization.

(2) Escape in the second degree is a class C felony. [1995 c 216 § 15; 1982 1st ex.s. c 47 § 24; 1975 1st ex.s. c 260 § 9A.76.120.]

**Severability—1982 1st ex.s. c 47:** See note following RCW 9.41.190.

*Term of escaped prisoner recaptured:* RCW 9.31.090.

**9A.76.175 Making a false or misleading statement to a public servant.** A person who knowingly makes a false or misleading material statement to a public servant is guilty of a gross misdemeanor. "Material statement" means a written or oral statement reasonably likely to be relied upon by a public servant in the discharge of his or her official powers or duties. [1995 c 285 § 32.]

**Effective date—1995 c 285:** See RCW 48.30A.900.

## Chapter 9A.82

### CRIMINAL PROFITEERING ACT

(Formerly: Racketeering)

#### Sections

9A.82.010 Definitions.

9A.82.903 Repealed.

**9A.82.010 Definitions.** Unless the context requires the contrary, the definitions in this section apply throughout this chapter.

(1) "Creditor" means a person making an extension of credit or a person claiming by, under, or through a person making an extension of credit.

(2) "Debtor" means a person to whom an extension of credit is made or a person who guarantees the repayment of an extension of credit or in any manner undertakes to indemnify the creditor against loss resulting from the failure of a person to whom an extension is made to repay the same.

(3) "Extortionate extension of credit" means an extension of credit with respect to which it is the understanding of the creditor and the debtor at the time the extension is made that delay in making repayment or failure to make repayment could result in the use of violence or other criminal means to cause harm to the person, reputation, or property of any person.

(4) "Extortionate means" means the use, or an express or implicit threat of use, of violence or other criminal means to cause harm to the person, reputation, or property of any person.

(5) "To collect an extension of credit" means to induce in any way a person to make repayment thereof.

(6) "To extend credit" means to make or renew a loan or to enter into an agreement, tacit or express, whereby the repayment or satisfaction of a debt or claim, whether acknowledged or disputed, valid or invalid, and however arising, may or shall be deferred.

(7) "Repayment of an extension of credit" means the repayment, satisfaction, or discharge in whole or in part of a debt or claim, acknowledged or disputed, valid or invalid, resulting from or in connection with that extension of credit.

(8) "Dealer in property" means a person who buys and sells property as a business.

(9) "Stolen property" means property that has been obtained by theft, robbery, or extortion.

(10) "Traffic" means to sell, transfer, distribute, dispense, or otherwise dispose of stolen property to another

person, or to buy, receive, possess, or obtain control of stolen property, with intent to sell, transfer, distribute, dispense, or otherwise dispose of the property to another person.

(11) "Control" means the possession of a sufficient interest to permit substantial direction over the affairs of an enterprise.

(12) "Enterprise" includes any individual, sole proprietorship, partnership, corporation, business trust, or other profit or nonprofit legal entity, and includes any union, association, or group of individuals associated in fact although not a legal entity, and both illicit and licit enterprises and governmental and nongovernmental entities.

(13) "Financial institution" means any bank, trust company, savings and loan association, savings bank, mutual savings bank, credit union, or loan company under the jurisdiction of the state or an agency of the United States.

(14) "Criminal profiteering" means any act, including any anticipatory or completed offense, committed for financial gain, that is chargeable or indictable under the laws of the state in which the act occurred and, if the act occurred in a state other than this state, would be chargeable or indictable under the laws of this state had the act occurred in this state and punishable as a felony and by imprisonment for more than one year, regardless of whether the act is charged or indicted, as any of the following:

(a) Murder, as defined in RCW 9A.32.030 and 9A.32.050;

(b) Robbery, as defined in RCW 9A.56.200 and 9A.56.210;

(c) Kidnapping, as defined in RCW 9A.40.020 and 9A.40.030;

(d) Forgery, as defined in RCW 9A.60.020 and 9A.60.030;

(e) Theft, as defined in RCW 9A.56.030, 9A.56.040, 9A.56.060, and 9A.56.080;

(f) Unlawful sale of subscription television services, as defined in RCW 9A.56.230;

(g) Theft of telecommunication services or unlawful manufacture of a telecommunication device, as defined in RCW 9A.56.262 and 9A.56.264;

(h) Child selling or child buying, as defined in RCW 9A.64.030;

(i) Bribery, as defined in RCW 9A.68.010, 9A.68.020, 9A.68.040, and 9A.68.050;

(j) Gambling, as defined in RCW 9.46.220 and 9.46.215 and 9.46.217;

(k) Extortion, as defined in RCW 9A.56.120 and 9A.56.130;

(l) Extortionate extension of credit, as defined in RCW 9A.82.020;

(m) Advancing money for use in an extortionate extension of credit, as defined in RCW 9A.82.030;

(n) Collection of an extortionate extension of credit, as defined in RCW 9A.82.040;

(o) Collection of an unlawful debt, as defined in RCW 9A.82.045;

(p) Delivery or manufacture of controlled substances or possession with intent to deliver or manufacture controlled substances under chapter 69.50 RCW;

(q) Trafficking in stolen property, as defined in RCW 9A.82.050;

(r) Leading organized crime, as defined in RCW 9A.82.060;

(s) Money laundering, as defined in RCW 9A.83.020;

(t) Obstructing criminal investigations or prosecutions in violation of RCW 9A.72.090, 9A.72.100, 9A.72.110, 9A.72.120, 9A.72.130, 9A.76.070, or 9A.76.180;

(u) Fraud in the purchase or sale of securities, as defined in RCW 21.20.010;

(v) Promoting pornography, as defined in RCW 9.68.140;

(w) Sexual exploitation of children, as defined in RCW 9.68A.040, 9.68A.050, and 9.68A.060;

(x) Promoting prostitution, as defined in RCW 9A.88.070 and 9A.88.080;

(y) Arson, as defined in RCW 9A.48.020 and 9A.48.030;

(z) Assault, as defined in RCW 9A.36.011 and 9A.36.021;

(aa) Assault of a child, as defined in RCW 9A.36.120 and 9A.36.130;

(bb) A pattern of equity skimming, as defined in RCW 61.34.020;

(cc) Commercial telephone solicitation in violation of RCW 19.158.040(1);

(dd) Trafficking in insurance claims, as defined in RCW 48.30A.015;

(ee) Unlawful practice of law, as defined in RCW 2.48.180;

(ff) Commercial bribery, as defined in RCW 9A.68.060;

(gg) Health care false claims, as defined in RCW 48.80.030; or

(hh) Unlicensed practice of a profession or business, as defined in RCW 18.130.190(7).

(15) "Pattern of criminal profiteering activity" means engaging in at least three acts of criminal profiteering, one of which occurred after July 1, 1985, and the last of which occurred within five years, excluding any period of imprisonment, after the commission of the earliest act of criminal profiteering. In order to constitute a pattern, the three acts must have the same or similar intent, results, accomplices, principals, victims, or methods of commission, or be otherwise interrelated by distinguishing characteristics including a nexus to the same enterprise, and must not be isolated events. However, in any civil proceedings brought pursuant to RCW 9A.82.100 by any person other than the attorney general or county prosecuting attorney in which one or more acts of fraud in the purchase or sale of securities are asserted as acts of criminal profiteering activity, it is a condition to civil liability under RCW 9A.82.100 that the defendant has been convicted in a criminal proceeding of fraud in the purchase or sale of securities under RCW 21.20.400 or under the laws of another state or of the United States requiring the same elements of proof, but such conviction need not relate to any act or acts asserted as acts of criminal profiteering activity in such civil action under RCW 9A.82.100.

(16) "Records" means any book, paper, writing, record, computer program, or other material.

(17) "Documentary material" means any book, paper, document, writing, drawing, graph, chart, photograph, phonograph record, magnetic tape, computer printout, other

data compilation from which information can be obtained or from which information can be translated into usable form, or other tangible item.

(18) "Unlawful debt" means any money or other thing of value constituting principal or interest of a debt that is legally unenforceable in the state in full or in part because the debt was incurred or contracted:

(a) In violation of any one of the following:

(i) Chapter 67.16 RCW relating to horse racing;

(ii) Chapter 9.46 RCW relating to gambling;

(b) In a gambling activity in violation of federal law; or

(c) In connection with the business of lending money or a thing of value at a rate that is at least twice the permitted rate under the applicable state or federal law relating to usury.

(19)(a) "Beneficial interest" means:

(i) The interest of a person as a beneficiary under a trust established under Title 11 RCW in which the trustee for the trust holds legal or record title to real property;

(ii) The interest of a person as a beneficiary under any other trust arrangement under which a trustee holds legal or record title to real property for the benefit of the beneficiary; or

(iii) The interest of a person under any other form of express fiduciary arrangement under which one person holds legal or record title to real property for the benefit of the other person.

(b) "Beneficial interest" does not include the interest of a stockholder in a corporation or the interest of a partner in a general partnership or limited partnership.

(c) A beneficial interest shall be considered to be located where the real property owned by the trustee is located.

(20) "Real property" means any real property or interest in real property, including but not limited to a land sale contract, lease, or mortgage of real property.

(21)(a) "Trustee" means:

(i) A person acting as a trustee under a trust established under Title 11 RCW in which the trustee holds legal or record title to real property;

(ii) A person who holds legal or record title to real property in which another person has a beneficial interest; or

(iii) A successor trustee to a person who is a trustee under subsection (21)(a) (i) or (ii) of this section.

(b) "Trustee" does not mean a person appointed or acting as:

(i) A personal representative under Title 11 RCW;

(ii) A trustee of any testamentary trust;

(iii) A trustee of any indenture of trust under which a bond is issued; or

(iv) A trustee under a deed of trust. [1995 c 285 § 34; 1995 c 92 § 5; 1994 c 218 § 17. Prior: 1992 c 210 § 6; 1992 c 145 § 13; 1989 c 20 § 17; 1988 c 33 § 5; 1986 c 78 § 1; 1985 c 455 § 2; 1984 c 270 § 1.]

**Reviser's note:** This section was amended by 1995 c 92 § 5 and by 1995 c 285 § 34, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Effective date—1995 c 285:** See RCW 48.30A.900.

**Effective date—1994 c 218:** See note following RCW 9.46.010.

**Severability—Effective date—1989 c 20:** See RCW 19.158.900 and 19.158.901.

Effective date—1988 c 33 § 5: "Section 5 of this act shall take effect July 1, 1988." [1988 c 33 § 8.]

Severability—1988 c 33: See RCW 61.34.900.

9A.82.903 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 9A.88

INDECENT EXPOSURE—PROSTITUTION

(Formerly: Public indecency—Prostitution)

Sections

9A.88.120 Additional fee assessments.

9A.88.120 Additional fee assessments. (1)(a) In addition to penalties set forth in RCW 9A.88.010, 9A.88.030, and 9A.88.090, a person who is either convicted or given a deferred sentence or a deferred prosecution as a result of an arrest for violating RCW 9A.88.010, 9A.88.030, 9A.88.090, or comparable county or municipal ordinances shall be assessed a fifty dollar fee.

(b) In addition to penalties set forth in RCW 9A.88.110, a person who is either convicted or given a deferred sentence or a deferred prosecution as a result of an arrest for violating RCW 9A.88.110 or a comparable county or municipal ordinance shall be assessed a one hundred fifty dollar fee.

(c) In addition to penalties set forth in RCW 9A.88.070 and 9A.88.080, a person who is either convicted or given a deferred sentence or a deferred prosecution as a result of an arrest for violating RCW 9A.88.070, 9A.88.080, or comparable county or municipal ordinances shall be assessed a three hundred dollar fee.

(2) The court may not suspend payment of all or part of the fee unless it finds that the person does not have the ability to pay.

(3) When a minor has been adjudicated a juvenile offender for an offense which, if committed by an adult, would constitute a violation under this chapter or comparable county or municipal ordinances, the court shall assess the fee as specified under subsection (1) of this section. The court may not suspend payment of all or part of the fee unless it finds that the minor does not have the ability to pay the fee.

(4) Any fee assessed under this section shall be collected by the clerk of the court and distributed each month to the state treasurer for deposit in the prostitution prevention and intervention account under RCW 43.63A.740 for the purpose of funding prostitution prevention and intervention activities. [1995 c 353 § 13.]

Title 10

CRIMINAL PROCEDURE

Chapters

- 10.01 General provisions.
10.14 Harassment.
10.31 Warrants and arrests.
10.64 Judgments and sentences.
10.73 Criminal appeals.
10.82 Collection and disposition of fines and costs.

10.95 Capital punishment—Aggravated first degree murder.

10.99 Domestic violence—Official response.

Chapter 10.01

GENERAL PROVISIONS

Sections

10.01.160 Costs—What constitutes—Payment by defendant—Procedure—Remission.

10.01.210 Offender notification and warning.

10.01.160 Costs—What constitutes—Payment by defendant—Procedure—Remission. (1) The court may require a defendant to pay costs. Costs may be imposed only upon a convicted defendant, except for costs imposed upon a defendant's entry into a deferred prosecution program or costs imposed upon a defendant for preparing and serving a warrant for failure to appear.

(2) Costs shall be limited to expenses specially incurred by the state in prosecuting the defendant or in administering the deferred prosecution program under chapter 10.05 RCW. They cannot include expenses inherent in providing a constitutionally guaranteed jury trial or expenditures in connection with the maintenance and operation of government agencies that must be made by the public irrespective of specific violations of law. Expenses incurred for serving of warrants for failure to appear and jury fees under RCW 10.46.190 may be included in costs the court may require a defendant to pay. Costs for administering a deferred prosecution may not exceed one hundred fifty dollars. Costs for preparing and serving a warrant for failure to appear may not exceed one hundred dollars. Costs of incarceration imposed on a defendant convicted of a misdemeanor or a gross misdemeanor may not exceed fifty dollars per day of incarceration. Payment of other court-ordered financial obligations, including all legal financial obligations and costs of supervision take precedence over the payment of the cost of incarceration ordered by the court. All funds received from defendants for the cost of incarceration in the county or city jail must be remitted for criminal justice purposes to the county or city that is responsible for the defendant's jail costs. Costs imposed constitute a judgment against a defendant and survive a dismissal of the underlying action against the defendant. However, if the defendant is acquitted on the underlying action, the costs for preparing and serving a warrant for failure to appear do not survive the acquittal, and the judgment that such costs would otherwise constitute shall be vacated.

(3) The court shall not sentence a defendant to pay costs unless the defendant is or will be able to pay them. In determining the amount and method of payment of costs, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of costs will impose.

(4) A defendant who has been sentenced to pay costs and who is not in contumacious default in the payment thereof may at any time petition the sentencing court for remission of the payment of costs or of any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on

the defendant or the defendant's immediate family, the court may remit all or part of the amount due in costs, or modify the method of payment under RCW 10.01.170. [1995 c 221 § 1; 1994 c 192 § 1; 1991 c 247 § 4; 1987 c 363 § 1; 1985 c 389 § 1; 1975-'76 2nd ex.s. c 96 § 1.]

*Commitment for failure to pay fine and costs: RCW 10.70.010, 10.82.030.  
Defendant liable for costs: RCW 10.64.015.*

*Fine and costs—Collection and disposition: Chapter 10.82 RCW.*

**10.01.210 Offender notification and warning.** Any and all law enforcement agencies and personnel, criminal justice attorneys, sentencing judges, and state and local correctional facilities and personnel may, but are not required to, give any and all offenders either written or oral notice, or both, of the sanctions imposed and criminal justice changes regarding armed offenders, including but not limited to the subjects of:

(1) Felony crimes involving any deadly weapon special verdict under RCW 9.94A.125;

(2) Any and all deadly weapon enhancements under RCW 9.94A.310 (3) or (4), or both, as well as any federal firearm, ammunition, or other deadly weapon enhancements;

(3) Any and all felony crimes requiring the possession, display, or use of any deadly weapon as well as the many increased penalties for these crimes including the creation of theft of a firearm and possessing a stolen firearm;

(4) New prosecuting standards established for filing charges for all crimes involving any deadly weapons;

(5) Removal of good time for any and all deadly weapon enhancements; and

(6) Providing the death penalty for those who commit first degree murder: (a) To join, maintain, or advance membership in an identifiable group; (b) as part of a drive-by shooting; or (c) to avoid prosecution as a persistent offender as defined in RCW 9.94A.030. [1995 c 129 § 18 (Initiative Measure No. 159).]

**Findings and intent—Short title—Severability—Captions not law—1995 c 129 (Initiative Measure No. 159):** See notes following RCW 9.94A.310.

## Chapter 10.14 HARASSMENT

### Sections

10.14.020	Definitions.
10.14.040	Protection order—Petition.
10.14.080	Antiharassment protection orders—Ex parte temporary—Hearing—Longer term, renewal.
10.14.200	Availability of orders in proceedings under chapter 26.09, 26.10, or 26.26 RCW.

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

(1) "Unlawful harassment" means a knowing and willful course of conduct directed at a specific person which seriously alarms, annoys, harasses, or is detrimental to such person, and which serves no legitimate or lawful purpose. The course of conduct shall be such as would cause a reasonable person to suffer substantial emotional distress, and shall actually cause substantial emotional distress to the

petitioner, or, when the course of conduct is contact by a person over age eighteen that would cause a reasonable parent to fear for the well-being of their child.

(2) "Course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of "course of conduct." [1995 c 127 § 1; 1987 c 280 § 2.]

**10.14.040 Protection order—Petition.** There shall exist an action known as a petition for an order for protection in cases of unlawful harassment.

(1) A petition for relief shall allege the existence of harassment and shall be accompanied by an affidavit made under oath stating the specific facts and circumstances from which relief is sought.

(2) A petition for relief may be made regardless of whether or not there is a pending lawsuit, complaint, petition, or other action between the parties.

(3) All court clerks' offices shall make available simplified forms and instructional brochures. Any assistance or information provided by clerks under this section does not constitute the practice of law and clerks are not responsible for incorrect information contained in a petition.

(4) Filing fees are set in RCW 36.18.020, but no filing fee may be charged for a petition filed in an existing action or under an existing cause number brought under this chapter in the jurisdiction where the relief is sought. Forms and instructional brochures shall be provided free of charge.

(5) A person is not required to post a bond to obtain relief in any proceeding under this section.

(6) The parent or guardian of a child under age eighteen may petition for an order of protection to restrain a person over age eighteen from contact with that child upon a showing that contact with the person to be enjoined is detrimental to the welfare of the child. [1995 c 292 § 2; 1995 c 127 § 2; 1987 c 280 § 4.]

**Reviser's note:** This section was amended by 1995 c 127 § 2 and by 1995 c 292 § 2, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**10.14.080 Antiharassment protection orders—Ex parte temporary—Hearing—Longer term, renewal.** (1) Upon filing a petition for a civil antiharassment protection order under this chapter, the petitioner may obtain an ex parte temporary antiharassment protection order. An ex parte temporary antiharassment protection order may be granted with or without notice upon the filing of an affidavit which, to the satisfaction of the court, shows reasonable proof of unlawful harassment of the petitioner by the respondent and that great or irreparable harm will result to the petitioner if the temporary antiharassment protection order is not granted.

(2) An ex parte temporary antiharassment protection order shall be effective for a fixed period not to exceed fourteen days or twenty-four days if the court has permitted service by publication under RCW 10.14.085. The ex parte order may be reissued. A full hearing, as provided in this chapter, shall be set for not later than fourteen days from the issuance of the temporary order or not later than twenty-four days if service by publication is permitted. Except as

provided in RCW 10.14.070 and 10.14.085, the respondent shall be personally served with a copy of the ex parte order along with a copy of the petition and notice of the date set for the hearing.

(3) At the hearing, if the court finds by a preponderance of the evidence that unlawful harassment exists, a civil antiharassment protection order shall issue prohibiting such unlawful harassment.

(4) An order issued under this chapter shall be effective for not more than one year unless the court finds that the respondent is likely to resume unlawful harassment of the petitioner when the order expires. If so, the court may enter an order for a fixed time exceeding one year or may enter a permanent antiharassment protection order. The court shall not enter an order that is effective for more than one year if the order restrains the respondent from contacting the respondent's minor children. This limitation is not applicable to civil antiharassment protection orders issued under chapter 26.09, 26.10, or 26.26 RCW. If the petitioner seeks relief for a period longer than one year on behalf of the respondent's minor children, the court shall advise the petitioner that the petitioner may apply for renewal of the order as provided in this chapter or if appropriate may seek relief pursuant to chapter 26.09 or 26.10 RCW.

(5) At any time within the three months before the expiration of the order, the petitioner may apply for a renewal of the order by filing a petition for renewal. The petition for renewal shall state the reasons why the petitioner seeks to renew the protection order. Upon receipt of the petition for renewal, the court shall order a hearing which shall be not later than fourteen days from the date of the order. Except as provided in RCW 10.14.085, personal service shall be made upon the respondent not less than five days before the hearing. If timely service cannot be made the court shall set a new hearing date and shall either require additional attempts at obtaining personal service or permit service by publication as provided by RCW 10.14.085. If the court permits service by publication, the court shall set the new hearing date not later than twenty-four days from the date of the order. If the order expires because timely service cannot be made the court shall grant an ex parte order of protection as provided in this section. The court shall grant the petition for renewal unless the respondent proves by a preponderance of the evidence that the respondent will not resume harassment of the petitioner when the order expires. The court may renew the protection order for another fixed time period or may enter a permanent order as provided in subsection (4) of this section.

(6) The court, in granting an ex parte temporary antiharassment protection order or a civil antiharassment protection order, shall have broad discretion to grant such relief as the court deems proper, including an order:

- (a) Restraining the respondent from making any attempts to contact the petitioner;
- (b) Restraining the respondent from making any attempts to keep the petitioner under surveillance;
- (c) Requiring the respondent to stay a stated distance from the petitioner's residence and workplace; and
- (d) Considering the provisions of RCW 9.41.800.

(7) A petitioner may not obtain an ex parte temporary antiharassment protection order against a respondent if the petitioner has previously obtained two such ex parte orders

against the same respondent but has failed to obtain the issuance of a civil antiharassment protection order unless good cause for such failure can be shown.

(8) The court order shall specify the date an order issued pursuant to subsections (4) and (5) of this section expires if any. The court order shall also state whether the court issued the protection order following personal service or service by publication and whether the court has approved service by publication of an order issued under this section. [1995 c 246 § 36; 1994 sp.s. c 7 § 448; 1992 c 143 § 11; 1987 c 280 § 8.]

**Severability—1995 c 246:** See note following RCW 26.50.010.

**Finding—Intent—Severability—1994 sp.s. c 7:** See notes following RCW 43.70.540.

**Effective date—1994 sp.s. c 7 §§ 401-410, 413-416, 418-437, and 439-460:** See note following RCW 9.41.010.

**10.14.200 Availability of orders in proceedings under chapter 26.09, 26.10, or 26.26 RCW.** Any order available under this chapter may be issued in actions under chapter 26.09, 26.10, or 26.26 RCW. An order available under this chapter that is issued under those chapters shall be fully enforceable and shall be enforced pursuant to the provisions of this chapter. [1995 c 246 § 35.]

**Severability—1995 c 246:** See note following RCW 26.50.010.

## Chapter 10.31

### WARRANTS AND ARRESTS

#### Sections

- 10.31.100 Arrest without warrant. (*Effective until January 1, 1996.*)
- 10.31.100 Arrest without warrant. (*Effective January 1, 1996.*)

**10.31.100 Arrest without warrant. (*Effective until January 1, 1996.*)** A police officer having probable cause to believe that a person has committed or is committing a felony shall have the authority to arrest the person without a warrant. A police officer may arrest a person without a warrant for committing a misdemeanor or gross misdemeanor only when the offense is committed in the presence of the officer, except as provided in subsections (1) through (10) of this section.

(1) Any police officer having probable cause to believe that a person has committed or is committing a misdemeanor or gross misdemeanor, involving physical harm or threats of harm to any person or property or the unlawful taking of property or involving the use or possession of cannabis, or involving the acquisition, possession, or consumption of alcohol by a person under the age of twenty-one years under RCW 66.44.270 shall have the authority to arrest the person.

(2) A police officer shall arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that:

(a) An order has been issued of which the person has knowledge under RCW 10.99.040(2), 10.99.050, 26.09.050, 26.09.060, 26.10.040, 26.10.115, 26.44.063, chapter 26.26 RCW, or chapter 26.50 RCW restraining the person and the person has violated the terms of the order restraining the person from acts or threats of violence or excluding the person from a residence, workplace, school, or day care or,



in the case of an order issued under RCW 26.44.063, imposing any other restrictions or conditions upon the person; or

(b) The person is sixteen years or older and within the preceding four hours has assaulted a family or household member as defined in RCW 10.99.020 and the officer believes: (i) A felonious assault has occurred; (ii) an assault has occurred which has resulted in bodily injury to the victim, whether the injury is observable by the responding officer or not; or (iii) that any physical action has occurred which was intended to cause another person reasonably to fear imminent serious bodily injury or death. Bodily injury means physical pain, illness, or an impairment of physical condition. When the officer has probable cause to believe that spouses, former spouses, or other persons who reside together or formerly resided together have assaulted each other, the officer is not required to arrest both persons. The officer shall arrest the person whom the officer believes to be the primary physical aggressor. In making this determination, the officer shall make every reasonable effort to consider: (i) The intent to protect victims of domestic violence under RCW 10.99.010; (ii) the comparative extent of injuries inflicted or serious threats creating fear of physical injury; and (iii) the history of domestic violence between the persons involved.

(3) Any police officer having probable cause to believe that a person has committed or is committing a violation of any of the following traffic laws shall have the authority to arrest the person:

(a) RCW 46.52.010, relating to duty on striking an unattended car or other property;

(b) RCW 46.52.020, relating to duty in case of injury to or death of a person or damage to an attended vehicle;

(c) RCW 46.61.500 or 46.61.530, relating to reckless driving or racing of vehicles;

(d) RCW 46.61.502 or 46.61.504, relating to persons under the influence of intoxicating liquor or drugs;

(e) RCW 46.20.342, relating to driving a motor vehicle while operator's license is suspended or revoked;

(f) RCW 46.61.525, relating to operating a motor vehicle in a negligent manner.

(4) A law enforcement officer investigating at the scene of a motor vehicle accident may arrest the driver of a motor vehicle involved in the accident if the officer has probable cause to believe that the driver has committed in connection with the accident a violation of any traffic law or regulation.

(5) Any police officer having probable cause to believe that a person has committed or is committing a violation of RCW 88.12.025 shall have the authority to arrest the person.

(6) An officer may act upon the request of a law enforcement officer in whose presence a traffic infraction was committed, to stop, detain, arrest, or issue a notice of traffic infraction to the driver who is believed to have committed the infraction. The request by the witnessing officer shall give an officer the authority to take appropriate action under the laws of the state of Washington.

(7) Any police officer having probable cause to believe that a person has committed or is committing any act of indecent exposure, as defined in RCW 9A.88.010, may arrest the person.

(8) A police officer may arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that an order has been issued of which the person has knowledge under chapter 10.14 RCW and the person has violated the terms of that order.

(9) Any police officer having probable cause to believe that a person has, within twenty-four hours of the alleged violation, committed a violation of RCW 9A.50.020 may arrest such person.

(10) A police officer having probable cause to believe that a person illegally possesses or illegally has possessed a firearm or other dangerous weapon on private or public elementary or secondary school premises shall have the authority to arrest the person.

For purposes of this subsection, the term "firearm" has the meaning defined in RCW 9.41.010 and the term "dangerous weapon" has the meaning defined in RCW 9.41.250 and 9.41.280(1) (c) through (e).

(11) Except as specifically provided in subsections (2), (3), (4), and (6) of this section, nothing in this section extends or otherwise affects the powers of arrest prescribed in Title 46 RCW.

(12) No police officer may be held criminally or civilly liable for making an arrest pursuant to RCW 10.31.100 (2) or (8) if the police officer acts in good faith and without malice. [1995 c 246 § 20; 1995 c 93 § 1. Prior: 1993 c 209 § 1; 1993 c 128 § 5; 1988 c 190 § 1; prior: 1987 c 280 § 20; 1987 c 277 § 2; 1987 c 154 § 1; 1987 c 66 § 1; prior: 1985 c 303 § 9; 1985 c 267 § 3; 1984 c 263 § 19; 1981 c 106 § 1; 1980 c 148 § 8; 1979 ex.s. c 28 § 1; 1969 ex.s. c 198 § 1.]

**Reviser's note:** This section was amended by 1995 c 93 § 1 and by 1995 c 246 § 20, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Severability—1995 c 246:** See note following RCW 26.50.010.

**Severability—Effective date—1993 c 128:** See RCW 9A.50.901 and 9A.50.902.

**Severability—1987 c 280:** See RCW 10.14.900.

**Effective date—Severability—1984 c 263:** See RCW 26.50.901, 26.50.902.

*Arrest procedure involving traffic violations:* Chapter 46.64 RCW.

*Domestic violence, peace officers—Immunity:* RCW 26.50.140.

*Uniform Controlled Substances Act:* Chapter 69.50 RCW.

**10.31.100 Arrest without warrant. (Effective January 1, 1996.)** A police officer having probable cause to believe that a person has committed or is committing a felony shall have the authority to arrest the person without a warrant. A police officer may arrest a person without a warrant for committing a misdemeanor or gross misdemeanor only when the offense is committed in the presence of the officer, except as provided in subsections (1) through (10) of this section.

(1) Any police officer having probable cause to believe that a person has committed or is committing a misdemeanor or gross misdemeanor, involving physical harm or threats of harm to any person or property or the unlawful taking of property or involving the use or possession of cannabis, or involving the acquisition, possession, or consumption of alcohol by a person under the age of twenty-one years under

RCW 66.44.270, or involving criminal trespass under RCW 9A.52.070 or 9A.52.080, shall have the authority to arrest the person.

(2) A police officer shall arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that:

(a) An order has been issued of which the person has knowledge under RCW 10.99.040(2), 10.99.050, 26.09.050, 26.09.060, 26.10.040, 26.10.115, 26.44.063, chapter 26.26 RCW, or chapter 26.50 RCW restraining the person and the person has violated the terms of the order restraining the person from acts or threats of violence or excluding the person from a residence, workplace, school, or day care or, in the case of an order issued under RCW 26.44.063, imposing any other restrictions or conditions upon the person; or

(b) The person is sixteen years or older and within the preceding four hours has assaulted a family or household member as defined in RCW 10.99.020 and the officer believes: (i) A felonious assault has occurred; (ii) an assault has occurred which has resulted in bodily injury to the victim, whether the injury is observable by the responding officer or not; or (iii) that any physical action has occurred which was intended to cause another person reasonably to fear imminent serious bodily injury or death. Bodily injury means physical pain, illness, or an impairment of physical condition. When the officer has probable cause to believe that spouses, former spouses, or other persons who reside together or formerly resided together have assaulted each other, the officer is not required to arrest both persons. The officer shall arrest the person whom the officer believes to be the primary physical aggressor. In making this determination, the officer shall make every reasonable effort to consider: (i) The intent to protect victims of domestic violence under RCW 10.99.010; (ii) the comparative extent of injuries inflicted or serious threats creating fear of physical injury; and (iii) the history of domestic violence between the persons involved.

(3) Any police officer having probable cause to believe that a person has committed or is committing a violation of any of the following traffic laws shall have the authority to arrest the person:

(a) RCW 46.52.010, relating to duty on striking an unattended car or other property;

(b) RCW 46.52.020, relating to duty in case of injury to or death of a person or damage to an attended vehicle;

(c) RCW 46.61.500 or 46.61.530, relating to reckless driving or racing of vehicles;

(d) RCW 46.61.502 or 46.61.504, relating to persons under the influence of intoxicating liquor or drugs;

(e) RCW 46.20.342, relating to driving a motor vehicle while operator's license is suspended or revoked;

(f) RCW 46.61.525, relating to operating a motor vehicle in a negligent manner.

(4) A law enforcement officer investigating at the scene of a motor vehicle accident may arrest the driver of a motor vehicle involved in the accident if the officer has probable cause to believe that the driver has committed in connection with the accident a violation of any traffic law or regulation.

(5) Any police officer having probable cause to believe that a person has committed or is committing a violation of RCW 88.12.025 shall have the authority to arrest the person.

(6) An officer may act upon the request of a law enforcement officer in whose presence a traffic infraction was committed, to stop, detain, arrest, or issue a notice of traffic infraction to the driver who is believed to have committed the infraction. The request by the witnessing officer shall give an officer the authority to take appropriate action under the laws of the state of Washington.

(7) Any police officer having probable cause to believe that a person has committed or is committing any act of indecent exposure, as defined in RCW 9A.88.010, may arrest the person.

(8) A police officer may arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that an order has been issued of which the person has knowledge under chapter 10.14 RCW and the person has violated the terms of that order.

(9) Any police officer having probable cause to believe that a person has, within twenty-four hours of the alleged violation, committed a violation of RCW 9A.50.020 may arrest such person.

(10) A police officer having probable cause to believe that a person illegally possesses or illegally has possessed a firearm or other dangerous weapon on private or public elementary or secondary school premises shall have the authority to arrest the person.

For purposes of this subsection, the term "firearm" has the meaning defined in RCW 9.41.010 and the term "dangerous weapon" has the meaning defined in RCW 9.41.250 and 9.41.280(1) (c) through (e).

(11) Except as specifically provided in subsections (2), (3), (4), and (6) of this section, nothing in this section extends or otherwise affects the powers of arrest prescribed in Title 46 RCW.

(12) No police officer may be held criminally or civilly liable for making an arrest pursuant to RCW 10.31.100 (2) or (8) if the police officer acts in good faith and without malice. [1995 c 246 § 20; 1995 c 184 § 1; 1995 c 93 § 1. Prior: 1993 c 209 § 1; 1993 c 128 § 5; 1988 c 190 § 1; prior: 1987 c 280 § 20; 1987 c 277 § 2; 1987 c 154 § 1; 1987 c 66 § 1; prior: 1985 c 303 § 9; 1985 c 267 § 3; 1984 c 263 § 19; 1981 c 106 § 1; 1980 c 148 § 8; 1979 ex.s. c 28 § 1; 1969 ex.s. c 198 § 1.]

**Reviser's note:** This section was amended by 1995 c 93 § 1, 1995 c 184 § 1, and by 1995 c 246 § 20, each without reference to the other. All amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Severability—1995 c 246:** See note following RCW 26.50.010.

**Effective date—1995 c 184:** "This act shall take effect January 1, 1996. Prior to that date, law enforcement agencies, prosecuting authorities, and local governments are encouraged to develop and adopt arrest and charging guidelines regarding criminal trespass." [1995 c 184 § 2.]

**Severability—Effective date—1993 c 128:** See RCW 9A.50.901 and 9A.50.902.

**Severability—1987 c 280:** See RCW 10.14.900.

**Effective date—Severability—1984 c 263:** See RCW 26.50.901, 26.50.902.

*Arrest procedure involving traffic violations: Chapter 46.64 RCW.*

*Domestic violence, peace officers—Immunity: RCW 26.50.140.*

*Uniform Controlled Substances Act: Chapter 69.50 RCW.*

**Chapter 10.64**  
**JUDGMENTS AND SENTENCES**

## Sections

10.64.130 Repealed.

**10.64.130 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**Chapter 10.73**  
**CRIMINAL APPEALS**

## Sections

10.73.150 Right to counsel.

10.73.160 Court fees and costs.

**10.73.150 Right to counsel.** Counsel shall be provided at state expense to an adult offender convicted of a crime and to a juvenile offender convicted of an offense when the offender is indigent or indigent and able to contribute as those terms are defined in RCW 10.101.010 and the offender:

- (1) Files an appeal as a matter of right;
- (2) Responds to an appeal filed as a matter of right or responds to a motion for discretionary review or petition for review filed by the state;
- (3) Is under a sentence of death and requests counsel be appointed to file and prosecute a motion or petition for collateral attack as defined in RCW 10.73.090. Counsel may be provided at public expense to file or prosecute a second or subsequent collateral attack on the same judgment and sentence, if the court determines that the collateral attack is not barred by RCW 10.73.090 or 10.73.140;
- (4) Is not under a sentence of death and requests counsel to prosecute a collateral attack after the chief judge has determined that the issues raised by the petition are not frivolous, in accordance with the procedure contained in rules of appellate procedure 16.11. Counsel shall not be provided at public expense to file or prosecute a second or subsequent collateral attack on the same judgment and sentence;
- (5) Responds to a collateral attack filed by the state or responds to or prosecutes an appeal from a collateral attack that was filed by the state;
- (6) Prosecutes a motion or petition for review after the supreme court or court of appeals has accepted discretionary review of a decision of a court of limited jurisdiction; or
- (7) Prosecutes a motion or petition for review after the supreme court has accepted discretionary review of a court of appeals decision. [1995 c 275 § 2.]

**Finding—1995 c 275:** "The legislature is aware that the constitutional requirements of equal protection and due process require that counsel be provided for indigent persons and persons who are indigent and able to contribute for the first appeal as a matter of right from a judgment and sentence in a criminal case or a juvenile offender proceeding, and no further. There is no constitutional right to appointment of counsel at public expense to collaterally attack a judgment and sentence in a criminal case or juvenile offender proceeding or to seek discretionary review of a lower appellate court decision.

The legislature finds that it is appropriate to extend the right to counsel at state expense beyond constitutional requirements in certain limited circumstances to persons who are indigent and persons who are

indigent and able to contribute as those terms are defined in RCW 10.101.010." [1995 c 275 § 1.]

**Severability—1995 c 275:** "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." [1995 c 275 § 5.]

**10.73.160 Court fees and costs.** (1) The court of appeals, supreme court, and superior courts may require an adult or a juvenile convicted of an offense or the parents or another person legally obligated to support a juvenile offender to pay appellate costs.

(2) Appellate costs are limited to expenses specifically incurred by the state in prosecuting or defending an appeal or collateral attack from a criminal conviction or sentence or a juvenile offender conviction or disposition. Appellate costs shall not include expenditures to maintain and operate government agencies that must be made irrespective of specific violations of the law. Expenses incurred for producing a verbatim report of proceedings and clerk's papers may be included in costs the court may require a convicted defendant or juvenile offender to pay.

(3) Costs, including recoupment of fees for court-appointed counsel, shall be requested in accordance with the procedures contained in Title 14 of the rules of appellate procedure and in Title 9 of the rules for appeal of decisions of courts of limited jurisdiction. An award of costs shall become part of the trial court judgment and sentence. An award of costs in juvenile cases shall also become part of any order previously entered in the trial court pursuant to RCW 13.40.145.

(4) A defendant or juvenile offender who has been sentenced to pay costs and who is not in contumacious default in the payment may at any time petition the court that sentenced the defendant or juvenile offender for remission of the payment of costs or of any unpaid portion. If it appears to the satisfaction of the sentencing court that payment of the amount due will impose manifest hardship on the defendant, the defendant's immediate family, or the juvenile offender, the sentencing court may remit all or part of the amount due in costs, or modify the method of payment under RCW 10.01.170.

(5) The parents or another person legally obligated to support a juvenile offender who has been ordered to pay appellate costs pursuant to RCW 13.40.145 and who is not in contumacious default in the payment may at any time petition the court that sentenced the juvenile offender for remission of the payment of costs or of any unpaid portion. If it appears to the satisfaction of the sentencing court that payment of the amount due will impose manifest hardship on the parents or another person legally obligated to support a juvenile offender or on their immediate families, the sentencing court may remit all or part of the amount due in costs, or may modify the method of payment. [1995 c 275 § 3.]

**Finding—Severability—1995 c 275:** See notes following RCW 10.73.150.

**Chapter 10.82**  
**COLLECTION AND DISPOSITION OF FINES AND COSTS**

## Sections

- 10.82.070 Disposition of monetary payments.  
 10.82.090 Interest on judgments—Disposition of nonrestitution interest.

**10.82.070 Disposition of monetary payments. (1)**

All sums of money derived from costs, fines, penalties, and forfeitures imposed or collected, in whole or in part, by a superior court for violation of orders of injunction, mandamus and other like writs, for contempt of court, or for breach of the penal laws shall be paid in cash by the person collecting the same, within twenty days after the collection, to the county treasurer of the county in which the same have accrued.

(2) The county treasurer shall remit monthly thirty-two percent of the money received under this section except for certain costs to the state treasurer for deposit as provided under RCW 43.08.250 and shall deposit the remainder as provided by law. "Certain costs" as used in this subsection, means those costs awarded to prevailing parties in civil actions under RCW 4.84.010 or 36.18.040, or those costs awarded against convicted defendants in criminal actions under RCW 10.01.160, 10.46.190, or 36.18.040, or other similar statutes if such costs are specifically designated as costs by the court and are awarded for the specific reimbursement of costs incurred by the state or county in the prosecution of the case, including the fees of defense counsel. Costs or assessments awarded to dedicated accounts, state or local, are not subject to this state allocation or to RCW 7.68.035.

(3) All fees, fines, forfeitures and penalties collected or assessed by a district court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended. All fees, fines, forfeitures, and penalties collected or assessed by a superior court in cases on appeal from a lower court shall be remitted to the municipal or district court from which the cases were appealed. [1995 c 292 § 3; 1988 c 169 § 5; 1987 c 202 § 169; 1985 c 389 § 7; 1984 c 258 § 313; 1969 ex.s. c 199 § 11; 1967 c 122 § 1; 1965 c 158 § 16; 1919 c 30 § 1; 1909 p 323 § 9; 1897 c 118 § 113; 1895 c 68 § 1; 1890 p 383 § 89; 1886 p 20 § 58; Code 1881 § 3211; 1873 p 421 § 3; RRS § 4940. Formerly codified as RCW 9.01.140.]

**Intent—1987 c 202:** See note following RCW 2.04.190.

**Effective date—1985 c 389:** See note following RCW 27.24.070.

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

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

**10.82.090 Interest on judgments—Disposition of nonrestitution interest.** Financial obligations imposed in a judgment shall bear interest from the date of the judgment until payment, at the rate applicable to civil judgments. All nonrestitution interest retained by the court shall be split twenty-five percent to the state treasurer for deposit in the public safety and education account as provided in RCW 43.08.250, twenty-five percent to the state treasurer for deposit in the judicial information system account as provided in RCW 2.68.020, twenty-five percent to the county current expense fund, and twenty-five percent to the county current expense fund to fund local courts. [1995 c 291 § 7; 1989 c 276 § 3.]

**Severability—1989 c 276:** See note following RCW 9.95.062.

## Chapter 10.95

**CAPITAL PUNISHMENT—AGGRAVATED FIRST DEGREE MURDER**

## Sections

- 10.95.020 Definition.

**10.95.020 Definition.** A person is guilty of aggravated first degree murder if he or she commits first degree murder as defined by RCW 9A.32.030(1)(a), as now or hereafter amended, and one or more of the following aggravating circumstances exist:

(1) The victim was a law enforcement officer, corrections officer, or fire fighter who was performing his or her official duties at the time of the act resulting in death and the victim was known or reasonably should have been known by the person to be such at the time of the killing;

(2) At the time of the act resulting in the death, the person was serving a term of imprisonment, had escaped, or was on authorized or unauthorized leave in or from a state facility or program for the incarceration or treatment of persons adjudicated guilty of crimes;

(3) At the time of the act resulting in death, the person was in custody in a county or county-city jail as a consequence of having been adjudicated guilty of a felony;

(4) The person committed the murder pursuant to an agreement that he or she would receive money or any other thing of value for committing the murder;

(5) The person solicited another person to commit the murder and had paid or had agreed to pay money or any other thing of value for committing the murder;

(6) The person committed the murder to obtain or maintain his or her membership or to advance his or her position in the hierarchy of an organization, association, or identifiable group;

(7) The murder was committed during the course of or as a result of a shooting where the discharge of the firearm, as defined in RCW 9.41.010, is either from a motor vehicle or from the immediate area of a motor vehicle that was used to transport the shooter or the firearm, or both, to the scene of the discharge;

(8) The victim was:

(a) A judge; juror or former juror; prospective, current, or former witness in an adjudicative proceeding; prosecuting attorney; deputy prosecuting attorney; defense attorney; a member of the indeterminate sentence review board; or a probation or parole officer; and

(b) The murder was related to the exercise of official duties performed or to be performed by the victim;

(9) The person committed the murder to conceal the commission of a crime or to protect or conceal the identity of any person committing a crime, including, but specifically not limited to, any attempt to avoid prosecution as a persistent offender as defined in RCW 9.94A.030;

(10) There was more than one victim and the murders were part of a common scheme or plan or the result of a single act of the person;

(11) The murder was committed in the course of, in furtherance of, or in immediate flight from one of the following crimes:

(a) Robbery in the first or second degree;

- (b) Rape in the first or second degree;
- (c) Burglary in the first or second degree or residential burglary;
- (d) Kidnapping in the first degree; or
- (e) Arson in the first degree;
- (12) The victim was regularly employed or self-employed as a newsreporter and the murder was committed to obstruct or hinder the investigative, research, or reporting activities of the victim. [1995 c 129 § 17 (Initiative Measure No. 159); 1994 c 121 § 3; 1981 c 138 § 2.]

**Reviser's note:** This section was amended by 1995 c 129 § 17 (Initiative Measure No. 159) without cognizance of its amendment by 1994 c 121 § 3. All amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Findings and intent—Short title—Severability—Captions not law—1995 c 129 (Initiative Measure No. 159):** See notes following RCW 9.94A.310.

**Chapter 10.99**

**DOMESTIC VIOLENCE—OFFICIAL RESPONSE**

Sections

- 10.99.020 Definitions.
- 10.99.030 Law enforcement officers—Training, powers, duties—Domestic violence reports.
- 10.99.040 Restrictions upon and duties of court.

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

(1) "Family or household members" means spouses, former spouses, persons who have a child in common regardless of whether they have been married or have lived together at any time, adult persons related by blood or marriage, adult persons who are presently residing together or who have resided together in the past, persons sixteen years of age or older who are presently residing together or who have resided together in the past and who have or have had a dating relationship, persons sixteen years of age or older with whom a respondent sixteen years of age or older has or has had a dating relationship, and persons who have a biological or legal parent-child relationship, including stepparents and stepchildren and grandparents and grandchildren.

(2) "Dating relationship" has the same meaning as in RCW 26.50.010.

(3) "Domestic violence" includes but is not limited to any of the following crimes when committed by one family or household member against another:

- (a) Assault in the first degree (RCW 9A.36.011);
- (b) Assault in the second degree (RCW 9A.36.021);
- (c) Assault in the third degree (RCW 9A.36.031);
- (d) Assault in the fourth degree (RCW 9A.36.041);
- (e) Reckless endangerment in the first degree (RCW 9A.36.045);
- (f) Reckless endangerment in the second degree (RCW 9A.36.050);
- (g) Coercion (RCW 9A.36.070);
- (h) Burglary in the first degree (RCW 9A.52.020);
- (i) Burglary in the second degree (RCW 9A.52.030);

- (j) Criminal trespass in the first degree (RCW 9A.52.070);
- (k) Criminal trespass in the second degree (RCW 9A.52.080);
- (l) Malicious mischief in the first degree (RCW 9A.48.070);
- (m) Malicious mischief in the second degree (RCW 9A.48.080);
- (n) Malicious mischief in the third degree (RCW 9A.48.090);
- (o) Kidnapping in the first degree (RCW 9A.40.020);
- (p) Kidnapping in the second degree (RCW 9A.40.030);
- (q) Unlawful imprisonment (RCW 9A.40.040);
- (r) Violation of the provisions of a restraining order restraining the person or excluding the person from a residence (RCW 26.09.300);
- (s) Violation of the provisions of a protection order or no-contact order restraining the person or excluding the person from a residence (RCW 26.50.060, 26.50.070, 26.50.130, or 10.99.040);
- (t) Rape in the first degree (RCW 9A.44.040);
- (u) Rape in the second degree (RCW 9A.44.050);
- (v) Residential burglary (RCW 9A.52.025); and
- (w) Stalking (RCW 9A.46.110).
- (4) "Victim" means a family or household member who has been subjected to domestic violence. [1995 c 246 § 21; 1994 c 121 § 4; 1991 c 301 § 3; 1986 c 257 § 8; 1984 c 263 § 20; 1979 ex.s. c 105 § 2.]

**Severability—1995 c 246:** See note following RCW 26.50.010.

**Finding—1991 c 301:** "The legislature finds that:

The collective costs to the community for domestic violence include the systematic destruction of individuals and their families, lost lives, lost productivity, and increased health care, criminal justice, and social service costs.

Children growing up in violent homes are deeply affected by the violence as it happens and could be the next generation of batterers and victims.

Many communities have made headway in addressing the effects of domestic violence and have devoted energy and resources to stopping this violence. However, the process for breaking the cycle of abuse is lengthy. No single system intervention is enough in itself.

An integrated system has not been adequately funded and structured to assure access to a wide range of services, including those of the law/safety/justice system, human service system, and health care system. These services need to be coordinated and multidisciplinary in approach and address the needs of victims, batterers, and children from violent homes.

Given the lethal nature of domestic violence and its effect on all within its range, the community has a vested interest in the methods used to stop and prevent future violence. Clear standards of quality are needed so that perpetrator treatment programs receiving public funds or court-ordered referrals can be required to comply with these standards.

While incidents of domestic violence are not caused by perpetrator's use of alcohol and illegal substances, substance abuse may be a contributing factor to domestic violence and the injuries and deaths that result from it.

There is a need for consistent training of professionals who deal frequently with domestic violence or are in a position to identify domestic violence and provide support and information.

Much has been learned about effective interventions in domestic violence situations; however, much is not yet known and further study is required to know how to best stop this violence." [1991 c 301 § 1.]

**Severability—1986 c 257:** See note following RCW 9A.56.010.

**Effective date—1986 c 257 §§ 3-10:** See note following RCW 9A.04.110.

**Effective date—Severability—1984 c 263:** See RCW 26.50.901 and 26.50.902.

*Domestic violence defined under the Domestic Violence Prevention Act: RCW 26.50.010.*

**10.99.030 Law enforcement officers—Training, powers, duties—Domestic violence reports.** (1) All training relating to the handling of domestic violence complaints by law enforcement officers shall stress enforcement of criminal laws in domestic situations, availability of community resources, and protection of the victim. Law enforcement agencies and community organizations with expertise in the issue of domestic violence shall cooperate in all aspects of such training.

(2) The criminal justice training commission shall implement by January 1, 1997, a course of instruction for the training of law enforcement officers in Washington in the handling of domestic violence complaints. The basic law enforcement curriculum of the criminal justice training commission shall include at least twenty hours of basic training instruction on the law enforcement response to domestic violence. The course of instruction, the learning and performance objectives, and the standards for the training shall be developed by the commission and focus on enforcing the criminal laws, safety of the victim, and holding the perpetrator accountable for the violence. The curriculum shall include training on the extent and prevalence of domestic violence, the importance of criminal justice intervention, techniques for responding to incidents that minimize the likelihood of officer injury and that promote victim safety, investigation and interviewing skills, evidence gathering and report writing, assistance to and services for victims and children, verification and enforcement of court orders, liability, and any additional provisions that are necessary to carry out the intention of this subsection.

(3) The criminal justice training commission shall develop and update annually an in-service training program to familiarize law enforcement officers with the domestic violence laws. The program shall include techniques for handling incidents of domestic violence that minimize the likelihood of injury to the officer and that promote the safety of all parties. The commission shall make the training program available to all law enforcement agencies in the state.

(4) Development of the training in subsections (2) and (3) of this section shall be conducted in conjunction with agencies having a primary responsibility for serving victims of domestic violence with emergency shelter and other services, and representatives to the state-wide organization providing training and education to these organizations and to the general public.

(5) The primary duty of peace officers, when responding to a domestic violence situation, is to enforce the laws allegedly violated and to protect the complaining party.

(6)(a) When a peace officer responds to a domestic violence call and has probable cause to believe that a crime has been committed, the peace officer shall exercise arrest powers with reference to the criteria in RCW 10.31.100. The officer shall notify the victim of the victim's right to initiate a criminal proceeding in all cases where the officer has not exercised arrest powers or decided to initiate criminal proceedings by citation or otherwise. The parties in such cases shall also be advised of the importance of preserving evidence.

(b) A peace officer responding to a domestic violence call shall take a complete offense report including the officer's disposition of the case.

(7) When a peace officer responds to a domestic violence call, the officer shall advise victims of all reasonable means to prevent further abuse, including advising each person of the availability of a shelter or other services in the community, and giving each person immediate notice of the legal rights and remedies available. The notice shall include handing each person a copy of the following statement:

"IF YOU ARE THE VICTIM OF DOMESTIC VIOLENCE, you can ask the city or county prosecuting attorney to file a criminal complaint. You also have the right to file a petition in superior, district, or municipal court requesting an order for protection from domestic abuse which could include any of the following: (a) An order restraining your abuser from further acts of abuse; (b) an order directing your abuser to leave your household; (c) an order preventing your abuser from entering your residence, school, business, or place of employment; (d) an order awarding you or the other parent custody of or visitation with your minor child or children; and (e) an order restraining your abuser from molesting or interfering with minor children in your custody. The forms you need to obtain a protection order are available in any municipal, district, or superior court.

Information about shelters and alternatives to domestic violence is available from a state-wide twenty-four-hour toll-free hotline at (include appropriate phone number). The battered women's shelter and other resources in your area are . . . . (include local information)"

(8) The peace officer may offer, arrange, or facilitate transportation for the victim to a hospital for treatment of injuries or to a place of safety or shelter.

(9) The law enforcement agency shall forward the offense report to the appropriate prosecutor within ten days of making such report if there is probable cause to believe that an offense has been committed, unless the case is under active investigation.

(10) Each law enforcement agency shall make as soon as practicable a written record and shall maintain records of all incidents of domestic violence reported to it.

(11) Records kept pursuant to subsections (6) and (10) of this section shall be made identifiable by means of a departmental code for domestic violence.

(12) Commencing January 1, 1994, records of incidents of domestic violence shall be submitted, in accordance with procedures described in this subsection, to the Washington association of sheriffs and police chiefs by all law enforcement agencies. The Washington criminal justice training commission shall amend its contract for collection of state-wide crime data with the Washington association of sheriffs and police chiefs:

(a) To include a table, in the annual report of crime in Washington produced by the Washington association of sheriffs and police chiefs pursuant to the contract, showing the total number of actual offenses and the number and percent of the offenses that are domestic violence incidents for the following crimes: (i) Criminal homicide, with subtotals for murder and nonnegligent homicide and man-

slaughter by negligence; (ii) forcible rape, with subtotals for rape by force and attempted forcible rape; (iii) robbery, with subtotals for firearm, knife or cutting instrument, or other dangerous weapon, and strongarm robbery; (iv) assault, with subtotals for firearm, knife or cutting instrument, other dangerous weapon, hands, feet, aggravated, and other nonaggravated assaults; (v) burglary, with subtotals for forcible entry, nonforcible unlawful entry, and attempted forcible entry; (vi) larceny theft, except motor vehicle theft; (vii) motor vehicle theft, with subtotals for autos, trucks and buses, and other vehicles; and (viii) arson;

(b) To require that the table shall continue to be prepared and contained in the annual report of crime in Washington until that time as comparable or more detailed information about domestic violence incidents is available through the Washington state incident based reporting system and the information is prepared and contained in the annual report of crime in Washington; and

(c) To require that, in consultation with interested persons, the Washington association of sheriffs and police chiefs prepare and disseminate procedures to all law enforcement agencies in the state as to how the agencies shall code and report domestic violence incidents to the Washington association of sheriffs and police chiefs. [1995 c 246 § 22; 1993 c 350 § 3; 1984 c 263 § 21; 1981 c 145 § 5; 1979 ex.s. c 105 § 3.]

**Educational manual and training curriculum:** "(1) By January 1, 1997, the criminal justice training commission shall develop an educational manual and a training curriculum for prosecutors in Washington state regarding domestic violence. The manual and curriculum shall include but not be limited to: The nature, extent, and causes of domestic violence; laws on domestic violence; practices designed to promote safety of the victim and other family and household members, including safety plans; the responsibility and authority of the criminal justice system to intervene in domestic violence; considerations that should go into screening and charging decisions; violations of court orders; trial tactics; evidence collection; victim advocates; considerations that should go into effective sentencing dispositions related to victim safety and perpetrator accountability; lethality; and community resources for victims, perpetrators, and children.

(2) By July 1, 1998, the commission shall distribute a copy of the manual and curriculum specified in subsection (1) of this section to the prosecuting attorney for each county and unit of government for their use in education and training.

(3) The manual and curriculum specified in subsection (1) of this section shall be developed in conjunction with agencies responsible for prosecuting domestic violence cases, agencies having a primary responsibility for serving victims of domestic violence with emergency shelter and other services, representatives of the state-wide organization providing training and education to these organizations and the general public, and others with a demonstrated expertise on domestic violence and the criminal justice system." [1995 c 246 § 24.]

**Severability—1995 c 246:** See note following RCW 26.50.010.

**Findings—Severability—1993 c 350:** See notes following RCW 26.50.035.

**Effective date—Severability—1984 c 263:** See RCW 26.50.901 and 26.50.902.

**10.99.040 Restrictions upon and duties of court.** (1) Because of the serious nature of domestic violence, the court in domestic violence actions:

(a) Shall not dismiss any charge or delay disposition because of concurrent dissolution or other civil proceedings;

(b) Shall not require proof that either party is seeking a dissolution of marriage prior to instigation of criminal proceedings;

(c) Shall waive any requirement that the victim's location be disclosed to any person, other than the attorney of a criminal defendant, upon a showing that there is a possibility of further violence: PROVIDED, That the court may order a criminal defense attorney not to disclose to his or her client the victim's location; and

(d) Shall identify by any reasonable means on docket sheets those criminal actions arising from acts of domestic violence.

(2) Because of the likelihood of repeated violence directed at those who have been victims of domestic violence in the past, when any person charged with or arrested for a crime involving domestic violence is released from custody before arraignment or trial on bail or personal recognizance, the court authorizing the release may prohibit that person from having any contact with the victim. The jurisdiction authorizing the release shall determine whether that person should be prohibited from having any contact with the victim. If there is no outstanding restraining or protective order prohibiting that person from having contact with the victim, the court authorizing release may issue, by telephone, a no-contact order prohibiting the person charged or arrested from having contact with the victim. In issuing the order, the court shall consider the provisions of RCW 9A.41.800. The no-contact order shall also be issued in writing as soon as possible.

(3) At the time of arraignment the court shall determine whether a no-contact order shall be issued or extended. If a no-contact order is issued or extended, the court may also include in the conditions of release a requirement that the defendant submit to electronic monitoring. If electronic monitoring is ordered, the court shall specify who shall provide the monitoring services, and the terms under which the monitoring shall be performed. Upon conviction, the court may require as a condition of the sentence that the defendant reimburse the providing agency for the costs of the electronic monitoring.

(4)(a) Willful violation of a court order issued under subsection (2) or (3) of this section is a gross misdemeanor. Upon conviction and in addition to other penalties provided by law, the court may require that the defendant submit to electronic monitoring. The court shall specify who shall provide the electronic monitoring services and the terms under which the monitoring must be performed. The court also may include a requirement that the defendant pay the costs of the monitoring. The court shall consider the ability of the convicted person to pay for electronic monitoring.

(b) Any assault that is a violation of an order issued under this section and that does not amount to assault in the first or second degree under RCW 9A.36.011 or 9A.36.021 is a class C felony punishable under chapter 9A.20 RCW, and any conduct in violation of a protective order issued under this section that is reckless and creates a substantial risk of death or serious physical injury to another person is a class C felony punishable under chapter 9A.20 RCW.

(c) The written order releasing the person charged or arrested shall contain the court's directives and shall bear the legend: "Violation of this order is a criminal offense under chapter 10.99 RCW and will subject a violator to arrest; any assault or reckless endangerment that is a violation of this order is a felony. You can be arrested even if any person

protected by the order invites or allows you to violate the order's prohibitions. You have the sole responsibility to avoid or refrain from violating the order's provisions. Only the court can change the order." A certified copy of the order shall be provided to the victim. If a no-contact order has been issued prior to charging, that order shall expire at arraignment or within seventy-two hours if charges are not filed. Such orders need not be entered into the computer-based criminal intelligence information system in this state which is used by law enforcement agencies to list outstanding warrants.

(5) Whenever an order prohibiting contact is issued, modified, or terminated under subsection (2) or (3) of this section, the clerk of the court shall forward a copy of the order on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the copy of the order the law enforcement agency shall forthwith enter the order for one year or until the expiration date specified on the order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. Entry into the law enforcement information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any jurisdiction in the state. [1995 c 246 § 23; 1994 sp.s. c 7 § 449; 1992 c 86 § 2; 1991 c 301 § 4; 1985 c 303 § 10; 1984 c 263 § 22; 1983 c 232 § 7; 1981 c 145 § 6; 1979 ex.s. c 105 § 4.]

**Severability—1995 c 246:** See note following RCW 26.50.010.

**Finding—Intent—Severability—1994 sp.s. c 7:** See notes following RCW 43.70.540.

**Effective date—1994 sp.s. c 7 §§ 401-410, 413-416, 418-437, and 439-460:** See note following RCW 9.41.010.

**Finding—1991 c 301:** See note following RCW 10.99.020.

**Effective date—Severability—1984 c 263:** See RCW 26.50.901 and 26.50.902.

**Severability—1983 c 232:** See note following RCW 9.41.010.

*Child abuse, temporary restraining order:* RCW 26.44.063.

*Orders for protection in cases of domestic violence:* RCW 26.50.030, 26.50.070.

*Temporary restraining order:* RCW 26.09.060.

## Title 11

### PROBATE AND TRUST LAW

#### Chapters

- 11.28** Letters testamentary and of administration.
- 11.40** Claims against estate.
- 11.42** Settlement of creditor claims for estates passing without probate to single person or represented group.
- 11.62** Estates under \$60,000—Disposition of debts, personal property taxes, etc., by affidavit.
- 11.86** Disclaimer of interests.
- 11.88** Guardianship—Appointment, qualification, removal of guardians and limited guardians.
- 11.92** Guardianship—Powers and duties of guardian or limited guardian.
- 11.94** Power of attorney.
- 11.95** Powers of appointment.

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#### 11.100 Investment of trust funds.

##### Chapter 11.28

#### LETTERS TESTAMENTARY AND OF ADMINISTRATION

##### Sections

11.28.120 Persons entitled to letters.

**11.28.120 Persons entitled to letters.** Administration of an estate if the decedent died intestate or if the personal representative or representatives named in the will declined or were unable to serve shall be granted to some one or more of the persons hereinafter mentioned, and they shall be respectively entitled in the following order:

(1) The surviving spouse, or such person as he or she may request to have appointed.

(2) The next of kin in the following order: (a) Child or children; (b) father or mother; (c) brothers or sisters; (d) grandchildren; (e) nephews or nieces.

(3) The trustee named by the decedent in an inter vivos trust instrument, testamentary trustee named in the will, guardian of the person or estate of the decedent, or attorney in fact appointed by the decedent, if any such a fiduciary controlled or potentially controlled substantially all of the decedent's probate and nonprobate assets.

(4) One or more of the beneficiaries or transferees of the decedent's probate or nonprobate assets.

(5)(a) The director of revenue, or the director's designee, for those estates having property subject to the provisions of chapter 11.08 RCW; however, the director may waive this right.

(b) The secretary of the department of social and health services for those estates owing debts for long-term care services as defined in RCW 74.39A.008; however the secretary may waive this right.

(6) One or more of the principal creditors.

(7) If the persons so entitled shall fail for more than forty days after the death of the decedent to present a petition for letters of administration, or if it appears to the satisfaction of the court that there is no next of kin, as above specified eligible to appointment, or they waive their right, and there are no principal creditor or creditors, or such creditor or creditors waive their right, then the court may appoint any suitable person to administer such estate. [1995 1st sp.s. c 18 § 61; 1994 c 221 § 23; 1985 c 133 § 1; 1965 c 145 § 11.28.120. Prior: 1927 c 76 § 1; 1917 c 156 § 61; RRS § 1431; prior: Code 1881 § 1388; 1863 p 219 § 122; 1860 p 181 § 89.]

**Conflict with federal requirements—Severability—Effective date—1995 1st sp.s. c 18:** See notes following RCW 74.39A.008.

**Effective dates—1994 c 221:** See note following RCW 11.94.070.

##### Chapter 11.40

#### CLAIMS AGAINST ESTATE

##### Sections

11.40.010 Notice to creditors—Manner—Failure to file.



**11.40.010 Notice to creditors—Manner—Failure to file.** Every personal representative shall, after appointment and qualification, give a notice to the creditors of the deceased, stating such appointment and qualification as personal representative and requiring all persons having claims against the deceased to serve the same on the personal representative or the estate's attorney of record, and file an executed copy thereof with the clerk of the court, within four months after the date of the first publication of such notice described in this section or within four months after the date of the filing of the copy of such notice with the clerk of the court, whichever is the later, or within the time otherwise provided in RCW 11.40.013. The four-month time period after the later of the date of the first publication of the notice to creditors or the date of the filing of such notice with the clerk of the court is referred to in this chapter as the "four-month time limitation." Such notice shall be given as follows:

- (1) The personal representative shall give actual notice, as provided in RCW 11.40.013, to such creditors who become known to the personal representative within such four-month time limitation;
- (2) The personal representative shall cause such notice to be published once in each week for three successive weeks in the county in which the estate is being administered;
- (3) The personal representative shall file a copy of such notice with the clerk of the court; and
- (4) The personal representative shall mail a copy of the notice, including the decedent's social security number, to the state of Washington, department of social and health services, office of financial recovery.

Except as otherwise provided in RCW 11.40.011 or 11.40.013, any claim not filed within the four-month time limitation shall be forever barred, if not already barred by any otherwise applicable statute of limitations. This bar is effective as to claims against both the decedent's probate assets and nonprobate assets as described in RCW 11.18.200. Proof by affidavit of the giving and publication of such notice shall be filed with the court by the personal representative.

Acts of a notice agent in complying with chapter 221, Laws of 1994 may be adopted and ratified by the personal representative as if done by the personal representative in complying with this chapter, except that if at the time of the appointment and qualification of the personal representative a notice agent had commenced nonprobate notice to creditors under chapter 11.42 RCW, the personal representative shall give published notice as provided in RCW 11.42.180. [1995 1st sp.s. c 18 § 58; 1994 c 221 § 25; 1991 c 5 § 1; 1989 c 333 § 1; 1974 ex.s. c 117 § 33; 1967 c 168 § 7; 1965 c 145 § 11.40.010. Prior: 1923 c 142 § 3; 1917 c 156 § 107; RRS § 1477; prior: Code 1881 § 1465; 1860 p 195 § 157; 1854 p 280 § 78.]

**Conflict with federal requirements—Severability—Effective date—1995 1st sp.s. c 18:** See notes following RCW 74.39A.008.

**Effective dates—1994 c 221:** See note following RCW 11.94.070.

**Application—Effective date—1989 c 333:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or the support of the state government and its existing public institutions, and shall take effect immediately [May 11, 1989]. This act shall apply to probate proceedings that are open on or are commenced after the effective date,

except that section 5 of this act shall apply only to decedents dying after the effective date." [1989 c 333 § 9.] This act consists of the enactment of RCW 11.40.012, 11.40.013, 11.40.014, and 11.40.015, and the 1989 c 333 amendment of RCW 11.40.010, 11.40.011, 11.40.030, and 4.16.200. Section 5 of this act is RCW 11.40.014.

**Application, construction—Severability—Effective date—1974 ex.s. c 117:** See RCW 11.02.080 and notes following.

**Publication of legal notices:** Chapter 65.16 RCW.

**Settlement without intervention, notice to creditors:** RCW 11.68.010.

## Chapter 11.42

### SETTLEMENT OF CREDITOR CLAIMS FOR ESTATES PASSING WITHOUT PROBATE

#### Sections

11.42.020 Notice to creditors—Service—Filing—Failure to file.

**11.42.020 Notice to creditors—Service—Filing—Failure to file.** (1) The notice agent may give nonprobate notice to the creditors of the decedent if:

(a) As of the date of the filing of a copy of the notice with the clerk of the superior court for the notice county, the notice agent has no knowledge of the appointment and qualification of a personal representative in the decedent's estate in the state of Washington or of another person becoming a notice agent; and

(b) According to the records of the clerk of the superior court for the notice county as of 8:00 a.m. on the date of the filing, no personal representative of the decedent's estate had been appointed and qualified and no cause number regarding the decedent had been issued to any other notice agent by the clerk under RCW 11.42.010.

(2) The notice must state that all persons having claims against the decedent shall: (a) Serve the same on the notice agent if the notice agent is a resident of the state of Washington upon whom service of all papers may be made, or on the nonprobate resident agent for the notice agent, if any, or on the attorneys of record of the notice agent at their respective address in the state of Washington; and (b) file an executed copy of the notice with the clerk of the superior court for the notice county, within: (i)(A) Four months after the date of the first publication of the notice described in this section; or (B) four months after the date of the filing of the copy of the notice with the clerk of the superior court for the notice county, whichever is later; or (ii) the time otherwise provided in RCW 11.42.050. The four-month time period after the later of the date of the first publication of the notice to creditors or the date of the filing of the notice with the clerk of the court is referred to in this chapter as the "four-month time limitation."

(3) The notice agent shall declare in the notice in affidavit form or under the penalty of perjury under the laws of the state of Washington as provided in RCW 9A.72.085 that: (a) The notice agent is entitled to give the nonprobate notice under subsection (1) of this section; and (b) the notice is being given by the notice agent as permitted by this section.

(4) The notice agent shall sign the notice and file it with the clerk of the superior court for the notice county. The notice must be given as follows:

(a) The notice agent shall give actual notice as to creditors of the decedent who become known to the notice

agent within the four-month time limitation as required in RCW 11.42.050;

(b) The notice agent shall cause the notice to be published once in each week for three successive weeks in the notice county;

(c) The notice agent shall file a copy of the notice with the clerk of the superior court for the notice county; and

(d) The notice agent shall mail a copy of the notice, including the decedent's social security number, to the state of Washington, department of social and health services, office of financial recovery.

(5) A claim not filed within the four-month time limitation is forever barred, if not already barred by an otherwise applicable statute of limitations, except as provided in RCW 11.42.030 or 11.42.050. The bar is effective to bar claims against both the probate estate of the decedent and nonprobate assets that were subject to satisfaction of the decedent's general liabilities immediately before the decedent's death. If a notice to the creditors of a decedent is published by more than one notice agent and the notice agents are not acting jointly, the four-month time limitation means the four-month time limitation that applies to the notice agent who first publishes the notice. Proof by affidavit or perjury declaration made under RCW 9A.72.085 of the giving and publication of the notice must be filed with the clerk of the superior court for the notice county by the notice agent. [1995 1st sp.s. c 18 § 59; 1994 c 221 § 32.]

**Conflict with federal requirements—Severability—Effective date—1995 1st sp.s. c 18:** See notes following RCW 74.39A.008.

**Effective dates—1994 c 221:** See note following RCW 11.94.070.

## Chapter 11.62

### ESTATES UNDER \$60,000— DISPOSITION OF PROPERTY

#### Sections

11.62.010 Disposition of personal property, debts by affidavit, proof of death—Contents of affidavit—Procedure—Securities.

**11.62.010 Disposition of personal property, debts by affidavit, proof of death—Contents of affidavit—Procedure—Securities.** (1) At any time after forty days from the date of a decedent's death, any person who is indebted to or who has possession of any personal property belonging to the decedent or to the decedent and his or her surviving spouse as a community, which debt or personal property is an asset which is subject to probate, shall pay such indebtedness or deliver such personal property, or so much of either as is claimed, to a person claiming to be a successor of the decedent upon receipt of proof of death and of an affidavit made by said person which meets the requirements of subsection (2) of this section.

(2) An affidavit which is to be made pursuant to this section shall state:

(a) The claiming successor's name and address, and that the claiming successor is a "successor" as defined in RCW 11.62.005;

(b) That the decedent was a resident of the state of Washington on the date of his or her death;

(c) That the value of the decedent's entire estate subject to probate, not including the surviving spouse's community

property interest in any assets which are subject to probate in the decedent's estate, wherever located, less liens and encumbrances, does not exceed sixty thousand dollars;

(d) That forty days have elapsed since the death of the decedent;

(e) That no application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction;

(f) That all debts of the decedent including funeral and burial expenses have been paid or provided for;

(g) A description of the personal property and the portion thereof claimed, together with a statement that such personal property is subject to probate;

(h) That the claiming successor has given written notice, either by personal service or by mail, identifying his or her claim, and describing the property claimed, to all other successors of the decedent, and that at least ten days have elapsed since the service or mailing of such notice; and

(i) That the claiming successor is either personally entitled to full payment or delivery of the property claimed or is entitled to full payment or delivery thereof on the behalf and with the written authority of all other successors who have an interest therein.

(3) A transfer agent of any security shall change the registered ownership of the security claimed from the decedent to the person claiming to be the successor with respect to such security upon the presentation of proof of death and of an affidavit made by such person which meets the requirements of subsection (2) of this section. Any governmental agency required to issue certificates of ownership or of license registration to personal property shall issue a new certificate of ownership or of license registration to a person claiming to be a successor of the decedent upon receipt of proof of death and of an affidavit made by such person which meets the requirements of subsection (2) of this section.

(4) No release from any Washington state or local taxing authority may be required before any assets or debts are paid or delivered to a successor of a decedent as required under this section.

(5) A copy of the affidavit, including the decedent's social security number, shall be mailed to the state of Washington, department of social and health services, office of financial recovery. [1995 1st sp.s. c 18 § 60; 1993 c 291 § 1. Prior: 1988 c 64 § 25; 1988 c 29 § 2; 1987 c 157 § 1; 1977 ex.s. c 234 § 11; 1974 ex.s. c 117 § 4.]

**Conflict with federal requirements—Severability—Effective date—1995 1st sp.s. c 18:** See notes following RCW 74.39A.008.

**Captions—Severability—1988 c 64:** See RCW 83.100.904 and 83.100.905.

**Application, effective date—Severability—1977 ex.s. c 234:** See notes following RCW 11.16.083.

**Application, construction—Severability—Effective date—1974 ex.s. c 117:** See RCW 11.02.080 and notes following.

## Chapter 11.86

### DISCLAIMER OF INTERESTS

#### Sections

11.86.031 Contents of disclaimer—Time and filing requirements—Fee.

**11.86.031 Contents of disclaimer—Time and filing requirements—Fee.** (1) The disclaimer shall:

- (a) Be in writing;
- (b) Be signed by the disclaimant;
- (c) Identify the interest to be disclaimed; and
- (d) State the disclaimer and the extent thereof.

(2) The disclaimer shall be delivered or mailed as provided in subsection (3) of this section at any time after the creation of the interest, but in all events by nine months after the latest of:

- (a) The date the beneficiary attains the age of twenty-one years;
- (b) The date of the transfer; or
- (c) The date that the beneficiary is finally ascertained and the beneficiary's interest is indefeasibly vested.

(3) The disclaimer shall be mailed by first-class mail, or otherwise delivered, to the creator of the interest, the creator's legal representative, or the holder of the legal title to the property to which the interest relates or, if the creator is dead and there is no legal representative or holder of legal title, to the person having possession of the property.

(4) If the date of the transfer is the date of the death of the creator of the interest, a copy of the disclaimer may be filed with the clerk of the probate court in which the estate of the creator is, or has been, administered, or, if no probate administration has been commenced, then with the clerk of the court of any county provided by law as the place for probate administration of such person, where it shall be indexed under the name of the decedent in the probate index upon the payment of a fee established under RCW 36.18.016.

(5) The disclaimer of an interest in real property may be recorded, but shall constitute notice to all persons only from and after the date of recording. If recorded, a copy of the disclaimer shall be recorded in the office of the auditor in the county or counties where the real property is situated. [1995 c 292 § 4; 1989 c 34 § 3.]

**Chapter 11.88****GUARDIANSHIP—APPOINTMENT, QUALIFICATION, REMOVAL OF GUARDIANS**

## Sections

- 11.88.030 Petition—Contents—Hearing.
- 11.88.040 Notice and hearing, when required—Service—Procedure.
- 11.88.045 Legal counsel and jury trial—Proof—Medical report—Waiver.
- 11.88.090 Guardian ad litem—Appointment—Qualifications—Duties—Report—Fee.
- 11.88.095 Disposition of guardianship petition.

**11.88.030 Petition—Contents—Hearing.** (1) Any person or entity may petition for the appointment of a qualified person, trust company, national bank, or nonprofit corporation authorized in RCW 11.88.020 as now or hereafter amended as the guardian or limited guardian of an incapacitated person. No liability for filing a petition for guardianship or limited guardianship shall attach to a petitioner acting in good faith and upon reasonable basis. A petition for guardianship or limited guardianship shall state:

(a) The name, age, residence, and post office address of the alleged incapacitated person;

(b) The nature of the alleged incapacity in accordance with RCW 11.88.010;

(c) The approximate value and description of property, including any compensation, pension, insurance, or allowance, to which the alleged incapacitated person may be entitled;

(d) Whether there is, in any state, a guardian or limited guardian, or pending guardianship action for the person or estate of the alleged incapacitated person;

(e) The residence and post office address of the person whom petitioner asks to be appointed guardian or limited guardian;

(f) The names and addresses, and nature of the relationship, so far as known or can be reasonably ascertained, of the persons most closely related by blood or marriage to the alleged incapacitated person;

(g) The name and address of the person or facility having the care and custody of the alleged incapacitated person;

(h) The reason why the appointment of a guardian or limited guardian is sought and the interest of the petitioner in the appointment, and whether the appointment is sought as guardian or limited guardian of the person, the estate, or both, and why no alternative to guardianship is appropriate;

(i) The nature and degree of the alleged incapacity and the specific areas of protection and assistance requested and the limitation of rights requested to be included in the court's order of appointment;

(j) The requested term of the limited guardianship to be included in the court's order of appointment;

(k) Whether the petitioner is proposing a specific individual to act as guardian ad litem and, if so, the individual's knowledge of or relationship to any of the parties, and why the individual is proposed.

(2)(a) The attorney general may petition for the appointment of a guardian or limited guardian in any case in which there is cause to believe that a guardianship is necessary and no private party is able and willing to petition.

(b) Prepayment of a filing fee shall not be required in any guardianship or limited guardianship brought by the attorney general. Payment of the filing fee shall be ordered from the estate of the incapacitated person at the hearing on the merits of the petition, unless in the judgment of the court, such payment would impose a hardship upon the incapacitated person, in which case the filing shall be waived.

(3) No filing fee shall be charged by the court for filing either a petition for guardianship or a petition for limited guardianship if the petition alleges that the alleged incapacitated person has total assets of a value of less than three thousand dollars.

(4)(a) Notice that a guardianship proceeding has been commenced shall be personally served upon the alleged incapacitated person and the guardian ad litem along with a copy of the petition for appointment of a guardian. Such notice shall be served not more than five court days after the petition has been filed.

(b) Notice under this subsection shall include a clear and easily readable statement of the legal rights of the alleged incapacitated person that could be restricted or transferred to a guardian by a guardianship order as well as

the right to counsel of choice and to a jury trial on the issue of incapacity. Such notice shall be in substantially the following form and shall be in capital letters, double-spaced, and in a type size not smaller than ten-point type:

**IMPORTANT NOTICE  
PLEASE READ CAREFULLY**

A PETITION TO HAVE A GUARDIAN APPOINTED FOR YOU HAS BEEN FILED IN THE . . . . . COUNTY SUPERIOR COURT BY . . . . . IF A GUARDIAN IS APPOINTED, YOU COULD LOSE ONE OR MORE OF THE FOLLOWING RIGHTS:

- (1) TO MARRY OR DIVORCE;
- (2) TO VOTE OR HOLD AN ELECTED OFFICE;
- (3) TO ENTER INTO A CONTRACT OR MAKE OR REVOKE A WILL;
- (4) TO APPOINT SOMEONE TO ACT ON YOUR BEHALF;
- (5) TO SUE AND BE SUED OTHER THAN THROUGH A GUARDIAN;
- (6) TO POSSESS A LICENSE TO DRIVE;
- (7) TO BUY, SELL, OWN, MORTGAGE, OR LEASE PROPERTY;
- (8) TO CONSENT TO OR REFUSE MEDICAL TREATMENT;
- (9) TO DECIDE WHO SHALL PROVIDE CARE AND ASSISTANCE;
- (10) TO MAKE DECISIONS REGARDING SOCIAL ASPECTS OF YOUR LIFE.

UNDER THE LAW, YOU HAVE CERTAIN RIGHTS.

YOU HAVE THE RIGHT TO BE REPRESENTED BY A LAWYER OF YOUR OWN CHOOSING. THE COURT WILL APPOINT A LAWYER TO REPRESENT YOU IF YOU ARE UNABLE TO PAY OR PAYMENT WOULD RESULT IN A SUBSTANTIAL HARDSHIP TO YOU.

YOU HAVE THE RIGHT TO ASK FOR A JURY TO DECIDE WHETHER OR NOT YOU NEED A GUARDIAN TO HELP YOU.

YOU HAVE THE RIGHT TO BE PRESENT IN COURT WHEN THE HEARING IS HELD TO DECIDE WHETHER OR NOT YOU NEED A GUARDIAN.

(5) All petitions filed under the provisions of this section shall be heard within sixty days unless an extension of time is requested by a party within such sixty day period and granted for good cause shown. If an extension is granted, the court shall set a new hearing date. [1995 c 297 § 1; 1991 c 289 § 2; 1990 c 122 § 4; 1977 ex.s. c 309 § 3; 1975 1st ex.s. c 95 § 4; 1965 c 145 § 11.88.030. Prior: 1927 c 170 § 1; 1917 c 156 § 197; RRS § 1567; prior: 1909 c 118 § 1; 1903 c 130 § 1.]

**Effective date—1990 c 122:** See note following RCW 11.88.005.

**Severability—1977 ex.s. c 309:** See note following RCW 11.88.005.

*Vulnerable elderly person—Lack of capacity to consent—Guardianship action by department of social and health services: RCW 74.34.060.*

**11.88.040 Notice and hearing, when required—Service—Procedure.** Before appointing a guardian or a limited guardian, notice of a hearing, to be held not less than

ten days after service thereof, shall be served personally upon the alleged incapacitated person, if over fourteen years of age, and served upon the guardian ad litem.

Before appointing a guardian or a limited guardian, notice of a hearing, to be held not less than ten days after service thereof, shall be given by registered or certified mail to the last known address requesting a return receipt signed by the addressee or an agent appointed by the addressee, or by personal service in the manner provided for services of summons, to the following:

(1) The alleged incapacitated person, or minor, if under fourteen years of age;

(2) A parent, if the alleged incapacitated person is a minor, all known children not residing with a notified person, and the spouse of the alleged incapacitated person if any;

(3) Any other person who has been appointed as guardian or limited guardian, or the person with whom the alleged incapacitated person resides. No notice need be given to those persons named in subsections (2) and (3) of this section if they have signed the petition for the appointment of the guardian or limited guardian or have waived notice of the hearing.

(4) If the petition is by a parent asking for appointment as guardian or limited guardian of a minor child under the age of fourteen years, or if the petition is accompanied by the written consent of a minor of the age of fourteen years or upward, who consents to the appointment of the guardian or limited guardian asked for, or if the petition is by a nonresident guardian of any minor or incapacitated person, then the court may appoint the guardian without notice of the hearing. The court for good cause may reduce the number of days of notice, but in every case, at least three days notice shall be given.

The alleged incapacitated person shall be present in court at the final hearing on the petition: PROVIDED, That this requirement may be waived at the discretion of the court for good cause other than mere inconvenience shown in the report to be provided by the guardian ad litem pursuant to RCW 11.88.090 as now or hereafter amended, or if no guardian ad litem is required to be appointed pursuant to RCW 11.88.090, as now or hereafter amended, at the discretion of the court for good cause shown by a party. Alternatively, the court may remove itself to the place of residence of the alleged incapacitated person and conduct the final hearing in the presence of the alleged incapacitated person. Final hearings on the petition may be held in closed court without admittance of any person other than those necessary to the action or proceeding.

If presence of the alleged incapacitated person is waived and the court does not remove itself to the place of residence of such person, the guardian ad litem shall appear in person at the final hearing on the petition. [1995 c 297 § 2; 1991 c 289 § 3; 1990 c 122 § 5; 1984 c 149 § 177; 1977 ex.s. c 309 § 4; 1975 1st ex.s. c 95 § 5; 1969 c 70 § 1; 1965 c 145 § 11.88.040. Prior: 1927 c 170 § 2; 1923 c 142 § 4; 1917 c 156 § 198; RRS § 1568; prior: 1909 c 118 § 2; 1903 c 130 §§ 2, 3.]

**Effective date—1990 c 122:** See note following RCW 11.88.005.

**Severability—Effective dates—1984 c 149:** See notes following RCW 11.02.005.

**Severability—1977 ex.s. c 309:** See note following RCW 11.88.005.

*Waiver of notice: RCW 11.16.083.*

**11.88.045 Legal counsel and jury trial—Proof—Medical report—Waiver.** (1)(a) Alleged incapacitated individuals shall have the right to be represented by counsel at any stage in guardianship proceedings. The court shall provide counsel to represent any alleged incapacitated person at public expense when either: (i) The individual is unable to afford counsel, or (ii) the expense of counsel would result in substantial hardship to the individual, or (iii) the individual does not have practical access to funds with which to pay counsel. If the individual can afford counsel but lacks practical access to funds, the court shall provide counsel and may impose a reimbursement requirement as part of a final order. When, in the opinion of the court, the rights and interests of an alleged or adjudicated incapacitated person cannot otherwise be adequately protected and represented, the court on its own motion shall appoint an attorney at any time to represent such person. Counsel shall be provided as soon as practicable after a petition is filed and long enough before any final hearing to allow adequate time for consultation and preparation. Absent a convincing showing in the record to the contrary, a period of less than three weeks shall be presumed by a reviewing court to be inadequate time for consultation and preparation.

(b) Counsel for an alleged incapacitated individual shall act as an advocate for the client and shall not substitute counsel's own judgment for that of the client on the subject of what may be in the client's best interests. Counsel's role shall be distinct from that of the guardian ad litem, who is expected to promote the best interest of the alleged incapacitated individual, rather than the alleged incapacitated individual's expressed preferences.

(c) If an alleged incapacitated person is represented by counsel and does not communicate with counsel, counsel may ask the court for leave to withdraw for that reason. If satisfied, after affording the alleged incapacitated person an opportunity for a hearing, that the request is justified, the court may grant the request and allow the case to proceed with the alleged incapacitated person unrepresented.

(2) During the pendency of any guardianship, any attorney purporting to represent a person alleged or adjudicated to be incapacitated shall petition to be appointed to represent the incapacitated or alleged incapacitated person. Fees for representation described in this section shall be subject to approval by the court pursuant to the provisions of RCW 11.92.180.

(3) The alleged incapacitated person is further entitled upon request to a jury trial on the issues of his or her alleged incapacity. The standard of proof to be applied in a contested case, whether before a jury or the court, shall be that of clear, cogent, and convincing evidence.

(4) In all proceedings for appointment of a guardian or limited guardian, the court must be presented with a written report from a physician licensed to practice under chapter 18.71 or 18.57 RCW or licensed or certified psychologist selected by the guardian ad litem. The physician or psychologist shall have personally examined and interviewed the alleged incapacitated person within thirty days of preparation of the report to the court and shall have expertise in the type of disorder or incapacity the alleged incapacitated person is

believed to have. The report shall contain the following information and shall be set forth in substantially the following format:

(a) The name and address of the examining physician or psychologist;

(b) The education and experience of the physician or psychologist pertinent to the case;

(c) The dates of examinations of the alleged incapacitated person;

(d) A summary of the relevant medical, functional, neurological, psychological, or psychiatric history of the alleged incapacitated person as known to the examining physician or psychologist;

(e) The findings of the examining physician or psychologist as to the condition of the alleged incapacitated person;

(f) Current medications;

(g) The effect of current medications on the alleged incapacitated person's ability to understand or participate in guardianship proceedings;

(h) Opinions on the specific assistance the alleged incapacitated person needs;

(i) Identification of persons with whom the physician or psychologist has met or spoken regarding the alleged incapacitated person.

The court shall not enter an order appointing a guardian or limited guardian until a medical or psychological report meeting the above requirements is filed.

The requirement of filing a medical report is waived if the basis of the guardianship is minority. [1995 c 297 § 3; 1991 c 289 § 4; 1990 c 122 § 6; 1977 ex.s. c 309 § 5; 1975 1st ex.s. c 95 § 7.]

**Effective date—1990 c 122:** See note following RCW 11.88.005.

**Severability—1977 ex.s. c 309:** See note following RCW 11.88.005.

**11.88.090 Guardian ad litem—Appointment—Qualifications—Duties—Report—Fee.** (1) Nothing contained in RCW 11.88.080 through 11.88.120, 11.92.010 through 11.92.040, 11.92.060 through 11.92.120, 11.92.170, and 11.92.180, as now or hereafter amended, shall affect or impair the power of any court to appoint a guardian ad litem to defend the interests of any incapacitated person interested in any suit or matter pending therein, or to commence and prosecute any suit in his behalf.

(2) Upon receipt of a petition for appointment of guardian or limited guardian, except as provided herein, the court shall appoint a guardian ad litem to represent the best interests of the alleged incapacitated person, who shall be a person found or known by the court to

(a) be free of influence from anyone interested in the result of the proceeding;

(b) have the requisite knowledge, training, or expertise to perform the duties required by this section.

No guardian ad litem need be appointed when a parent is petitioning for a guardian or a limited guardian to be appointed for his or her minor child and the minority of the child, as defined by RCW 11.92.010, is the sole basis of the petition. The order appointing the guardian ad litem shall recite the duties set forth in subsection (5) of this section. The appointment of a guardian ad litem shall have no effect on the legal competency of the alleged incapacitated person

and shall not overcome the presumption of competency or full legal and civil rights of the alleged incapacitated person.

(3)(a) The superior court of each county shall develop by September 1, 1991, a registry of persons who are willing and qualified to serve as guardians ad litem in guardianship matters. The court shall choose as guardians ad litem only persons whose names appear on the registry, except in extraordinary circumstances.

(b) To be eligible for the registry a person shall:

(i) Present a written statement of qualifications describing the person's knowledge, training, and experience in each of the following: Needs of impaired elderly people, physical disabilities, mental illness, developmental disabilities, and other areas relevant to the needs of incapacitated persons, legal procedure, and the requirements of chapters 11.88 and 11.92 RCW; and

(ii) Complete a training program adopted by the court, or, in the absence of a locally adopted program, a candidate for inclusion upon the registry shall have completed a model training program as described in (d) of this subsection.

(c) The superior court of each county shall approve training programs designed to:

(i) Train otherwise qualified human service professionals in those aspects of legal procedure and the requirements of chapters 11.88 and 11.92 RCW with which a guardian ad litem should be familiar;

(ii) Train otherwise qualified legal professionals in those aspects of medicine, social welfare, and social service delivery systems with which a guardian ad litem should be familiar.

(d) The superior court of each county may approve a guardian ad litem training program on or before June 1, 1991. The department of social and health services, aging and adult services administration, shall convene an advisory group to develop a model guardian ad litem training program. The advisory group shall consist of representatives from consumer, advocacy, and professional groups knowledgeable in developmental disabilities, neurological impairment, physical disabilities, mental illness, aging, legal, court administration, and other interested parties.

(e) Any superior court that has not adopted a guardian ad litem training program by September 1, 1991, shall require utilization of a model program developed by the advisory group as described in (d) of this subsection, to assure that candidates applying for registration as a qualified guardian ad litem shall have satisfactorily completed training to attain these essential minimum qualifications to act as guardian ad litem.

(4) The guardian ad litem's written statement of qualifications required by RCW 11.88.090(3)(b)(i) shall be made part of the record in each matter in which the person is appointed guardian ad litem.

(5) The guardian ad litem appointed pursuant to this section shall have the following duties:

(a) To meet and consult with the alleged incapacitated person as soon as practicable following appointment and explain, in language which such person can reasonably be expected to understand, the substance of the petition, the nature of the resultant proceedings, the person's right to contest the petition, the identification of the proposed guardian or limited guardian, the right to a jury trial on the issue of his or her alleged incapacity, the right to indepen-

dent legal counsel as provided by RCW 11.88.045, and the right to be present in court at the hearing on the petition;

(b) To obtain a written report according to RCW 11.88.045; and such other written or oral reports from other qualified professionals as are necessary to permit the guardian ad litem to complete the report required by this section;

(c) To meet with the person whose appointment is sought as guardian or limited guardian and ascertain:

(i) The proposed guardian's knowledge of the duties, requirements, and limitations of a guardian; and

(ii) The steps the proposed guardian intends to take or has taken to identify and meet the needs of the alleged incapacitated person;

(d) To consult as necessary to complete the investigation and report required by this section with those known relatives, friends, or other persons the guardian ad litem determines have had a significant, continuing interest in the welfare of the alleged incapacitated person;

(e) To provide the court with a written report which shall include the following:

(i) A description of the nature, cause, and degree of incapacity, and the basis upon which this judgment was made;

(ii) A description of the needs of the incapacitated person for care and treatment, the probable residential requirements of the alleged incapacitated person and the basis upon which these findings were made;

(iii) An evaluation of the appropriateness of the guardian or limited guardian whose appointment is sought and a description of the steps the proposed guardian has taken or intends to take to identify and meet current and emerging needs of the incapacitated person;

(iv) A description of the abilities of the alleged incapacitated person and a recommendation as to whether a guardian or limited guardian should be appointed. If appointment of a limited guardian is recommended, the guardian ad litem shall recommend the specific areas of authority the limited guardian should have and the limitations and disabilities to be placed on the incapacitated person;

(v) An evaluation of the person's mental ability to rationally exercise the right to vote and the basis upon which the evaluation is made;

(vi) Any expression of approval or disapproval made by the alleged incapacitated person concerning the proposed guardian or limited guardian or guardianship or limited guardianship;

(vii) Identification of persons with significant interest in the welfare of the alleged incapacitated person who should be advised of their right to request special notice of proceedings pursuant to RCW 11.92.150; and

(viii) Unless independent counsel has appeared for the alleged incapacitated person, an explanation of how the alleged incapacitated person responded to the advice of the right to jury trial, to independent counsel and to be present at the hearing on the petition.

Within forty-five days after notice of commencement of the guardianship proceeding has been served upon the guardian ad litem, and at least ten days before the hearing on the petition, unless an extension or reduction of time has been granted by the court for good cause, the guardian ad litem shall file its report and send a copy to the alleged

incapacitated person and his or her spouse, all children not residing with a notified person, those persons described in (e)(vii) of this subsection, and persons who have filed a request for special notice pursuant to RCW 11.92.150;

(f) To advise the court of the need for appointment of counsel for the alleged incapacitated person within five court days after the meeting described in (a) of this subsection unless (i) counsel has appeared, (ii) the alleged incapacitated person affirmatively communicated a wish not to be represented by counsel after being advised of the right to representation and of the conditions under which court-provided counsel may be available, or (iii) the alleged incapacitated person was unable to communicate at all on the subject, and the guardian ad litem is satisfied that the alleged incapacitated person does not affirmatively desire to be represented by counsel.

(6) If the petition is brought by an interested person or entity requesting the appointment of some other qualified person or entity and a prospective guardian or limited guardian cannot be found, the court shall order the guardian ad litem to investigate the availability of a possible guardian or limited guardian and to include the findings in a report to the court pursuant to RCW 11.88.090(5)(e) as now or hereafter amended.

(7) The court appointed guardian ad litem shall have the authority, in the event that the alleged incapacitated person is in need of emergency life-saving medical services, and is unable to consent to such medical services due to incapacity pending the hearing on the petition to give consent for such emergency life-saving medical services on behalf of the alleged incapacitated person.

(8) The guardian ad litem shall receive a fee determined by the court. The fee shall be charged to the alleged incapacitated person unless the court finds that such payment would result in substantial hardship upon such person, in which case the county shall be responsible for such costs: PROVIDED, That if no guardian or limited guardian is appointed the court may charge such fee to the petitioner or the alleged incapacitated person, or divide the fee, as it deems just; and if the petition is found to be frivolous or not brought in good faith, the guardian ad litem fee shall be charged to the petitioner. The court shall not be required to provide for the payment of a fee to any salaried employee of a public agency.

(9) Upon the presentation of the guardian ad litem report and the entry of an order either dismissing the petition for appointment of guardian or limited guardian or appointing a guardian or limited guardian, the guardian ad litem shall be dismissed and shall have no further duties or obligations unless otherwise ordered by the court. If the court orders the guardian ad litem to perform further duties or obligations, they shall not be performed at county expense. [1995 c 297 § 4; 1991 c 289 § 5; 1990 c 122 § 8; 1977 ex.s. c 309 § 6; 1975 1st ex.s. c 95 § 9; 1965 c 145 § 11.88.090. Prior: 1917 c 156 § 211; RRS § 1581; prior: Code 1881 § 1619; 1873 p 318 § 314; 1860 p 228 § 336.]

*Rules of court: Judgment for and settlement of claims of minors: SPR 98.16W.*

**Effective date—1990 c 122:** See note following RCW 11.88.005.

**Severability—1977 ex.s. c 309:** See note following RCW 11.88.005.

*Award in lieu of homestead, appointment for minor children or incapacitated persons: RCW 11.52.014.*

*Costs against guardian of infant plaintiff: RCW 4.84.140.*

*District judge, guardian ad litem if defendant minor, appointment of: RCW 12.04.150.*

*Execution against for costs against infant plaintiff: RCW 4.84.140.*

*Family allowances in probate of property, appointment of guardian ad litem for minor children or incapacitated persons of deceased: Chapter 11.52 RCW.*

*Homestead, awarding to survivor, guardian ad litem appointed for minor children or incapacitated persons of deceased: RCW 11.52.020.*

*Insane persons*

*appearance in civil action: RCW 4.08.060.*

*appointment for civil actions: RCW 4.08.060.*

*Liability for costs against infant plaintiffs: RCW 4.84.140.*

*Minors, for*

*appearance in civil actions: RCW 4.08.050.*

*appointment for civil actions: RCW 4.08.050.*

*district court proceedings: RCW 12.04.150.*

*Registration of land titles, appointment for minors: RCW 65.12.145.*

### **11.88.095 Disposition of guardianship petition. (1)**

In determining the disposition of a petition for guardianship, the court's order shall be based upon findings as to the capacities, condition, and needs of the alleged incapacitated person, and shall not be based solely upon agreements made by the parties.

(2) Every order appointing a full or limited guardian of the person or estate shall include:

(a) Findings as to the capacities, condition, and needs of the alleged incapacitated person;

(b) The amount of the bond, if any, or a bond review period;

(c) When the next report of the guardian is due;

(d) Whether the guardian ad litem shall continue acting as guardian ad litem;

(e) Whether a review hearing shall be required upon the filing of the inventory;

(f) The authority of the guardian, if any, for investment and expenditure of the ward's estate; and

(g) Names and addresses of those persons described in RCW 11.88.090(5)(d), if any, whom the court believes should receive copies of further pleadings filed by the guardian with respect to the guardianship.

(3) If the court determines that a limited guardian should be appointed, the order shall specifically set forth the limits by either stating exceptions to the otherwise full authority of the guardian or by stating the specific authority of the guardian.

(4) In determining the disposition of a petition for appointment of a guardian or limited guardian of the estate only, the court shall consider whether the alleged incapacitated person is capable of giving informed medical consent or of making other personal decisions and, if not, whether a guardian or limited guardian of the person of the alleged incapacitated person should be appointed for that purpose.

(5) Unless otherwise ordered, any powers of attorney or durable powers of attorney shall be revoked upon appointment of a guardian or limited guardian of the estate.

If there is an existing medical power of attorney, the court must make a specific finding of fact regarding the continued validity of that medical power of attorney before appointing a guardian or limited guardian for the person. [1995 c 297 § 5; 1991 c 289 § 6; 1990 c 122 § 9.]

**Effective date—1990 c 122:** See note following RCW 11.88.005.

## Chapter 11.92

GUARDIANSHIP—POWERS AND DUTIES OF  
GUARDIAN OR LIMITED GUARDIAN

## Sections

- 11.92.050 Intermediate accounts—Hearing—Order.  
 11.92.053 Settlement of estate upon termination.  
 11.92.180 Compensation and expenses of guardian or limited guardian—Attorney's fees—Department of social and health services clients paying part of costs—Rules.

**11.92.050 Intermediate accounts—Hearing—Order.**

(1) Upon the filing of any intermediate guardianship or limited guardianship account required by statute, or of any intermediate account required by court rule or order, the guardian or limited guardian may petition the court for an order settling his or her account with regard to any receipts, expenditures, and investments made and acts done by the guardian or limited guardian to the date of the interim report. Upon such petition being filed, the court may in its discretion, where the size or condition of the estate warrants it, set a date for the hearing of the petition and require the service of the petition and a notice of the hearing as provided in RCW 11.88.040 as now or hereafter amended; and, in the event a hearing is ordered, the court may also appoint a guardian ad litem, whose duty it shall be to investigate the report of the guardian or limited guardian of the estate and to advise the court thereon at the hearing, in writing. At the hearing on the report of the guardian or limited guardian, if the court is satisfied that the actions of the guardian or limited guardian have been proper, and that the guardian or limited guardian has in all respects discharged his or her trust with relation to the receipts, expenditures, investments, and acts, then, in such event, the court shall enter an order approving such account. If the court has appointed a guardian ad litem, the order shall be final and binding upon the incapacitated person, subject only to the right of appeal as upon a final order; provided that at the time of final account of said guardian or limited guardian or within one year after the incapacitated person attains his or her majority any such interim account may be challenged by the incapacitated person on the ground of fraud.

(2) The procedure established in subsection (1) of this section for financial accounts by guardians or limited guardians of the estate shall apply to personal care reports filed by guardians or limited guardians of the person under RCW 11.92.043. [1995 c 297 § 6; 1990 c 122 s 23; 1975 1st ex.s. c 95 s 21; 1965 c 145 s 11.92.050. Prior: 1943 c 29 s 1; Rem. Supp. 1943 s 1575-1.]

**Effective date—1990 c 122:** See note following RCW 11.88.005.

**11.92.053 Settlement of estate upon termination.**

Within ninety days after the termination of a guardianship for any reason, the guardian or limited guardian of the estate shall petition the court for an order settling his or her account as filed in accordance with RCW 11.92.040(2) with regard to any receipts, expenditures, and investments made and acts done by the guardian to the date of the termination. Upon the filing of the petition, the court shall set a date for the hearing of the petition after notice has been given in accordance with RCW 11.88.040. Any person interested may file objections to the petition or may appear at the time

and place fixed for the hearing thereof and present his or her objections thereto. The court may take such testimony as it deems proper or necessary to determine whether an order settling the account should be issued and the transactions of the guardian be approved, and the court may appoint a guardian ad litem to review the report.

At the hearing on the petition of the guardian or limited guardian, if the court is satisfied that the actions of the guardian or limited guardian have been proper, and that the guardian has in all respects discharged his or her trust with relation to the receipts, expenditures, investments, and acts, then, in such event, the court shall enter an order approving the account, and the order shall be final and binding upon the incapacitated person, subject only to the right of appeal as upon a final order. However, within one year after the incompetent attains his or her majority any such account may be challenged by the incapacitated person on the ground of fraud. [1995 c 297 § 7; 1990 c 122 § 24; 1965 c 145 § 11.92.053.]

**Effective date—1990 c 122:** See note following RCW 11.88.005.

*Administration of deceased incompetent's estate:* RCW 11.88.150.

*Procedure on removal or death of guardian—Delivery of estate to successor:* RCW 11.88.120.

*Termination of guardianship:* RCW 11.88.140.

**11.92.180 Compensation and expenses of guardian or limited guardian—Attorney's fees—Department of social and health services clients paying part of costs—Rules.**

A guardian or limited guardian shall be allowed such compensation for his or her services as guardian or limited guardian as the court shall deem just and reasonable. Guardians and limited guardians shall not be compensated at county or state expense. Additional compensation may be allowed for other administrative costs, including services of an attorney and for other services not provided by the guardian or limited guardian. Where a guardian or limited guardian is an attorney, the guardian or limited guardian shall separately account for time for which compensation is requested for services as a guardian or limited guardian as contrasted to time for which compensation for legal services provided to the guardianship is requested. In all cases, compensation of the guardian or limited guardian and his or her expenses including attorney's fees shall be fixed by the court and may be allowed at any annual or final accounting; but at any time during the administration of the estate, the guardian or limited guardian or his or her attorney may apply to the court for an allowance upon the compensation or necessary expenses of the guardian or limited guardian and for attorney's fees for services already performed. If the court finds that the guardian or limited guardian has failed to discharge his or her duties as such in any respect, it may deny the guardian any compensation whatsoever or may reduce the compensation which would otherwise be allowed. Where the incapacitated person is a department of social and health services client residing in a nursing facility or in a residential or home setting and is required by the department of social and health services to contribute a portion of their income towards the cost of residential or supportive services then the department shall be entitled to notice of proceedings as described in RCW 11.92.150. The amount of guardianship fees and additional compensation for administrative



costs shall not exceed the amount allowed by the department of social and health services by rule. [1995 c 297 § 8; 1994 c 68 § 1; 1991 c 289 § 12; 1990 c 122 § 36; 1975 1st ex.s. c 95 § 33; 1965 c 145 § 11.92.180. Prior: 1917 c 156 § 216; RRS § 1586; prior: Code 1881 § 1627; 1855 p 19 § 25.]

*Rules of court:* SPR 98.12W.

**Effective date—1990 c 122:** See note following RCW 11.88.005.

## Chapter 11.94

### POWER OF ATTORNEY

#### Sections

11.94.010 Designation—Authority—Effect of acts done—Appointment of guardian, effect—Accounting—Reliance on instrument.

**11.94.010 Designation—Authority—Effect of acts done—Appointment of guardian, effect—Accounting—Reliance on instrument.** (1) Whenever a principal designates another as his or her attorney in fact or agent, by a power of attorney in writing, and the writing contains the words "This power of attorney shall not be affected by disability of the principal," or "This power of attorney shall become effective upon the disability of the principal," or similar words showing the intent of the principal that the authority conferred shall be exercisable notwithstanding the principal's disability, the authority of the attorney in fact or agent is exercisable on behalf of the principal as provided notwithstanding later disability or incapacity of the principal at law or later uncertainty as to whether the principal is dead or alive. All acts done by the attorney in fact or agent pursuant to the power during any period of disability or incompetence or uncertainty as to whether the principal is dead or alive have the same effect and inure to the benefit of and bind the principal or the principal's guardian or heirs, devisees, and personal representative as if the principal were alive, competent, and not disabled. A principal may nominate, by a durable power of attorney, the guardian or limited guardian of his or her estate or person for consideration by the court if protective proceedings for the principal's person or estate are thereafter commenced. The court shall make its appointment in accordance with the principal's most recent nomination in a durable power of attorney except for good cause or disqualification. If a guardian thereafter is appointed for the principal, the attorney in fact or agent, during the continuance of the appointment, shall account to the guardian rather than the principal. The guardian has the same power the principal would have had if the principal were not disabled or incompetent, to revoke, suspend or terminate all or any part of the power of attorney or agency.

(2) Persons shall place reasonable reliance on any determination of disability or incompetence as provided in the instrument that specifies the time and the circumstances under which the power of attorney document becomes effective.

(3) A principal may authorize his or her attorney-in-fact to provide informed consent for health care decisions on the principal's behalf. Unless he or she is the spouse, or adult child or brother or sister of the principal, none of the following persons may act as the attorney-in-fact for the

principal: Any of the principal's physicians, the physicians' employees, or the owners, administrators, or employees of the health care facility where the principal resides or receives care. This authorization is subject to the same limitations as those that apply to a guardian under RCW 11.92.043(5) (a) through (c). [1995 c 297 § 9; 1989 c 211 § 1; 1985 c 30 § 25. Prior: 1984 c 149 § 26; 1974 ex.s. c 117 § 52.]

**Short title—Application—Purpose—Severability—1985 c 30:** See RCW 11.02.900 through 11.02.903.

**Severability—Effective dates—1984 c 149:** See notes following RCW 11.02.005.

**Application, construction—Severability—Effective date—1974 ex.s. c 117:** See RCW 11.02.080 and notes following.

## Chapter 11.95

### POWERS OF APPOINTMENT

#### Sections

11.95.030 Releases—Delivery.  
11.95.050 Repealed.

**11.95.030 Releases—Delivery.** (1) In order to be effective as a release of a power, the instrument of release must be delivered to any trustee or co-trustee of the property, and the person holding the property, to which the power relates.

(2) In addition to the delivery required under subsection (1) of this section, a copy of the instrument of release may be published in a legal newspaper of general circulation in the county in which all or the greatest portion of the property is located at least once within thirty days of the delivery required under subsection (1) of this section, which shall from the time of publication constitute notice of the release to all other persons. [1995 c 91 § 1; 1985 c 30 § 33. Prior: 1984 c 149 § 35; 1955 c 160 § 3. Formerly RCW 64.24.030.]

**Short title—Application—Purpose—Severability—1985 c 30:** See RCW 11.02.900 through 11.02.903.

**Severability—Effective dates—1984 c 149:** See notes following RCW 11.02.005.

**11.95.050 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

## Chapter 11.100

### INVESTMENT OF TRUST FUNDS

#### Sections

11.100.010 Provisions of chapter to control—Alteration by controlling instrument.  
11.100.020 Management of trust assets by fiduciary.  
11.100.035 Investments in securities of certain investment trusts.  
11.100.045 Fiduciary—Duty to beneficiaries.  
11.100.047 Fiduciary—Duty to diversify.  
11.100.130 Person to whom power or authority to direct or control acts of fiduciary or investments of a trust is conferred deemed a fiduciary—Liability.

**11.100.010 Provisions of chapter to control—Alteration by controlling instrument.** Any corporation, association, or person handling or investing trust funds as a fiduciary shall be governed in the handling and investment

of such funds as in this chapter specified. A fiduciary who invests and manages trust assets owes a duty to the beneficiaries of the trust to comply with requirements of this chapter. The specific requirements of this chapter may be expanded, restricted, eliminated, or otherwise altered by provisions of the controlling instrument. [1995 c 307 § 1; 1985 c 30 § 63. Prior: 1955 c 33 § 30.24.010; prior: 1947 c 100 § 1; Rem. Supp. 1947 § 3255-10a. Formerly RCW 30.24.010.]

**Application—1995 c 307:** "This act applies prospectively only and not retroactively." [1995 c 307 § 7.]

**Short title—Application—Purpose—Severability—1985 c 30:** See RCW 11.02.900 through 11.02.903.

#### 11.100.020 Management of trust assets by fiduciary.

(1) A fiduciary is authorized to acquire and retain every kind of property. In acquiring, investing, reinvesting, exchanging, selling and managing property for the benefit of another, a fiduciary, in determining the prudence of a particular investment, shall give due consideration to the role that the proposed investment or investment course of action plays within the overall portfolio of assets. In applying such total asset management approach, a fiduciary shall exercise the judgment and care under the circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, and if the fiduciary has special skills or is named trustee on the basis of representations of special skills or expertise, the fiduciary is under a duty to use those skills.

(2) Except as may be provided to the contrary in the instrument, the following are among the factors that should be considered by a fiduciary in applying this total asset management approach:

- (a) The probable income as well as the probable safety of their capital;
- (b) Marketability of investments;
- (c) General economic conditions;
- (d) Length of the term of the investments;
- (e) Duration of the trust;
- (f) Liquidity needs;
- (g) Requirements of the beneficiary or beneficiaries;
- (h) Other assets of the beneficiary or beneficiaries, including earning capacity; and
- (i) Effect of investments in increasing or diminishing liability for taxes.

(3) Within the limitations of the foregoing standard, and subject to any express provisions or limitations contained in any particular trust instrument, a fiduciary is authorized to acquire and retain every kind of property, real, personal, or mixed, and every kind of investment specifically including but not by way of limitation, debentures and other corporate obligations, and stocks, preferred or common, which persons of prudence, discretion, and intelligence acquire for their own account. [1995 c 307 § 2; 1985 c 30 § 65. Prior: 1984 c 149 § 97; 1955 c 33 § 30.24.020; prior: 1947 c 100 § 2; Rem. Supp. 1947 § 3255-10b. Formerly RCW 30.24.020.]

**Application—1995 c 307:** See note following RCW 11.100.010.

**Short title—Application—Purpose—Severability—1985 c 30:** See RCW 11.02.900 through 11.02.903.

**Severability—Effective dates—1984 c 149:** See notes following RCW 11.02.005.

*Endowment care funds to be invested in accordance with RCW 11.100.020: RCW 68.44.030.*

**11.100.035 Investments in securities of certain investment trusts.** (1) Within the standards of judgment and care established by law, and subject to any express provisions or limitations contained in any particular trust instrument, guardians, trustees, and other fiduciaries, whether individual or corporate, are authorized to acquire and retain securities of any open-end or closed-end management type investment company or investment trust registered under the federal investment company act of 1940 as now or hereafter amended.

(2) Within the limitations of subsection (1) of this section, whenever the trust instrument directs, requires, authorizes, or permits investment in obligations of the United States government, the fiduciary may invest in and hold such obligations either directly or in the form of securities of, or other interests in, an open-end or closed-end management type investment company or investment trust registered under the federal investment company act of 1940, as now or hereafter amended, if both of the following conditions are met:

(a) The portfolio of the investment company or investment trust is limited to obligations of the United States and to repurchase agreements fully collateralized by such obligations; and

(b) The investment company or investment trust takes delivery of the collateral for any repurchase agreement either directly or through an authorized custodian.

(3) If the fiduciary is a bank or trust company, then the fact that the fiduciary, or an affiliate of the fiduciary, provides services to the investment company or investment trust such as that of an investment advisor, custodian, transfer agent, registrar, sponsor, distributor, manager, or otherwise, and is receiving reasonable compensation for those services does not preclude the bank or trust company from investing or reinvesting in the securities of the open-end or closed-end management investment company or investment trust. The fiduciary shall furnish a copy of the prospectus relating to the securities to each person to whom a regular periodic accounting would ordinarily be rendered under the trust instrument or under RCW 11.106.020, upon the request of that person. The restrictions set forth under RCW 11.100.090 may not be construed as prohibiting the fiduciary powers granted under this subsection. [1995 c 307 § 3; 1994 c 221 § 68; 1989 c 97 § 1; 1985 c 30 § 69. Prior: 1955 c 33 § 30.24.035; prior: 1951 c 132 § 1. Formerly RCW 30.24.035.]

**Application—1995 c 307:** See note following RCW 11.100.010.

**Effective dates—1994 c 221:** See note following RCW 11.94.070.

**Short title—Application—Purpose—Severability—1985 c 30:** See RCW 11.02.900 through 11.02.903.

**11.100.045 Fiduciary—Duty to beneficiaries.** A fiduciary shall invest and manage the trust assets solely in the interests of the trust beneficiaries. If a trust has two or more beneficiaries, the fiduciary shall act impartially in investing and managing the trust assets, taking into account any differing interests of the beneficiaries. [1995 c 307 § 4.]

Application—1995 c 307: See note following RCW 11.100.010.

Washington.

11.100.047 Fiduciary—Duty to diversify. Subject to the provisions of RCW 11.100.060 and any express provisions in the trust instrument to the contrary, a fiduciary shall diversify the investments of the trust unless the fiduciary reasonably determines that, because of special circumstances, the purposes of the trust are better served without diversifying. [1995 c 307 § 5.]

Application—1995 c 307: See note following RCW 11.100.010.

11.100.130 Person to whom power or authority to direct or control acts of fiduciary or investments of a trust is conferred deemed a fiduciary—Liability. Whenever power or authority to direct or control the acts of a fiduciary or the investments of a trust is conferred directly or indirectly upon any person other than the designated trustee of the trust, such person shall be deemed to be a fiduciary and shall be liable to the beneficiaries of the trust and to the designated trustee to the same extent as if he or she were a designated trustee in relation to the exercise or nonexercise of such power or authority. [1995 c 307 § 6; 1985 c 30 § 77. Prior: 1973 1st ex.s. c 89 § 2. Formerly RCW 30.24.130.]

Application—1995 c 307: See note following RCW 11.100.010.

Short title—Application—Purpose—Severability—1985 c 30: See RCW 11.02.900 through 11.02.903.

Title 12

DISTRICT COURTS—CIVIL PROCEDURE

Chapters

12.40 Small claims.

Chapter 12.40
SMALL CLAIMS

Sections

- 12.40.105 Increase of judgment upon failure to pay.
12.40.110 Procedure on nonpayment.

12.40.105 Increase of judgment upon failure to pay. If the losing party fails to pay the judgment within twenty days or within the period otherwise ordered by the court, the judgment shall be increased by: (1) An amount sufficient to cover costs of certification of the judgment under RCW 12.40.110; and (2) the amount specified in RCW 36.18.012(2), without regard to the jurisdictional limits on the small claims department. [1995 c 292 § 5; 1983 c 254 § 2.]

Effective date—1983 c 254: See note following RCW 12.40.100.

12.40.110 Procedure on nonpayment. (1) If the losing party fails to pay the judgment according to the terms and conditions thereof within twenty days or is in arrears on any payment plan, and the prevailing party so notifies the court, the judge before whom such hearing was had shall certify the judgment in substantially the following form:

In the District Court of . . . . . County.

Plaintiff,
vs.
Defendant.

In the Small Claims Department.

This is to certify that: (1) In a certain action before me, the undersigned, had on this the . . . day of . . . . . 19. . . , wherein . . . . . was plaintiff and . . . . . defendant, jurisdiction of said defendant having been had by personal service (or otherwise) as provided by law, I then and there entered judgment against . . . . . in the sum of . . . . . Dollars; (2) the judgment has not been paid within twenty days or the period otherwise ordered by the court; and (3) pursuant to RCW 12.40.105, the amount of the judgment is hereby increased by any costs of certification under this section and the amount specified in RCW 36.18.012(2).

Witness my hand this . . . . . day of . . . . . , 19. . .

District Judge sitting in the
Small Claims Department.

(2) The judge shall forthwith enter the judgment transcript on the judgment docket of the district court; and thereafter garnishment, execution, and other process on execution provided by law may issue thereon, as in other judgments of district courts.

(3) Transcripts of such judgments may be filed and entered in judgment lien dockets in superior courts with like effect as in other cases. [1995 c 292 § 6; 1984 c 258 § 68; 1983 c 254 § 3; 1975 1st ex.s. c 40 § 1; 1973 c 128 § 2; 1919 c 187 § 11; RRS § 1777-11.]

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

Effective date—1983 c 254: See note following RCW 12.40.100.

Inclusion of reasonable costs and attorneys' fees in execution: RCW 6.17.110.

Title 13

JUVENILE COURTS AND JUVENILE OFFENDERS

Chapters

- 13.04 Basic juvenile court act.
13.32A Family reconciliation act.
13.34 Juvenile court act—Dependency of child and termination of parent and child relationship.
13.40 Juvenile justice act of 1977.
13.50 Keeping and release of records by juvenile justice or care agencies.
13.64 Emancipation of minors.

## Chapter 13.04

## BASIC JUVENILE COURT ACT

(Formerly: Juvenile courts)

## Sections

- 13.04.030 Juvenile court—Exclusive original jurisdiction.  
 13.04.040 Administrator—Appointment of probation counselors and persons in charge of detention facilities—Powers and duties, compensation—Collection of fines.  
 13.04.093 Hearings—Duties of prosecuting attorney or attorney general.

**13.04.030 Juvenile court—Exclusive original jurisdiction.** (1) Except as provided in subsection (2) of this section, the juvenile courts in the several counties of this state, shall have exclusive original jurisdiction over all proceedings:

(a) Under the interstate compact on placement of children as provided in chapter 26.34 RCW;

(b) Relating to children alleged or found to be dependent as provided in chapter 26.44 RCW and in RCW 13.34.030 through 13.34.170;

(c) Relating to the termination of a parent and child relationship as provided in RCW 13.34.180 through 13.34.210;

(d) To approve or disapprove out-of-home placement as provided in RCW 13.32A.170;

(e) Relating to juveniles alleged or found to have committed offenses, traffic infractions, or violations as provided in RCW 13.40.020 through 13.40.230, unless:

(i) The juvenile court transfers jurisdiction of a particular juvenile to adult criminal court pursuant to RCW 13.40.110; or

(ii) The statute of limitations applicable to adult prosecution for the offense, traffic infraction, or violation has expired; or

(iii) The alleged offense or infraction is a traffic, fish, boating, or game offense or traffic infraction committed by a juvenile sixteen years of age or older and would, if committed by an adult, be tried or heard in a court of limited jurisdiction, in which instance the appropriate court of limited jurisdiction shall have jurisdiction over the alleged offense or infraction: PROVIDED, That if such an alleged offense or infraction and an alleged offense or infraction subject to juvenile court jurisdiction arise out of the same event or incident, the juvenile court may have jurisdiction of both matters: PROVIDED FURTHER, That the jurisdiction under this subsection does not constitute "transfer" or a "decline" for purposes of RCW 13.40.110(1) or (e)(i) of this subsection: PROVIDED FURTHER, That courts of limited jurisdiction which confine juveniles for an alleged offense or infraction may place juveniles in juvenile detention facilities under an agreement with the officials responsible for the administration of the juvenile detention facility in RCW 13.04.035 and 13.20.060; or

(iv) The juvenile is sixteen or seventeen years old and the alleged offense is: (A) A serious violent offense as defined in RCW 9.94A.030 committed on or after June 13, 1994; or (B) a violent offense as defined in RCW 9.94A.030 committed on or after June 13, 1994, and the juvenile has a criminal history consisting of: (I) One or more prior serious violent offenses; (II) two or more prior violent offenses; or

(III) three or more of any combination of the following offenses: Any class A felony, any class B felony, vehicular assault, or manslaughter in the second degree, all of which must have been committed after the juvenile's thirteenth birthday and prosecuted separately. In such a case the adult criminal court shall have exclusive original jurisdiction.

If the juvenile challenges the state's determination of the juvenile's criminal history, the state may establish the offender's criminal history by a preponderance of the evidence. If the criminal history consists of adjudications entered upon a plea of guilty, the state shall not bear a burden of establishing the knowing and voluntariness of the plea;

(f) Under the interstate compact on juveniles as provided in chapter 13.24 RCW;

(g) Relating to termination of a diversion agreement under RCW 13.40.080, including a proceeding in which the divertee has attained eighteen years of age;

(h) Relating to court validation of a voluntary consent to an out-of-home placement under chapter 13.34 RCW, by the parent or Indian custodian of an Indian child, except if the parent or Indian custodian and child are residents of or domiciled within the boundaries of a federally recognized Indian reservation over which the tribe exercises exclusive jurisdiction; and

(i) Relating to petitions to compel disclosure of information filed by the department of social and health services pursuant to RCW 74.13.042.

(2) The family court shall have concurrent original jurisdiction with the juvenile court over all proceedings under this section if the superior court judges of a county authorize concurrent jurisdiction as provided in RCW 26.12.010.

(3) A juvenile subject to adult superior court jurisdiction under subsection (1)(e) (i) through (iv) of this section, who is detained pending trial, may be detained in a county detention facility as defined in RCW 13.40.020 pending sentencing or a dismissal. [1995 c 312 § 39; 1995 c 311 § 15; 1994 sp.s. c 7 § 519; 1988 c 14 § 1; 1987 c 170 § 1; 1985 c 354 § 29; 1984 c 272 § 1; 1981 c 299 § 1; 1980 c 128 § 6; 1979 c 155 § 3; 1977 ex.s. c 291 § 4; 1937 c 65 § 1; 1929 c 176 § 1; 1921 c 135 § 1; 1913 c 160 § 2; RRS § 1987-2.]

**Reviser's note:** This section was amended by 1995 c 311 § 15 and by 1995 c 312 § 39, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Short title—1995 c 312:** See note following RCW 13.32A.010.

**Application of 1994 sp.s. c 7 amendments:** "Provisions governing exceptions to juvenile court jurisdiction in the amendments to RCW 13.04.030 contained in section 519, chapter 7, Laws of 1994 sp. sess. shall apply to serious violent and violent offenses committed on or after June 13, 1994. The criminal history which may result in loss of juvenile court jurisdiction upon the alleged commission of a serious violent or violent offense may have been acquired on, before, or after June 13, 1994." [1994 sp.s. c 7 § 540.]

**Finding—Intent—Severability—Effective dates—Contingent expiration date—1994 sp.s. c 7:** See notes following RCW 43.70.540.

**Savings—1988 c 14:** "Any court validation of a voluntary consent to relinquishment or adoption of an Indian child which was obtained in a juvenile court or superior court pursuant to chapter 26.33 RCW after July 25, 1987, and before June 9, 1988, shall be valid and effective in all respects." [1988 c 14 § 2.]

**Severability—1987 c 170:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1987 c 170 § 15.]

**Severability—Effective date—1985 c 354:** See RCW 71.34.900 and 71.34.901.

**Effective date—Severability—1980 c 128:** See notes following RCW 46.63.060.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**Effective dates—Severability—1977 ex.s. c 291:** See notes following RCW 13.04.005.

*Court commissioners: Chapter 2.24 RCW, state Constitution Art. 4 § 23. Jurisdiction of superior courts: State Constitution Art. 4 § 6 (Amendment 65).*

**13.04.040 Administrator—Appointment of probation counselors and persons in charge of detention facilities—Powers and duties, compensation—Collection of fines.** The administrator shall, in any county or judicial district in the state, appoint or designate one or more persons of good character to serve as probation counselors during the pleasure of the administrator. The probation counselor shall:

(1) Receive and examine referrals to the juvenile court for the purpose of considering the filing of a petition or information pursuant to chapter 13.32A or 13.34 RCW or RCW 13.40.070;

(2) Make recommendations to the court regarding the need for continued detention or shelter care of a child unless otherwise provided in this title;

(3) Arrange and supervise diversion agreements as provided in RCW 13.40.080, and ensure that the requirements of such agreements are met except as otherwise provided in this title;

(4) Prepare predisposition studies as required in RCW 13.34.120 and 13.40.130, and be present at the disposition hearing to respond to questions regarding the predisposition study: PROVIDED, That such duties shall be performed by the department for cases relating to dependency or to the termination of a parent and child relationship which is filed by the department unless otherwise ordered by the court; and

(5) Supervise court orders of disposition to ensure that all requirements of the order are met.

All probation counselors shall possess all the powers conferred upon sheriffs and police officers to serve process and make arrests of juveniles under their supervision for the violation of any state law or county or city ordinance.

The administrator may, in any county or judicial district in the state, appoint one or more persons who shall have charge of detention rooms or houses of detention.

The probation counselors and persons appointed to have charge of detention facilities shall each receive compensation which shall be fixed by the legislative authority of the county, or in cases of joint counties, judicial districts of more than one county, or joint judicial districts such sums as shall be agreed upon by the legislative authorities of the counties affected, and such persons shall be paid as other county officers are paid.

The administrator is hereby authorized, and to the extent possible is encouraged to, contract with private agencies existing within the community for the provision of services to youthful offenders and youth who have entered into diversion agreements pursuant to RCW 13.40.080.

The administrator shall establish procedures for the collection of fines assessed under RCW 13.40.080 (2)(d) and (13) and for the payment of the fines into the county general fund. [1995 c 312 § 40; 1983 c 191 § 14; 1979 c 155 § 6; 1977 ex.s. c 291 § 8; 1959 c 331 § 9; 1951 c 270 § 1; 1921 c 43 § 1; 1913 c 160 § 3; RRS § 1987-3.]

**Short title—1995 c 312:** See note following RCW 13.32A.010.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**Effective dates—Severability—1977 ex.s. c 291:** See notes following RCW 13.04.005.

**13.04.093 Hearings—Duties of prosecuting attorney or attorney general.** It shall be the duty of the prosecuting attorney to act in proceedings relating to the commission of a juvenile offense as provided in RCW 13.40.070 and 13.40.090 and in proceedings as provided in chapter 71.34 RCW. It shall be the duty of the prosecuting attorney to handle delinquency cases under chapter 13.24 RCW and it shall be the duty of the attorney general to handle dependency cases under chapter 13.24 RCW. It shall be the duty of the attorney general in contested cases brought by the department to present the evidence supporting any petition alleging dependency or seeking the termination of a parent and child relationship or any contested case filed under RCW 26.33.100 or approving or disapproving out-of-home placement: PROVIDED, That in each county with a population of less than two hundred ten thousand, the attorney general may contract with the prosecuting attorney of the county to perform the duties of the attorney general under this section. [1995 c 312 § 41; 1991 c 363 § 11; 1985 c 354 § 30; 1985 c 7 § 4; 1979 ex.s. c 165 § 6; 1977 ex.s. c 291 § 9.]

**Short title—1995 c 312:** See note following RCW 13.32A.010.

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

**Severability—Effective date—1985 c 354:** See RCW 71.34.900 and 71.34.901.

**Effective dates—Severability—1977 ex.s. c 291:** See notes following RCW 13.04.005.

**Chapter 13.32A**

**FAMILY RECONCILIATION ACT**  
(Formerly: Procedures for families in conflict)

Sections	
13.32A.010	Legislative findings and intent.
13.32A.030	Definitions—Regulating leave from semi-secure facility.
13.32A.040	Family reconciliation services.
13.32A.042	Multidisciplinary team—Formation—Authority.
13.32A.044	Multidisciplinary team—Purpose.
13.32A.050	Officer taking child into custody—When authorized—Maximum time of custody—Transporting to crisis residential center—Report on suspected abuse or neglect.
13.32A.060	Officer taking child into custody—Procedure—Transporting to home, crisis residential center, secure facility, or juvenile detention facility.
13.32A.070	Immunity from liability for officer taking child into custody and person with whom child is placed.
13.32A.082	Providing shelter to minor—Requirement to notify parent, law enforcement, or department.
13.32A.084	Providing shelter to minor—Immunity from liability.

- 13.32A.086 Duty of law enforcement agencies to identify runaway children under RCW 43.43.510.
- 13.32A.090 Duty to inform parents—Transportation to child's home or out-of-home placement—Notice to department.
- 13.32A.095 Unauthorized leave from crisis residential center—Notice to parents and law enforcement.
- 13.32A.120 Out-of-home placement—Agreement to continue—Petition to approve.
- 13.32A.125 Temporary out-of-home placement in semi-secure crisis residential center.
- 13.32A.130 Child admitted to secure facility in crisis residential center—Maximum hours of custody—Evaluation for semi-secure facility—Parental right to remove child—Reconciliation effort—Information to parent and child—Written statement of services and rights—Crisis residential center immunity from liability.
- 13.32A.140 Out-of-home placement—Child in need of services petition by department—Procedure.
- 13.32A.150 Out-of-home placement—Child in need of services petition by child or parent.
- 13.32A.152 Child in need of services petition—Service on parents.
- 13.32A.160 Out-of-home placement—Court action upon filing of child in need of services petition—Child placement.
- 13.32A.170 Out-of-home placement—Fact-finding hearing.
- 13.32A.175 Out-of-home placement—Contribution to child's support—Enforcement of order.
- 13.32A.177 Out-of-home placement—Determination of support payments.
- 13.32A.179 Out-of-home placement—Hearing—Court order—Child subject to contempt proceedings—Dismissal of order at request of department or parent.
- 13.32A.180 Out-of-home placement—Court order—No placement in secure residence.
- 13.32A.190 Out-of-home placement dispositional order—Review hearings—Time limitation on out-of-home placement—Termination of placement at request of parent.
- 13.32A.191 At-risk youth—Petition by parent.
- 13.32A.192 At-risk youth petition—Prehearing procedures.
- 13.32A.194 At-risk youth petition—Court procedures.
- 13.32A.196 At-risk youth petition—Dispositional hearing.
- 13.32A.205 Acceptance of petitions by court—Damages.
- 13.32A.250 Failure to comply with order as contempt—Motion—Penalties.
- 13.32A.300 No entitlement to services created by chapter.

**13.32A.010 Legislative findings and intent.** The legislature finds that within any group of people there exists a need for guidelines for acceptable behavior and that, presumptively, the experience and maturity of parents make them better qualified to establish guidelines beneficial to and protective of their children. The legislature further finds that it is the right and responsibility of adults to establish laws for the benefit and protection of the society; and that, in the same manner, the right and responsibility for establishing reasonable guidelines for the family unit belongs to the adults within that unit. Further, absent abuse or neglect, parents should have the right to exercise control over their children. The legislature reaffirms its position stated in RCW 13.34.020 that the family unit is the fundamental resource of American life which should be nurtured and that it should remain intact in the absence of compelling evidence to the contrary.

The legislature recognizes there is a need for services and assistance for parents and children who are in conflict. These conflicts are manifested by children who exhibit various behaviors including: Running away, substance

abuse, serious acting out problems, mental health needs, and other behaviors that endanger themselves or others.

The legislature finds many parents do not know their rights regarding their adolescent children and law enforcement. Parents and courts feel they have insufficient legal recourse for the chronic runaway child who is endangering himself or herself through his or her behavior. The legislature further recognizes that for chronic runaways whose behavior puts them in serious danger of harming themselves or others, secure facilities must be provided to allow opportunities for assessment, treatment, and to assist parents and protect their children. The legislature intends to give tools to parents, courts, and law enforcement to keep families together and reunite them whenever possible.

The legislature recognizes that some children run away to protect themselves from abuse or neglect in their homes. Abused and neglected children should be dealt with pursuant to chapter 13.34 RCW and it is not the intent of the legislature to handle dependency matters under this chapter.

The legislature intends services offered under this chapter be on a voluntary basis whenever possible to children and their families and that the courts be used as a last resort.

The legislature intends to increase the safety of children through the preservation of families and the provision of assessment, treatment, and placement services for children in need of services and at-risk youth including services and assessments conducted under chapter 13.32A RCW and RCW 74.13.033. Within available funds, the legislature intends to provide these services through crisis residential centers in which children and youth may safely reside for a limited period of time. The time in residence shall be used to conduct an assessment of the needs of the children, youth, and their families. The assessments are necessary to identify appropriate services and placement options that will reduce the likelihood that children will place themselves in dangerous or life-threatening situations.

The legislature recognizes that crisis residential centers provide an opportunity for children to receive short-term necessary support and nurturing in cases where there may be abuse or neglect. The legislature intends that center staff provide an atmosphere of concern, care, and respect for children in the center and their parents.

The legislature intends to provide for the protection of children who, through their behavior, are endangering themselves. The legislature intends to provide appropriate residential services, including secure facilities, to protect, stabilize, and treat children with serious problems. The legislature further intends to empower parents by providing them with the assistance they require to raise their children. [1995 c 312 § 1; 1979 c 155 § 15.]

**Short title—1995 c 312:** "This act may be known and cited as the "Becca bill."" [1995 c 312 § 2.]

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**13.32A.030 Definitions—Regulating leave from semi-secure facility.** As used in this chapter the following terms have the meanings indicated unless the context clearly requires otherwise:

- (1) "At-risk youth" means a juvenile:

(a) Who is absent from home for at least seventy-two consecutive hours without consent of his or her parent;

(b) Who is beyond the control of his or her parent such that the child's behavior endangers the health, safety, or welfare of the child or any other person; or

(c) Who has a substance abuse problem for which there are no pending criminal charges related to the substance abuse.

(2) "Child," "juvenile," and "youth" mean any unemancipated individual who is under the chronological age of eighteen years.

(3) "Child in need of services" means a juvenile:

(a) Who is beyond the control of his or her parent such that the child's behavior endangers the health, safety, or welfare of the child or other person;

(b) Who has been reported to law enforcement as absent without consent for at least twenty-four consecutive hours from the parent's home, a crisis residential center, an out-of-home placement, or a court-ordered placement on two or more separate occasions; and

(i) Has exhibited a serious substance abuse problem; or

(ii) Has exhibited behaviors that create a serious risk of harm to the health, safety, or welfare of the child or any other person; or

(c)(i) Who is in need of necessary services, including food, shelter, health care, clothing, educational, or services designed to maintain or reunite the family;

(ii) Who lacks access, or has declined, to utilize these services; and

(iii) Whose parents have evidenced continuing but unsuccessful efforts to maintain the family structure or are unable or unwilling to continue efforts to maintain the family structure.

(4) "Child in need of services petition" means a petition filed in juvenile court by a parent, child, or the department seeking adjudication of placement of the child.

(5) "Custodian" means the person or entity who has the legal right to the custody of the child.

(6) "Department" means the department of social and health services.

(7) "Extended family member" means an adult who is a grandparent, brother, sister, stepbrother, stepsister, uncle, aunt, or first cousin with whom the child has a relationship and is comfortable, and who is willing and available to care for the child.

(8) "Guardian" means that person or agency that (a) has been appointed as the guardian of a child in a legal proceeding other than a proceeding under chapter 13.34 RCW, and (b) has the right to legal custody of the child pursuant to such appointment. The term "guardian" does not include a "dependency guardian" appointed pursuant to a proceeding under chapter 13.34 RCW.

(9) "Multidisciplinary team" means a group formed to provide assistance and support to a child who is an at-risk youth or a child in need of services and his or her parent. The team shall include the parent, a department case worker, a local government representative when authorized by the local government, and when appropriate, members from the mental health and substance abuse disciplines. The team may also include, but is not limited to, the following persons: Educators, law enforcement personnel, probation

officers, employers, church persons, tribal members, therapists, medical personnel, social service providers, placement providers, and extended family members. The team members shall be volunteers who do not receive compensation while acting in a capacity as a team member, unless the member's employer chooses to provide compensation or the member is a state employee.

(10) "Out-of-home placement" means a placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or placement in a home, other than that of the child's parent, guardian, or legal custodian, not required to be licensed pursuant to chapter 74.15 RCW.

(11) "Parent" means the parent or parents who have the legal right to custody of the child. "Parent" includes custodian or guardian.

(12) "Secure facility" means a crisis residential center, or portion thereof, that has locking doors, locking windows, or a secured perimeter, designed and operated to prevent a child from leaving without permission of the facility staff.

(13) "Semi-secure facility" means any facility, including but not limited to crisis residential centers or specialized foster family homes, operated in a manner to reasonably assure that youth placed there will not run away. Pursuant to rules established by the department, the facility administrator shall establish reasonable hours for residents to come and go from the facility such that no residents are free to come and go at all hours of the day and night. To prevent residents from taking unreasonable actions, the facility administrator, where appropriate, may condition a resident's leaving the facility upon the resident being accompanied by the administrator or the administrator's designee and the resident may be required to notify the administrator or the administrator's designee of any intent to leave, his or her intended destination, and the probable time of his or her return to the center.

(14) "Temporary out-of-home placement" means an out-of-home placement of not more than fourteen days ordered by the court at a fact-finding hearing on a child in need of services petition. [1995 c 312 § 3; 1990 c 276 § 3; 1985 c 257 § 6; 1979 c 155 § 17.]

**Short title—1995 c 312:** See note following RCW 13.32A.010.

**Intent—Conflict with federal requirements—Severability—1990 c 276:** See notes following RCW 13.32A.020.

**Severability—1985 c 257:** See note following RCW 13.34.165.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**13.32A.040 Family reconciliation services.** Families who are in conflict or who are experiencing problems with at-risk youth or a child who may be in need of services may request family reconciliation services from the department. The department may involve a local multidisciplinary team in its response in determining the services to be provided and in providing those services. Such services shall be provided to alleviate personal or family situations which present a serious and imminent threat to the health or stability of the child or family and to maintain families intact wherever possible. Family reconciliation services shall be designed to develop skills and supports within families to resolve problems related to at-risk youth, children in need of services, or family conflicts and may include but are not

limited to referral to services for suicide prevention, psychiatric or other medical care, or psychological, mental health, drug or alcohol treatment, welfare, legal, educational, or other social services, as appropriate to the needs of the child and the family. Family reconciliation services may also include training in parenting, conflict management, and dispute resolution skills. [1995 c 312 § 5; 1994 c 304 § 3; 1990 c 276 § 4; 1981 c 298 § 1; 1979 c 155 § 18.]

**Short title—1995 c 312:** See note following RCW 13.32A.010.

**Effective date—1994 c 304:** See note following RCW 28A.635.060.

**Intent—Conflict with federal requirements—Severability—1990 c 276:** See notes following RCW 13.32A.020.

**Severability—1981 c 298:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 298 § 20.]

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

### 13.32A.042 Multidisciplinary team—Formation—

**Authority.** (1)(a) The administrator of a crisis residential center may convene a multidisciplinary team, which is to be locally based and administered, at the request of a child placed at the center or the child's parent.

(b) If the administrator has reasonable cause to believe that a child is a child in need of services and the parent is unavailable or unwilling to continue efforts to maintain the family structure, the administrator shall immediately convene a multidisciplinary team.

(c) A parent may disband a team twenty-four hours, excluding weekends and holidays, after receiving notice of formation of the team under (b) of this subsection unless a petition has been filed under RCW 13.32A.140. If a petition has been filed the parent may not disband the team until the hearing is held under RCW 13.32A.179. The court may allow the team to continue if an out-of-home placement is ordered under RCW 13.32A.179(3). Upon the filing of an at-risk youth or dependency petition the team shall cease to exist, unless the parent requests continuation of the team or unless the out-of-home placement was ordered under RCW 13.32A.179(3).

(2) The secretary shall request participation of appropriate state agencies to assist in the coordination and delivery of services through the multidisciplinary teams. Those agencies that agree to participate shall provide the secretary all information necessary to facilitate forming a multidisciplinary team and the secretary shall provide this information to the administrator of each crisis residential center.

(3) The secretary shall designate within each region a department employee who shall have responsibility for coordination of the state response to a request for creation of a multidisciplinary team. The secretary shall advise the administrator of each crisis residential center of the name of the appropriate employee. Upon a request of the administrator to form a multidisciplinary team the employee shall provide a list of the agencies that have agreed to participate in the multidisciplinary team.

(4) The administrator shall also seek participation from representatives of mental health and drug and alcohol treatment providers as appropriate.

(5) A parent shall be advised of the request to form a multidisciplinary team and may select additional members of the multidisciplinary team. The parent or child may request any person or persons to participate including, but not limited to, educators, law enforcement personnel, court personnel, family therapists, licensed health care practitioners, social service providers, youth residential placement providers, other family members, church representatives, and members of their own community. The administrator shall assist in obtaining the prompt participation of persons requested by the parent or child.

(6) When an administrator of a crisis residential center requests the formation of a team, the state agencies must respond as soon as possible. The team shall have the authority to evaluate the juvenile, and family members, if appropriate and agreed to by the parent, and shall:

(a) With parental input, develop a plan of appropriate available services and assist the family in obtaining those services;

(b) Make a referral to the designated chemical dependency specialist or the county designated mental health professional, if appropriate;

(c) Recommend no further intervention because the juvenile and his or her family have resolved the problem causing the family conflict; or

(d) With the parent's consent, work with them to achieve reconciliation of the child and family. [1995 c 312 § 13.]

**Short title—1995 c 312:** See note following RCW 13.32A.010.

### 13.32A.044 Multidisciplinary team—Purpose. (1)

The purpose of the multidisciplinary team is to assist in a coordinated referral of the family to available social and health-related services.

(2) At the first meeting of the multidisciplinary team, it shall choose a member to coordinate the team's efforts. The parent member of the multidisciplinary team must agree with the choice of coordinator. The team shall meet or communicate as often as necessary to assist the family.

(3) The coordinator of the multidisciplinary team may assist in filing a child in need of services petition when requested by the parent or child or an at-risk youth petition when requested by the parent. The multidisciplinary team shall have no standing as a party in any action under this title.

(4) If the administrator is unable to contact the child's parent, the multidisciplinary team may be used for assistance. If the parent has not been contacted within five days the administrator shall contact the department and request the case be reviewed for a dependency filing under chapter 13.34 RCW. [1995 c 312 § 14.]

**Short title—1995 c 312:** See note following RCW 13.32A.010.

**13.32A.050 Officer taking child into custody—When authorized—Maximum time of custody—Transporting to crisis residential center—Report on suspected abuse or neglect.** (1) A law enforcement officer shall take a child into custody:

(a) If a law enforcement agency has been contacted by the parent of the child that the child is absent from parental custody without consent; or



(b) If a law enforcement officer reasonably believes, considering the child's age, the location, and the time of day, that a child is in circumstances which constitute a danger to the child's safety or that a child is violating a local curfew ordinance; or

(c) If an agency legally charged with the supervision of a child has notified a law enforcement agency that the child has run away from placement; or

(d) If a law enforcement agency has been notified by the juvenile court that the court finds probable cause exists to believe that the child has violated a court placement order issued pursuant to chapter 13.32A RCW or that the court has issued an order for law enforcement pick-up of the child under this chapter.

(2) Law enforcement custody shall not extend beyond the amount of time reasonably necessary to transport the child to a destination authorized by law and to place the child at that destination.

(3) If a law enforcement officer takes a child into custody pursuant to either subsection (1)(a) or (b) of this section and transports the child to a crisis residential center, the officer shall, within twenty-four hours of delivering the child to the center, provide to the center a written report detailing the reasons the officer took the child into custody.

(4) If the law enforcement officer who initially takes the juvenile into custody or the staff of the crisis residential center have reasonable cause to believe that the child is absent from home because he or she is abused or neglected, a report shall be made immediately to the department.

(5) Nothing in this section affects the authority of any political subdivision to make regulations concerning the conduct of minors in public places by ordinance or other local law.

(6) If a law enforcement officer receives a report that causes the officer to have reasonable suspicion that a child is being harbored under RCW 13.32A.080 or for other reasons has a reasonable suspicion that a child is being harbored under RCW 13.32A.080, the officer shall remove the child from the custody of the person harboring the child and shall transport the child to one of the locations specified in RCW 13.32A.060.

(7) No child may be placed in a secure facility except as provided in this chapter. [1995 c 312 § 6; 1994 sp.s. c 7 § 505; 1990 c 276 § 5; 1986 c 288 § 1; 1985 c 257 § 7; 1981 c 298 § 2; 1979 c 155 § 19.]

**Short title—1995 c 312:** See note following RCW 13.32A.010.

**Finding—Intent—Severability—1994 sp.s. c 7:** See notes following RCW 43.70.540.

**Intent—Conflict with federal requirements—Severability—1990 c 276:** See notes following RCW 13.32A.020.

**Severability—1986 c 288:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1986 c 288 § 13.]

**Severability—1985 c 257:** See note following RCW 13.34.165.

**Severability—1981 c 298:** See note following RCW 13.32A.040.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**13.32A.060 Officer taking child into custody—Procedure—Transporting to home, crisis residential center, secure facility, or juvenile detention facility.** (1)

An officer taking a child into custody under RCW 13.32A.050(1) (a) or (b) shall inform the child of the reason for such custody and shall either:

(a) Transport the child to his or her home or to a parent at his or her place of employment, if no parent is at home. The officer releasing a child into the custody of the parent shall inform the parent of the reason for the taking of the child into custody and shall inform the child and the parent of the nature and location of appropriate services available in their community. The parent may direct the officer to take the child to the home of an adult extended family member, responsible adult, or a licensed youth shelter. The officer releasing a child into the custody of an adult extended family member, responsible adult, or a licensed youth shelter shall inform the child and the person receiving the child of the nature and location of appropriate services available in the community; or

(b) After attempting to notify the parent, take the child to a designated crisis residential center's secure facility or a center's semi-secure facility if a secure facility is full, not available, or not located within a reasonable distance:

(i) If the child expresses fear or distress at the prospect of being returned to his or her home which leads the officer to believe there is a possibility that the child is experiencing some type of child abuse or neglect, as defined in RCW 26.44.020; or

(ii) If it is not practical to transport the child to his or her home or place of the parent's employment; or

(iii) If there is no parent available to accept custody of the child.

(2) An officer taking a child into custody under RCW 13.32A.050(1) (c) or (d) shall inform the child of the reason for custody. An officer taking a child into custody under RCW 13.32A.050(1)(c) shall take the child to a designated crisis residential center's secure facility or, if not available or located within a reasonable distance, to a semi-secure facility within a crisis residential center, licensed by the department and established pursuant to chapter 74.13 RCW. An officer taking a child into custody under RCW 13.32A.050(1)(d) may place the child in a juvenile detention facility as provided in RCW 13.32A.065 or a secure facility. The department shall ensure that all law enforcement authorities are informed on a regular basis as to the location of all designated secure and semi-secure facilities within crisis residential center or centers in their jurisdiction, where children taken into custody under RCW 13.32A.050 may be taken. [1995 c 312 § 7; 1994 sp.s. c 7 § 506; 1985 c 257 § 8; 1981 c 298 § 3; 1979 c 155 § 20.]

**Short title—1995 c 312:** See note following RCW 13.32A.010.

**Finding—Intent—Severability—1994 sp.s. c 7:** See notes following RCW 43.70.540.

**Severability—1985 c 257:** See note following RCW 13.34.165.

**Severability—1981 c 298:** See note following RCW 13.32A.040.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**13.32A.070 Immunity from liability for officer taking child into custody and person with whom child is placed.** (1) A law enforcement officer acting in good faith pursuant to this chapter in failing to take a child into custody, in taking a child into custody, in placing a child in

a crisis residential center, or in releasing a child to a person at the request of a parent is immune from civil or criminal liability for such action.

(2) A person with whom a child is placed pursuant to this chapter and who acts reasonably and in good faith is immune from civil or criminal liability for the act of receiving the child. The immunity does not release the person from liability under any other law. [1995 c 312 § 8; 1986 c 288 § 2; 1981 c 298 § 5; 1979 c 155 § 21.]

**Short title—1995 c 312:** See note following RCW 13.32A.010.

**Severability—1986 c 288:** See note following RCW 13.32A.050.

**Severability—1981 c 298:** See note following RCW 13.32A.040.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**13.32A.082 Providing shelter to minor—Requirement to notify parent, law enforcement, or department.** (1) Any person who, without legal authorization, provides shelter to a minor and who knows at the time of providing the shelter that the minor is away from the parent's home, or other lawfully prescribed residence, without the permission of the parent, shall promptly report the location of the child to the parent, the law enforcement agency of the jurisdiction in which the person lives, or the department. The report may be made by telephone or any other reasonable means.

(2) Unless the context clearly requires otherwise, the definitions in this subsection apply throughout this section.

(a) "Shelter" means the person's home or any structure over which the person has any control.

(b) "Promptly report" means to report within eight hours after the person has knowledge that the minor is away from home without parental permission.

(c) "Parent" means any parent having legal custody of the child, whether individually or jointly. [1995 c 312 § 34.]

**Short title—1995 c 312:** See note following RCW 13.32A.010.

**13.32A.084 Providing shelter to minor—Immunity from liability.** If a person provides the notice required in RCW 13.32A.082, he or she is immune from liability for any cause of action arising from providing shelter to the child. The immunity shall not extend to acts of intentional misconduct or gross negligence by the person providing the shelter. [1995 c 312 § 36.]

**Short title—1995 c 312:** See note following RCW 13.32A.010.

**13.32A.086 Duty of law enforcement agencies to identify runaway children under RCW 43.43.510.** Whenever a law enforcement agency receives a report from a parent that his or her child, or child over whom the parent has custody, has without permission of the parent left the home or residence lawfully prescribed for the child under circumstances where the parent believes that the child has run away from the home or the residence, the agency shall provide for placing information identifying the child in files under RCW 43.43.510. [1995 c 312 § 37.]

**Short title—1995 c 312:** See note following RCW 13.32A.010.

**13.32A.090 Duty to inform parents—Transportation to child's home or out-of-home placement—Notice to department.** (1) The person in charge of a designated crisis [1995 RCW Supp—page 90]

residential center or the department shall perform the duties under subsection (2) of this section:

(a) Upon admitting a child who has been brought to the center by a law enforcement officer under RCW 13.32A.060;

(b) Upon admitting a child who has run away from home or has requested admittance to the center;

(c) Upon learning from a person under RCW 13.32A.080(3) that the person is providing shelter to a child absent from home; or

(d) Upon learning that a child has been placed with a responsible adult pursuant to RCW 13.32A.060.

(2) When any of the circumstances under subsection (1) of this section are present, the person in charge of a center shall perform the following duties:

(a) Immediately notify the child's parent of the child's whereabouts, physical and emotional condition, and the circumstances surrounding his or her placement;

(b) Initially notify the parent that it is the paramount concern of the family reconciliation service personnel to achieve a reconciliation between the parent and child to reunify the family and inform the parent as to the procedures to be followed under this chapter;

(c) Inform the parent whether a referral to children's protective services has been made and, if so, inform the parent of the standard pursuant to RCW 26.44.020(12) governing child abuse and neglect in this state;

(d) Arrange transportation for the child to the residence of the parent, as soon as practicable, at the latter's expense to the extent of his or her ability to pay, with any unmet transportation expenses to be assumed by the department, when the child and his or her parent agrees to the child's return home or when the parent produces a copy of a court order entered under this chapter requiring the child to reside in the parent's home;

(e) Arrange transportation for the child to an out-of-home placement which may include a licensed group care facility or foster family when agreed to by the child and parent at the latter's expense to the extent of his or her ability to pay, with any unmet transportation expenses assumed by the department;

(f) Immediately notify the department of the placement. [1995 c 312 § 10; 1990 c 276 § 6; 1981 c 298 § 7; 1979 c 155 § 23.]

**Short title—1995 c 312:** See note following RCW 13.32A.010.

**Intent—Conflict with federal requirements—Severability—1990 c 276:** See notes following RCW 13.32A.020.

**Severability—1981 c 298:** See note following RCW 13.32A.040.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**13.32A.095 Unauthorized leave from crisis residential center—Notice to parents and law enforcement.** The crisis residential center administrator shall notify parents and the appropriate law enforcement agency immediately as to any unauthorized leave from the center by a child placed at the center. [1995 c 312 § 21.]

**Short title—1995 c 312:** See note following RCW 13.32A.010.

**13.32A.120 Out-of-home placement—Agreement to continue—Petition to approve.** (1) Where either a child or the child's parent or the person or facility currently provid-

ing shelter to the child notifies the center that such individual or individuals cannot agree to the continuation of an out-of-home placement arrived at pursuant to RCW 13.32A.090(2)(e), the center shall immediately contact the remaining party or parties to the agreement and shall attempt to bring about the child's return home or to an alternative living arrangement agreeable to the child and the parent as soon as practicable.

(2) If a child and his or her parent cannot agree to an out-of-home placement under RCW 13.32A.090(2)(e), either the child or parent may file with the juvenile court a petition to approve an out-of-home placement or the parent may file with the juvenile court a petition in the interest of a child alleged to be an at-risk youth under this chapter.

(3) If a child and his or her parent cannot agree to the continuation of an out-of-home placement arrived at under RCW 13.32A.090(2)(e), either the child or parent may file with the juvenile court a petition to approve an out-of-home placement or the parent may file with the juvenile court a petition in the interest of a child alleged to be an at-risk youth under this chapter. [1995 c 312 § 11; 1990 c 276 § 7; 1979 c 155 § 26.]

**Short title—1995 c 312:** See note following RCW 13.32A.010.

**Intent—Conflict with federal requirements—Severability—1990 c 276:** See notes following RCW 13.32A.020.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**13.32A.125 Temporary out-of-home placement in semi-secure crisis residential center.** In approving a petition under this chapter, a child may be placed in a semi-secure crisis residential center as a temporary out-of-home placement under the following conditions: (1) No other suitable out-of-home placement is available; (2) space is available in the semi-secure crisis residential center; and (3) no child will be denied access for a five-day placement due to this placement.

Any child referred to a semi-secure crisis residential center by a law enforcement officer, the department, or himself or herself shall have priority over a temporary out-of-home placement in the facility. Any out-of-home placement order shall be subject to this priority, and the administrator of the semi-secure crisis residential center shall transfer the temporary out-of-home placement youth to a new out-of-home placement as necessary to ensure access for youth needing the semi-secure crisis residential center. [1995 c 312 § 44.]

**Short title—1995 c 312:** See note following RCW 13.32A.010.

**13.32A.130 Child admitted to secure facility in crisis residential center—Maximum hours of custody—Evaluation for semi-secure facility—Parental right to remove child—Reconciliation effort—Information to parent and child—Written statement of services and rights—Crisis residential center immunity from liability.**

(1) A child admitted to a secure facility within a crisis residential center shall remain in the facility for not more than five consecutive days, but for at least twenty-four hours after admission.

(2)(a)(i) The facility administrator shall determine within twenty-four hours after a child's admission to a secure

facility whether the child can be safely admitted to a semi-secure facility and may transfer the child to a semi-secure facility. The determination shall be based on: (A) The need for continued assessment, protection, and treatment of the child in a secure facility; and (B) the likelihood the child would remain at a semi-secure facility until his or her parents can take the child home or a petition can be filed under this title.

(ii) In making the determination the administrator shall include consideration of the following information if known: (A) A child's age and maturity; (B) the child's condition upon arrival at the center; (C) the circumstances that led to the child's being taken to the center; (D) whether the child's behavior endangers the health, safety, or welfare of the child or any other person; (E) the child's history of running away which has endangered the health, safety, and welfare of the child; and (F) the child's willingness to cooperate in conducting the assessment.

(b) If the administrator determines the child is unlikely to remain in a semi-secure facility, the administrator shall keep the child in the secure facility pursuant to this chapter and in order to provide for space for the child may transfer another child who has been in the facility for at least seventy-two hours to a semi-secure facility. The administrator shall only make a transfer of a child after determining that the child who may be transferred is likely to remain at the semi-secure facility.

(c) A crisis residential center administrator is authorized to transfer a child to a crisis residential center in the area where the child's parents reside or where the child's lawfully prescribed residence is located.

(d) An administrator may transfer a child from a semi-secure facility to a secure facility whenever the administrator reasonably believes that the child is likely to leave the semi-secure facility and not return.

(3) If no parent is available or willing to remove the child during the five-day period, the department shall consider the filing of a petition under RCW 13.32A.140.

(4) The requirements of this section shall not apply to a child who is: (a) Returned to the home of his or her parent; (b) placed in a semi-secure facility within a crisis residential center pursuant to a temporary out-of-home placement order authorized under RCW 13.32A.125; (c) placed in an out-of-home placement; or (d) is subject to a petition under RCW 13.32A.191.

(5) Notwithstanding the provisions of subsection (1) of this section, the parents may remove the child at any time during the five-day period unless the staff of the crisis residential center has reasonable cause to believe that the child is absent from the home because he or she is abused or neglected or if allegations of abuse or neglect have been made against the parents. The department may remove the child whenever a dependency petition is filed under chapter 13.34 RCW.

(6) Crisis residential center staff shall make reasonable efforts to protect the child and achieve a reconciliation of the family. If a reconciliation and voluntary return of the child has not been achieved within forty-eight hours from the time of intake, and if the person in charge of the center does not consider it likely that reconciliation will be achieved within the five-day period, then the person in charge shall inform

the parent and child of (a) the availability of counseling services; (b) the right to file a child in need of services petition for an out-of-home placement, the right of a parent to file an at-risk youth petition, and the right of the parent and child to obtain assistance in filing the petition; (c) the right to request the facility administrator or his or her designee to form a multidisciplinary team; and (d) the right to request a review of any out-of-home placement.

(7) At no time shall information regarding a parent's or child's rights be withheld. The department shall develop and distribute to all law enforcement agencies and to each crisis residential center administrator a written statement delineating the services and rights. Every officer taking a child into custody shall provide the child and his or her parent(s) or responsible adult with whom the child is placed with a copy of the statement. In addition, the administrator of the facility or his or her designee shall provide every resident and parent with a copy of the statement.

(8) A crisis residential center and its administrator or his or her designee acting in good faith in carrying out the provisions of this section are immune from criminal or civil liability for such actions. [1995 c 312 § 12; 1994 sp.s. c 7 § 508; 1992 c 205 § 206; 1990 c 276 § 8; 1985 c 257 § 9; 1981 c 298 § 9; 1979 c 155 § 27.]

**Short title—1995 c 312:** See note following RCW 13.32A.010.

**Finding—Intent—Severability—1994 sp.s. c 7:** See notes following RCW 43.70.540.

**Part headings not law—Severability—1992 c 205:** See notes following RCW 13.40.010.

**Intent—Conflict with federal requirements—Severability—1990 c 276:** See notes following RCW 13.32A.020.

**Severability—1985 c 257:** See note following RCW 13.34.165.

**Severability—1981 c 298:** See note following RCW 13.32A.040.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**13.32A.140 Out-of-home placement—Child in need of services petition by department—Procedure.** The department shall file a child in need of services petition to approve an out-of-home placement on behalf of a child under any of the following sets of circumstances:

(1) The child has been admitted to a crisis residential center or has been placed with a responsible person other than his or her parent, and:

(a) The parent has been notified that the child was so admitted or placed;

(b) Seventy-two hours, including Saturdays, Sundays, and holidays, have passed since such notification;

(c) No agreement between the parent and the child as to where the child shall live has been reached;

(d) No child in need of services petition has been filed by either the child or parent;

(e) The parent has not filed an at-risk youth petition; and

(f) The child has no suitable place to live other than the home of his or her parent.

(2) The child has been admitted to a crisis residential center and:

(a) Seventy-two hours, including Saturdays, Sundays, and holidays, have passed since such placement;

(b) The staff, after searching with due diligence, have been unable to contact the parent of such child; and

(c) The child has no suitable place to live other than the home of his or her parent.

(3) An agreement between parent and child made pursuant to RCW 13.32A.090(2)(e) or pursuant to RCW 13.32A.120(1) is no longer acceptable to parent or child, and:

(a) The party to whom the arrangement is no longer acceptable has so notified the department;

(b) Seventy-two hours, including Saturdays, Sundays, and holidays, have passed since such notification;

(c) No new agreement between parent and child as to where the child shall live has been reached;

(d) No child in need of services petition has been filed by either the child or the parent;

(e) The parent has not filed an at-risk youth petition; and

(f) The child has no suitable place to live other than the home of his or her parent.

Under the circumstances of subsections (1), (2), or (3) of this section, the child shall remain in an out-of-home placement until a child in need of services petition filed by the department on behalf of the child is reviewed by the juvenile court and is resolved by such court. The department may authorize emergency medical or dental care for a child placed under this section. The state, when the department files a child in need of services petition under this section, shall be represented as provided for in RCW 13.04.093.

If the department files a petition under this section, the department shall submit in a supporting affidavit any information provided under \*section 38 of this act. [1995 c 312 § 15; 1990 c 276 § 9; 1981 c 298 § 10; 1979 c 155 § 28.]

**\*Reviser's note:** Section 38 of this act [1995 c 312 § 38] was vetoed by the governor.

**Short title—1995 c 312:** See note following RCW 13.32A.010.

**Intent—Conflict with federal requirements—Severability—1990 c 276:** See notes following RCW 13.32A.020.

**Severability—1981 c 298:** See note following RCW 13.32A.040.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**13.32A.150 Out-of-home placement—Child in need of services petition by child or parent.** (1) Except as otherwise provided in this chapter, the juvenile court shall not accept the filing of a child in need of services petition by the child or the parents or the filing of an at-risk youth petition by the parent, unless verification is provided that a family assessment has been completed by the department.

The family assessment provided by the department shall involve the multidisciplinary team as provided in RCW 13.32A.040, if one exists. The family assessment or plan of services developed by the multidisciplinary team shall be aimed at family reconciliation, reunification, and avoidance of the out-of-home placement of the child. If the department is unable to complete an assessment within two working days following a request for assessment the child or the parents may proceed under subsection (2) of this section or the parent may proceed under RCW 13.32A.191.

(2) A child or a child's parent may file with the juvenile court a child in need of services petition to approve an out-of-home placement for the child. The department shall,

when requested, assist either a parent or child in the filing of the petition. The petition shall only ask that the placement of a child outside the home of his or her parent be approved. The filing of a petition to approve the placement is not dependent upon the court's having obtained any prior jurisdiction over the child or his or her parent, and confers upon the court a special jurisdiction to approve or disapprove an out-of-home placement. [1995 c 312 § 16; 1992 c 205 § 208; 1990 c 276 § 10; 1989 c 269 § 1; 1981 c 298 § 11; 1979 c 155 § 29.]

**Short title—1995 c 312:** See note following RCW 13.32A.010.

**Part headings not law—Severability—1992 c 205:** See notes following RCW 13.40.010.

**Intent—Conflict with federal requirements—Severability—1990 c 276:** See notes following RCW 13.32A.020.

**Severability—1981 c 298:** See note following RCW 13.32A.040.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**13.32A.152 Child in need of services petition—Service on parents.** Whenever a child in need of services petition is filed by a youth pursuant to \*RCW 13.32A.130, or the department pursuant to \*\*RCW 13.32A.150, the youth or the department shall have a copy of the petition served on the parents of the youth. Service shall first be attempted in person and if unsuccessful, then by certified mail with return receipt. [1995 c 312 § 4.]

**Reviser's note:** \*(1) Reference to RCW 13.32A.130 appears erroneous. Reference to RCW 13.32A.150 was apparently intended.

\*\*\*(2) Reference to RCW 13.32A.150 appears erroneous. Reference to RCW 13.32A.140 was apparently intended.

**Short title—1995 c 312:** See note following RCW 13.32A.010.

**13.32A.160 Out-of-home placement—Court action upon filing of child in need of services petition—Child placement.** (1) When a proper child in need of services petition to approve an out-of-home placement is filed under RCW 13.32A.120, 13.32A.140, or 13.32A.150 the juvenile court shall: (a) Schedule a fact-finding hearing to be held within three judicial days; notify the parent, child, and the department of such date; (b) notify the parent of the right to be represented by counsel and, if indigent, to have counsel appointed for him or her by the court; (c) appoint legal counsel for the child; (d) inform the child and his or her parent of the legal consequences of the court approving or disapproving an out-of-home placement petition; (e) notify the parents of their rights under this chapter and chapters 11.88, 13.34, 70.96A, and 71.34 RCW, including the right to file an at-risk youth petition, the right to submit on [an] application for admission of their child to a treatment facility for alcohol, chemical dependency, or mental health treatment, and the right to file a guardianship petition; and (f) notify all parties, including the department, of their right to present evidence at the fact-finding hearing.

(2) Upon filing of a child in need of services petition, the child may be placed, if not already placed, by the department in a crisis residential center, foster family home, group home facility licensed under chapter 74.15 RCW, or any other suitable residence to be determined by the department.

(3) If the child has been placed in a foster family home or group care facility under chapter 74.15 RCW, the child

shall remain there, or in any other suitable residence as determined by the department, pending resolution of the petition by the court. Any placement may be reviewed by the court within three judicial days upon the request of the juvenile or the juvenile's parent. [1995 c 312 § 17; 1990 c 276 § 11; 1989 c 269 § 2; 1979 c 155 § 30.]

**Short title—1995 c 312:** See note following RCW 13.32A.010.

**Intent—Conflict with federal requirements—Severability—1990 c 276:** See notes following RCW 13.32A.020.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**13.32A.170 Out-of-home placement—Fact-finding hearing.** (1) The court shall hold a fact-finding hearing to consider a proper child in need of services petition, giving due weight to the intent of the legislature that families have the right to place reasonable restrictions and rules upon their children, appropriate to the individual child's developmental level. The court may appoint legal counsel and/or a guardian ad litem to represent the child and advise parents of their right to be represented by legal counsel. The court may approve an order stating that the child shall be placed in a residence other than the home of his or her parent only if it is established by a preponderance of the evidence, including a departmental recommendation for approval or dismissal of the petition, that:

(a) The petition is not capricious;

(b) The petitioner, if a child, has made a reasonable effort to resolve the conflict;

(c) The conflict cannot be resolved by delivery of services to the family during continued placement of the child in the parental home;

(d) Reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home; and

(e) A suitable out-of-home placement resource is available.

The court may not grant a petition filed by the child or the department if it is established that the petition is based only upon a dislike of reasonable rules or reasonable discipline established by the parent.

(2) Following the fact-finding hearing the court shall: (a) Enter a temporary out-of-home placement for a period not to exceed fourteen days pending approval of a disposition decision to be made under RCW 13.32A.179(2); (b) approve an at-risk youth petition filed by the parents; (c) dismiss the petition; or (d) order the department to review the case to determine whether the case is appropriate for a dependency petition under chapter 13.34 RCW. [1995 c 312 § 18; 1989 c 269 § 3; 1987 c 524 § 1; 1985 c 257 § 10; 1984 c 188 § 1; 1981 c 298 § 12; 1979 c 155 § 31.]

**Short title—1995 c 312:** See note following RCW 13.32A.010.

**Severability—1985 c 257:** See note following RCW 13.34.165.

**Severability—1981 c 298:** See note following RCW 13.32A.040.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**13.32A.175 Out-of-home placement—Contribution to child's support—Enforcement of order.** In any proceeding in which the court approves an out-of-home

placement, the court shall inquire into the ability of parents to contribute to the child's support. If the court finds that the parents are able to contribute to the support of the child, the court shall order them to make such support payments as the court deems equitable. The court may enforce such an order by execution or in any way in which a court of equity may enforce its orders. However, payments shall not be required of a parent who has both opposed the placement and continuously sought reconciliation with, and the return of, the child. All orders entered in a proceeding approving out-of-home placement shall be in compliance with the provisions of RCW 26.23.050. [1995 c 312 § 19; 1987 c 435 § 13; 1981 c 298 § 15.]

**Short title—1995 c 312:** See note following RCW 13.32A.010.

**Effective date—1987 c 435:** See RCW 26.23.900.

**Severability—1981 c 298:** See note following RCW 13.32A.040.

**13.32A.177 Out-of-home placement—Determination of support payments.** A determination of support payments ordered under RCW 13.32A.175 shall be based upon chapter 26.19 RCW. [1995 c 312 § 22; 1988 c 275 § 14.]

**Short title—1995 c 312:** See note following RCW 13.32A.010.

**Effective dates—Severability—1988 c 275:** See notes following RCW 26.19.001.

**13.32A.179 Out-of-home placement—Hearing—Court order—Child subject to contempt proceedings—Dismissal of order at request of department or parent.** (1) A hearing shall be held no later than fourteen days after the approval of the temporary out-of-home placement. The parents, child, and department shall be notified of the time and place of the hearing.

(2) At the commencement of the hearing the court shall advise the parents of their rights as set forth in RCW 13.32A.160(1)(e). If the court approves or denies a child in need of services petition, a written statement of the reasons shall be filed. At the conclusion of the hearing the court may: (a) Reunite the family and dismiss the petition; (b) approve an at-risk youth petition filed by the parents; (c) approve a voluntary out-of-home placement requested by the parents; (d) order any conditions set forth in RCW 13.32A.196(2); or (e) order the department to file a petition for dependency under chapter 13.34 RCW.

(3) At the conclusion of the hearing, if the court has not taken action under subsection (2) of this section it may, at the request of the child or department, enter an order for out-of-home placement for not more than ninety days. The court may only enter an order under this subsection if it finds by clear, cogent, and convincing evidence that: (a)(i) The order is in the best interest of the family; (ii) the parents have not requested an out-of-home placement; (iii) the parents have not exercised any other right listed in RCW 13.32A.160(1)(e); (iv) the child has made reasonable efforts to resolve the conflict; (v) the conflict cannot be resolved by delivery of services to the family during continued placement of the child in the parental home; (vi) reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home; and (vii) a suitable out-of-home placement resource is available; (b)(i) the order is in the best interest of the child; and (ii) the parents are unavailable; or

(c) the parent's actions cause an imminent threat to the child's health or safety. If the court has entered an order under this section, it may order any conditions set forth in RCW 13.32A.196(2).

(4) A child who fails to comply with a court order issued under this section shall be subject to contempt proceedings, as provided in this chapter, but only if the noncompliance occurs within one year after the entry of the order.

(5) The parents or the department may request, and the court may grant, dismissal of a placement order when it is not feasible for the department to provide services due to one or more of the following circumstances:

(a) The child has been absent from court approved placement for thirty consecutive days or more;

(b) The parents or the child, or all of them, refuse to cooperate in available, appropriate intervention aimed at reunifying the family; or

(c) The department has exhausted all available and appropriate resources that would result in reunification.

(6) The court shall dismiss a placement made under subsection (2)(c) of this section upon the request of the parents. [1995 c 312 § 20.]

**Short title—1995 c 312:** See note following RCW 13.32A.010.

**13.32A.180 Out-of-home placement—Court order—No placement in secure residence.** (1) If the court orders a three-month out-of-home placement for the child, the court shall specify the person or agency with whom the child shall be placed, those parental powers which will be temporarily awarded to such agency or person including but not limited to the right to authorize medical, dental, and optical treatment, and parental visitation rights. Any agency or residence at which the child is placed must, at a minimum, comply with minimum standards for licensed family foster homes.

(2) No placement made pursuant to this section may be in a secure residence as defined by the federal Juvenile Justice and Delinquency Prevention Act of 1974. [1995 c 312 § 23; 1979 c 155 § 32.]

**Short title—1995 c 312:** See note following RCW 13.32A.010.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**13.32A.190 Out-of-home placement dispositional order—Review hearings—Time limitation on out-of-home placement—Termination of placement at request of parent.** (1) Upon making a dispositional order under RCW 13.32A.179, the court shall schedule the matter on the calendar for review within three months, advise the parties of the date thereof, appoint legal counsel and/or a guardian ad litem to represent the child at the review hearing, advise parents of their right to be represented by legal counsel at the review hearing, and notify the parties of their rights to present evidence at the hearing. Where resources are available, the court shall encourage the parent and child to participate in programs for reconciliation of their conflict.

(2) At the review hearing, the court shall approve or disapprove the continuation of the dispositional plan in accordance with this chapter. The court shall determine whether reasonable efforts have been made to reunify the

family and make it possible for the child to return home. The court shall discontinue the placement and order that the child return home if the court has reasonable grounds to believe that the parents have made reasonable efforts to resolve the conflict and the court has reason to believe that the child's refusal to return home is capricious. If out-of-home placement is continued, the court may modify the dispositional plan.

(3) Out-of-home placement may not be continued past one hundred eighty days from the day the review hearing commenced. The court shall order the child to return to the home of the parent at the expiration of the placement. If an out-of-home placement is disapproved prior to one hundred eighty days, the court shall enter an order requiring the child to return to the home of the child's parent.

(4) The parents and the department may request, and the juvenile court may grant, dismissal of an out-of-home placement order when it is not feasible for the department to provide services due to one or more of the following circumstances:

(a) The child has been absent from court approved placement for thirty consecutive days or more;

(b) The parents or the child, or all of them, refuse to cooperate in available, appropriate intervention aimed at reunifying the family; or

(c) The department has exhausted all available and appropriate resources that would result in reunification.

(5) The court shall terminate a placement made under this section upon the request of a parent unless the placement is made pursuant to RCW 13.32A.179(3). [1995 c 312 § 24; 1989 c 269 § 5; 1984 c 188 § 2; 1981 c 298 § 13; 1979 c 155 § 33.]

**Short title—1995 c 312:** See note following RCW 13.32A.010.

**Severability—1981 c 298:** See note following RCW 13.32A.040.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**13.32A.191 At-risk youth—Petition by parent.** (1) A child's parent may file with the juvenile court a petition in the interest of a child alleged to be an at-risk youth. The department shall, when requested, assist the parent in filing the petition. The petition shall be filed in the county where the petitioner resides. The petition shall set forth the name, age, and residence of the child and the names and residence of the child's parents and shall allege that:

(a) The child is an at-risk youth as defined in this chapter;

(b) The petitioner has the right to legal custody of the child;

(c) Court intervention and supervision are necessary to assist the parent to maintain the care, custody, and control of the child; and

(d) Alternatives to court intervention have been attempted or there is good cause why such alternatives have not been attempted.

(2) The petition shall set forth facts that support the allegations in this section and shall generally request relief available under this chapter. The petition need not specify any proposed disposition following adjudication of the petition. The filing of an at-risk youth petition is not dependent upon the court's having obtained any prior

jurisdiction over the child or his or her parent and confers upon the court the special jurisdiction to assist the parent in maintaining parental authority and responsibility for the child.

(3) A petition may not be filed if a dependency petition is pending under chapter 13.34 RCW. [1995 c 312 § 25.]

**Short title—1995 c 312:** See note following RCW 13.32A.010.

**13.32A.192 At-risk youth petition—Prehearing procedures.** (1) When a proper at-risk youth petition is filed by a child's parent under this chapter, the juvenile court shall:

(a) Schedule a fact-finding hearing to be held within three judicial days and notify the parent and the child of such date;

(b) Notify the parent of the right to be represented by counsel at the parent's own expense;

(c) Appoint legal counsel for the child;

(d) Inform the child and his or her parent of the legal consequences of the court finding the child to be an at-risk youth; and

(e) Notify the parent and the child of their rights to present evidence at the fact-finding hearing.

(2) Unless out-of-home placement of the child is otherwise authorized or required by law, the child shall reside in the home of his or her parent or in an out-of-home placement requested by the parent or child and approved by the parent.

(3) If upon sworn written or oral declaration of the petitioning parent, the court has reason to believe that a child has willfully and knowingly violated a court order issued pursuant to subsection (2) of this section, the court may issue an order directing law enforcement to take the child into custody and place the child in a juvenile detention facility or in a secure facility within a crisis residential center. If the child is placed in detention, a review shall be held as provided in RCW 13.32A.065.

(4) If both a child in need of services petition and an at-risk youth petition have been filed with regard to the same child, the petitions and proceedings shall be consolidated as an at-risk youth petition. Pending a fact-finding hearing regarding the petition, the child may be placed in the parent's home or in an out-of-home placement if not already placed in a temporary out-of-home placement. The child or the parent may request a review of the child's placement including a review of any court order requiring the child to reside in the parent's home. [1995 c 312 § 26; 1990 c 276 § 12.]

**Short title—1995 c 312:** See note following RCW 13.32A.010.

**Intent—Conflict with federal requirements—Severability—1990 c 276:** See notes following RCW 13.32A.020.

**13.32A.194 At-risk youth petition—Court procedures.** (1) The court shall hold a fact-finding hearing to consider a proper at-risk youth petition. The court shall grant the petition and enter an order finding the child to be an at-risk youth if the allegations in the petition are established by a preponderance of the evidence, unless the child is the subject of a proceeding under chapter 13.34 RCW. If the petition is granted, the court shall enter an order requiring the child to reside in the home of his or her parent or in

an out-of-home placement as provided in RCW 13.32A.192(2).

(2) The court may order the department to submit a dispositional plan if such a plan would assist the court in ordering a suitable disposition in the case. If the court orders the department to prepare a plan, the department shall provide copies of the plan to the parent, the child, and the court. If the parties or the court desire the department to be involved in any future proceedings or case plan development, the department shall be provided timely notification of all court hearings.

(3) A dispositional hearing shall be held no later than fourteen days after the court has granted an at-risk youth petition. Each party shall be notified of the time and date of the hearing.

(4) If the court grants or denies an at-risk youth petition, a statement of the written reasons shall be entered into the records. If the court denies an at-risk youth petition, the court shall verbally advise the parties that the child is required to remain within the care, custody, and control of his or her parent. [1995 c 312 § 27; 1990 c 276 § 13.]

**Short title—1995 c 312:** See note following RCW 13.32A.010.

**Intent—Conflict with federal requirements—Severability—1990 c 276:** See notes following RCW 13.32A.020.

**13.32A.196 At-risk youth petition—Dispositional hearing.** (1) At the dispositional hearing regarding an adjudicated at-risk youth, the court shall consider the recommendations of the parties and the recommendations of any dispositional plan submitted by the department. The court may enter a dispositional order that will assist the parent in maintaining the care, custody, and control of the child and assist the family to resolve family conflicts or problems.

(2) The court may set conditions of supervision for the child that include:

- (a) Regular school attendance;
- (b) Counseling;
- (c) Participation in a substance abuse or mental health outpatient treatment program;
- (d) Reporting on a regular basis to the department or any other designated person or agency; and
- (e) Any other condition the court deems an appropriate condition of supervision including but not limited to: Employment, participation in an anger management program, and refraining from using alcohol or drugs.

(3) No dispositional order or condition of supervision ordered by a court pursuant to this section shall include involuntary commitment of a child for substance abuse or mental health treatment.

(4) The court may order the parent to participate in counseling services or any other services for the child requiring parental participation. The parent shall cooperate with the court-ordered case plan and shall take necessary steps to help implement the case plan. The parent shall be financially responsible for costs related to the court-ordered plan; however, this requirement shall not affect the eligibility of the parent or child for public assistance or other benefits to which the parent or child may otherwise be entitled.

(5) The parent may request dismissal of an at-risk youth proceeding or out-of-home placement at any time and upon

such a request, the court shall dismiss the matter and cease court supervision of the child unless: (a) A contempt action is pending in the case; (b) a petition has been filed under RCW 13.32A.150 and a hearing has not yet been held under RCW 13.32A.179; or (c) an order has been entered under RCW 13.32A.179(3) and the court retains jurisdiction under that subsection. The court may retain jurisdiction over the matter for the purpose of concluding any pending contempt proceedings, including the full satisfaction of any penalties imposed as a result of a contempt finding.

(6) The court may order the department to monitor compliance with the dispositional order, assist in coordinating the provision of court-ordered services, and submit reports at subsequent review hearings regarding the status of the case. [1995 c 312 § 28; 1991 c 364 § 14; 1990 c 276 § 14.]

**Short title—1995 c 312:** See note following RCW 13.32A.010.

**Findings—Construction—Conflict with federal requirements—1991 c 364:** See notes following RCW 70.96A.020.

**Intent—Conflict with federal requirements—Severability—1990 c 276:** See notes following RCW 13.32A.020.

**13.32A.205 Acceptance of petitions by court—Damages.** No superior court may refuse to accept for filing a properly completed and presented child in need of services petition or an at-risk youth petition. To be properly presented, the petitioner shall verify that the family assessment required under RCW 13.32A.150 has been completed. In the event of an improper refusal that is appealed and reversed, the petitioner shall be awarded actual damages, costs, and attorneys' fees. [1995 c 312 § 32.]

**Short title—1995 c 312:** See note following RCW 13.32A.010.

**13.32A.250 Failure to comply with order as contempt—Motion—Penalties.** (1) In all child in need of services proceedings and at-risk youth proceedings, the court shall verbally notify the parents and the child of the possibility of a finding of contempt for failure to comply with the terms of a court order entered pursuant to this chapter. The court shall treat the parents and the child equally for the purposes of applying contempt of court processes and penalties under this section.

(2) Failure by a party to comply with an order entered under this chapter is a contempt of court as provided in chapter 7.21 RCW, subject to the limitations of subsection (3) of this section.

(3) The court may impose a fine of up to one hundred dollars and confinement for up to seven days, or both for contempt of court under this section.

(4) A child placed in confinement for contempt under this section shall be placed in confinement only in a secure juvenile detention facility operated by or pursuant to a contract with a county.

(5) A motion for contempt may be made by a parent, a child, juvenile court personnel, or by any public agency, organization, or person having custody of the child under a court order adopted pursuant to this chapter. [1995 c 312 § 29; 1990 c 276 § 16. Prior: 1989 c 373 § 16; 1989 c 269 § 4; 1981 c 298 § 14.]

**Short title—1995 c 312:** See note following RCW 13.32A.010.



**Intent—Conflict with federal requirements—Severability—1990 c 276:** See notes following RCW 13.32A.020.

**Severability—1989 c 373:** See RCW 7.21.900.

**Severability—1981 c 298:** See note following RCW 13.32A.040.

**13.32A.300 No entitlement to services created by chapter.** Nothing in this chapter shall be construed to create an entitlement to services nor to create judicial authority to order the provision at public expense of services to any person or family where the department has determined that such services are unavailable or unsuitable or that the child or family are not eligible for such services. [1995 c 312 § 43.]

**Short title—1995 c 312:** See note following RCW 13.32A.010.

### Chapter 13.34

## JUVENILE COURT ACT—DEPENDENCY AND TERMINATION OF PARENT-CHILD RELATIONSHIP

### Sections

- 13.34.030 Definitions.
- 13.34.110 Hearings, fact-finding and disposition—Time and place, notice—Not generally public—Notes and records.
- 13.34.130 Order of disposition for certain dependent children, alternatives—Petition seeking termination of parent-child relationship—Permanency plan of care—Placement with relatives—Later review hearings.
- 13.34.145 Permanency plan required—Permanency planning hearing—Time limits—Review hearing—Petition for termination of parental rights—Guardianship petition—Agency responsibility to provide services to parents—Due process rights.
- 13.34.233 Guardianship for dependent child—Modification or termination of order—Hearing—Termination of guardianship.

*Out-of-home care—Social study required: RCW 74.13.065.*

**13.34.030 Definitions.** For purposes of this chapter:

(1) "Child" and "juvenile" means any individual under the age of eighteen years.

(2) "Current placement episode" means the period of time that begins with the most recent date that the child was removed from the home of the parent, guardian, or legal custodian for purposes of placement in out-of-home care and continues until the child returns home, an adoption decree or guardianship order is entered, or the dependency is dismissed, whichever occurs soonest. If the most recent date of removal occurred prior to the filing of a dependency petition under this chapter or after filing but prior to entry of a disposition order, such time periods shall be included when calculating the length of a child's current placement episode.

(3) "Dependency guardian" means the person, nonprofit corporation, or Indian tribe appointed by the court pursuant to RCW 13.34.232 for the limited purpose of assisting the court in the supervision of the dependency.

(4) "Dependent child" means any child:

(a) Who has been abandoned; that is, where the child's parent, guardian, or other custodian has expressed either by statement or conduct, an intent to forego, for an extended period, parental rights or parental responsibilities despite an ability to do so. If the court finds that the petitioner has exercised due diligence in attempting to locate the parent, no

contact between the child and the child's parent, guardian, or other custodian for a period of three months creates a rebuttable presumption of abandonment, even if there is no expressed intent to abandon;

(b) Who is abused or neglected as defined in chapter 26.44 RCW by a person legally responsible for the care of the child;

(c) Who has no parent, guardian, or custodian capable of adequately caring for the child, such that the child is in circumstances which constitute a danger of substantial damage to the child's psychological or physical development; or

(d) Who has a developmental disability, as defined in RCW 71A.10.020 and whose parent, guardian, or legal custodian together with the department determines that services appropriate to the child's needs can not be provided in the home. However, (a), (b), and (c) of this subsection may still be applied if other reasons for removal of the child from the home exist.

(5) "Guardian" means the person or agency that: (a) Has been appointed as the guardian of a child in a legal proceeding other than a proceeding under this chapter; and (b) has the legal right to custody of the child pursuant to such appointment. The term "guardian" shall not include a "dependency guardian" appointed pursuant to a proceeding under this chapter.

(6) "Guardian ad litem" means a person, appointed by the court to represent the best interest of a child in a proceeding under this chapter, or in any matter which may be consolidated with a proceeding under this chapter. A "court-appointed special advocate" appointed by the court to be the guardian ad litem for the child, or to perform substantially the same duties and functions as a guardian ad litem, shall be deemed to be guardian ad litem for all purposes and uses of this chapter.

(7) "Guardian ad litem program" means a court-authorized volunteer program, which is or may be established by the superior court of the county in which such proceeding is filed, to manage all aspects of volunteer guardian ad litem representation for children alleged or found to be dependent. Such management shall include but is not limited to: Recruitment, screening, training, supervision, assignment, and discharge of volunteers.

(8) "Out-of-home care" means placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or placement in a home, other than that of the child's parent, guardian, or legal custodian, not required to be licensed pursuant to chapter 74.15 RCW.

(9) "Preventive services" means preservation services, as defined in chapter 74.14C RCW, and other reasonably available services capable of preventing the need for out-of-home placement while protecting the child. [1995 c 311 § 23; 1994 c 288 § 1; 1993 c 241 § 1; 1988 c 176 § 901; 1987 c 524 § 3; 1983 c 311 § 2; 1982 c 129 § 4; 1979 c 155 § 37; 1977 ex.s. c 291 § 31.]

**Conflict with federal requirements—1993 c 241:** "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. The rules under this act shall meet federal require-

ments that are a necessary condition to the receipt of federal funds by the state." [1993 c 241 § 5.]

**Severability—1988 c 176:** See RCW 71A.10.900.

**Legislative finding—1983 c 311:** "The legislature finds that in order for the state to receive federal funds for family foster care under Title IV-B and Title IV-E of the social security act, all children in family foster care must be subjected to periodic court review. Unfortunately, this includes children who are developmentally disabled and who are placed in family foster care solely because their parents have determined that the children's service needs require out-of-home placement. Except for providing such needed services, the parents of these children are completely competent to care for the children. The legislature intends by this act to minimize the embarrassment and inconvenience of developmentally disabled persons and their families caused by complying with these federal requirements." [1983 c 311 § 1.] For codification of 1983 c 311, see Codification Tables, Volume 0.

**Severability—1982 c 129:** See note following RCW 9A.04.080.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**Effective dates—Severability—1977 ex.s. c 291:** See notes following RCW 13.04.005.

**13.34.110 Hearings, fact-finding and disposition—Time and place, notice—Not generally public—Notes and records.** The court shall hold a fact-finding hearing on the petition and, unless the court dismisses the petition, shall make written findings of fact, stating the reasons therefor, and after it has announced its findings of fact shall hold a hearing to consider disposition of the case immediately following the fact-finding hearing or at a continued hearing within fourteen days or longer for good cause shown. Unless there is reasonable cause to believe the safety or welfare of the child would be jeopardized or efforts to reunite the parent and child would be hindered, the court shall direct the department to notify those adult persons who: (1) Are related by blood or marriage to the child in the following degrees: Parent, grandparent, brother, sister, stepparent, stepbrother, stepsister, uncle, or aunt; (2) are known to the department as having been in contact with the family or child within the past twelve months; and (3) would be an appropriate placement for the child. The parties need not appear at the fact-finding or dispositional hearing if the parties, their attorneys, the guardian ad litem, and court-appointed special advocates, if any, are all in agreement. The court shall receive and review a social study before entering an order based on agreement. No social file or social study may be considered by the court in connection with the fact-finding hearing or prior to factual determination, except as otherwise admissible under the rules of evidence. Notice of the time and place of the continued hearing may be given in open court. If notice in open court is not given to a party, that party shall be notified by mail of the time and place of any continued hearing.

All hearings may be conducted at any time or place within the limits of the county, and such cases may not be heard in conjunction with other business of any other division of the superior court. The general public shall be excluded, and only such persons may be admitted who are found by the judge to have a direct interest in the case or in the work of the court. Unless the court states on the record the reasons to disallow attendance, the court shall allow a child's relatives and, if a child resides in foster care, the child's foster parent, to attend all hearings and proceedings pertaining to the child for the sole purpose of providing oral

and written information about the child and the child's welfare to the court.

Stenographic notes or any device which accurately records the proceedings may be required as provided in other civil cases pursuant to RCW 2.32.200. [1995 c 313 § 1; 1995 c 311 § 27; 1993 c 412 § 7; 1991 c 340 § 3; 1983 c 311 § 4; 1979 c 155 § 44; 1977 ex.s. c 291 § 39; 1961 c 302 § 5. Prior: 1913 c 160 § 10, part; RCW 13.04.090, part. Formerly RCW 13.04.091.]

**Reviser's note:** This section was amended by 1995 c 311 § 27 and by 1995 c 313 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Legislative finding—1983 c 311:** See note following RCW 13.34.030.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**Effective dates—Severability—1977 ex.s. c 291:** See notes following RCW 13.04.005.

**13.34.130 Order of disposition for certain dependent children, alternatives—Petition seeking termination of parent-child relationship—Permanency plan of care—Placement with relatives—Later review hearings.** If, after a fact-finding hearing pursuant to RCW 13.34.110, it has been proven by a preponderance of the evidence that the child is dependent within the meaning of RCW 13.34.030; after consideration of the predisposition report prepared pursuant to RCW 13.34.110 and after a disposition hearing has been held pursuant to RCW 13.34.110, the court shall enter an order of disposition pursuant to this section.

(1) The court shall order one of the following dispositions of the case:

(a) Order a disposition other than removal of the child from his or her home, which shall provide a program designed to alleviate the immediate danger to the child, to mitigate or cure any damage the child has already suffered, and to aid the parents so that the child will not be endangered in the future. In selecting a program, the court should choose those services that least interfere with family autonomy, provided that the services are adequate to protect the child.

(b) Order that the child be removed from his or her home and ordered into the custody, control, and care of a relative or the department of social and health services or a licensed child placing agency for placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or in a home not required to be licensed pursuant to chapter 74.15 RCW. Unless there is reasonable cause to believe that the safety or welfare of the child would be jeopardized or that efforts to reunite the parent and child will be hindered, such child shall be placed with a person who is related to the child as defined in RCW 74.15.020(4)(a) and with whom the child has a relationship and is comfortable, and who is willing and available to care for the child. Placement of the child with a relative under this subsection shall be given preference by the court. An order for out-of-home placement may be made only if the court finds that reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home, specifying the services that have been provided to the

child and the child's parent, guardian, or legal custodian, and that preventive services have been offered or provided and have failed to prevent the need for out-of-home placement, unless the health, safety, and welfare of the child cannot be protected adequately in the home, and that:

(i) There is no parent or guardian available to care for such child;

(ii) The parent, guardian, or legal custodian is not willing to take custody of the child;

(iii) A manifest danger exists that the child will suffer serious abuse or neglect if the child is not removed from the home and an order under RCW 26.44.063 would not protect the child from danger; or

(iv) The extent of the child's disability is such that the parent, guardian, or legal custodian is unable to provide the necessary care for the child and the parent, guardian, or legal custodian has determined that the child would benefit from placement outside of the home.

(2) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section, the court may order that a petition seeking termination of the parent and child relationship be filed if the court finds it is recommended by the supervising agency, that it is in the best interests of the child and that it is not reasonable to provide further services to reunify the family because the existence of aggravated circumstances make it unlikely that services will effectuate the return of the child to the child's parents in the near future. In determining whether aggravated circumstances exist, the court shall consider one or more of the following:

(a) Conviction of the parent of rape of the child in the first, second, or third degree as defined in RCW 9A.44.073, 9A.44.076, and 9A.44.079;

(b) Conviction of the parent of criminal mistreatment of the child in the first or second degree as defined in RCW 9A.42.020 and 9A.42.030;

(c) Conviction of the parent of one of the following assault crimes, when the child is the victim: Assault in the first or second degree as defined in RCW 9A.36.011 and 9A.36.021 or assault of a child in the first or second degree as defined in RCW 9A.36.120 or 9A.36.130;

(d) Conviction of the parent of murder, manslaughter, or homicide by abuse of the child's other parent, sibling, or another child;

(e) A finding by a court that a parent is a sexually violent predator as defined in RCW 71.09.020;

(f) Failure of the parent to complete available treatment ordered under this chapter or the equivalent laws of another state, where such failure has resulted in a prior termination of parental rights to another child and the parent has failed to effect significant change in the interim.

(3) Whenever a child is ordered removed from the child's home, the agency charged with his or her care shall provide the court with:

(a) A permanency plan of care that shall identify one of the following outcomes as a primary goal and may identify additional outcomes as alternative goals: Return of the child to the home of the child's parent, guardian, or legal custodian; adoption; guardianship; or long-term relative or foster care, until the child is age eighteen, with a written agreement between the parties and the care provider; and independent

living, if appropriate and if the child is age sixteen or older. Whenever a permanency plan identifies independent living as a goal, the plan shall also specifically identify the services that will be provided to assist the child to make a successful transition from foster care to independent living. Before the court approves independent living as a permanency plan of care, the court shall make a finding that the provision of services to assist the child in making a transition from foster care to independent living will allow the child to manage his or her financial affairs and to manage his or her personal, social, educational, and nonfinancial affairs. The department shall not discharge a child to an independent living situation before the child is eighteen years of age unless the child becomes emancipated pursuant to chapter 13.64 RCW.

(b) Unless the court has ordered, pursuant to subsection (2) of this section, that a termination petition be filed, a specific plan as to where the child will be placed, what steps will be taken to return the child home, and what actions the agency will take to maintain parent-child ties. All aspects of the plan shall include the goal of achieving permanence for the child.

(i) The agency plan shall specify what services the parents will be offered in order to enable them to resume custody, what requirements the parents must meet in order to resume custody, and a time limit for each service plan and parental requirement.

(ii) The agency shall be required to encourage the maximum parent-child contact possible, including regular visitation and participation by the parents in the care of the child while the child is in placement. Visitation may be limited or denied only if the court determines that such limitation or denial is necessary to protect the child's health, safety, or welfare.

(iii) A child shall be placed as close to the child's home as possible, preferably in the child's own neighborhood, unless the court finds that placement at a greater distance is necessary to promote the child's or parents' well-being.

(iv) The agency charged with supervising a child in placement shall provide all reasonable services that are available within the agency, or within the community, or those services which the department of social and health services has existing contracts to purchase. It shall report to the court if it is unable to provide such services.

(c) If the court has ordered, pursuant to subsection (2) of this section, that a termination petition be filed, a specific plan as to where the child will be placed, what steps will be taken to achieve permanency for the child, services to be offered or provided to the child, and, if visitation would be in the best interests of the child, a recommendation to the court regarding visitation between parent and child pending a fact-finding hearing on the termination petition. The agency shall not be required to develop a plan of services for the parents or provide services to the parents.

(4) If there is insufficient information at the time of the disposition hearing upon which to base a determination regarding the suitability of a proposed placement with a relative, the child shall remain in foster care and the court shall direct the supervising agency to conduct necessary background investigations as provided in chapter 74.15 RCW and report the results of such investigation to the court within thirty days. However, if such relative appears

otherwise suitable and competent to provide care and treatment, the criminal history background check need not be completed before placement, but as soon as possible after placement. Any placements with relatives, pursuant to this section, shall be contingent upon cooperation by the relative with the agency case plan and compliance with court orders related to the care and supervision of the child including, but not limited to, court orders regarding parent-child contacts and any other conditions imposed by the court. Noncompliance with the case plan or court order shall be grounds for removal of the child from the relative's home, subject to review by the court.

(5) Except for children whose cases are reviewed by a citizen review board under chapter 13.70 RCW, the status of all children found to be dependent shall be reviewed by the court at least every six months from the beginning date of the placement episode or the date dependency is established, whichever is first, at a hearing in which it shall be determined whether court supervision should continue. The review shall include findings regarding the agency and parental completion of disposition plan requirements, and if necessary, revised permanency time limits.

(a) A child shall not be returned home at the review hearing unless the court finds that a reason for removal as set forth in this section no longer exists. The parents, guardian, or legal custodian shall report to the court the efforts they have made to correct the conditions which led to removal. If a child is returned, casework supervision shall continue for a period of six months, at which time there shall be a hearing on the need for continued intervention.

(b) If the child is not returned home, the court shall establish in writing:

(i) Whether reasonable services have been provided to or offered to the parties to facilitate reunion, specifying the services provided or offered;

(ii) Whether the child has been placed in the least-restrictive setting appropriate to the child's needs, including whether consideration and preference has been given to placement with the child's relatives;

(iii) Whether there is a continuing need for placement and whether the placement is appropriate;

(iv) Whether there has been compliance with the case plan by the child, the child's parents, and the agency supervising the placement;

(v) Whether progress has been made toward correcting the problems that necessitated the child's placement in out-of-home care;

(vi) Whether the parents have visited the child and any reasons why visitation has not occurred or has been infrequent;

(vii) Whether additional services are needed to facilitate the return of the child to the child's parents; if so, the court shall order that reasonable services be offered specifying such services; and

(viii) The projected date by which the child will be returned home or other permanent plan of care will be implemented.

(c) The court at the review hearing may order that a petition seeking termination of the parent and child relationship be filed. [1995 c 313 § 2; 1995 c 311 § 19; 1995 c 53 § 1; 1994 c 288 § 4; 1992 c 145 § 14; 1991 c 127 § 4. Prior: 1990 c 284 § 32; 1990 c 246 § 5; 1989 1st ex.s. c 17

§ 17; prior: 1988 c 194 § 1; 1988 c 190 § 2; 1988 c 189 § 2; 1984 c 188 § 4; prior: 1983 c 311 § 5; 1983 c 246 § 2; 1979 c 155 § 46; 1977 ex.s. c 291 § 41.]

**Reviser's note:** This section was amended by 1995 c 53 § 1, 1995 c 311 § 19, and by 1995 c 313 § 2, each without reference to the other. All amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Finding—Effective date—1990 c 284:** See notes following RCW 74.13.250.

**Severability—1990 c 246:** See note following RCW 13.34.060.

**Legislative finding—1983 c 311:** See note following RCW 13.34.030.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**Effective dates—Severability—1977 ex.s. c 291:** See notes following RCW 13.04.005.

**13.34.145 Permanency plan required—Permanency planning hearing—Time limits—Review hearing—Petition for termination of parental rights—Guardianship petition—Agency responsibility to provide services to parents—Due process rights.** (1) A permanency plan shall be developed no later than sixty days from the time the supervising agency assumes responsibility for providing services, including placing the child, or at the time of a hearing under RCW 13.34.130, whichever occurs first. The permanency planning process continues until a permanency planning goal is achieved or dependency is dismissed. The planning process shall include reasonable efforts to return the child to the parent's home.

(a) Whenever a child is placed in out-of-home care pursuant to RCW 13.34.130, the agency that has custody of the child shall provide the court with a written permanency plan of care directed towards securing a safe, stable, and permanent home for the child as soon as possible. The plan shall identify one of the following outcomes as the primary goal and may also identify additional outcomes as alternative goals: Return of the child to the home of the child's parent, guardian, or legal custodian; adoption; guardianship; or long-term relative or foster care, until the child is age eighteen, with a written agreement between the parties and the care provider; and independent living, if appropriate and if the child is age sixteen or older and the provisions of subsection (2) of this section are met.

(b) The identified outcomes and goals of the permanency plan may change over time based upon the circumstances of the particular case.

(c) Permanency planning goals should be achieved at the earliest possible date, preferably before the child has been in out-of-home care for fifteen months. In cases where parental rights have been terminated, the child is legally free for adoption, and adoption has been identified as the primary permanency planning goal, it shall be a goal to complete the adoption within six months following entry of the termination order.

(2) Whenever a permanency plan identifies independent living as a goal, the plan shall also specifically identify the services that will be provided to assist the child to make a successful transition from foster care to independent living. Before the court approves independent living as a permanency plan of care, the court shall make a finding that the provision of services to assist the child in making a transi-

tion from foster care to independent living will allow the child to manage his or her financial affairs and to manage his or her personal, social, educational, and nonfinancial affairs. The department shall not discharge a child to an independent living situation before the child is eighteen years of age unless the child becomes emancipated pursuant to chapter 13.64 RCW.

(3)(a) For children ten and under, a permanency planning hearing shall be held in all cases where the child has remained in out-of-home care for at least nine months and an adoption decree or guardianship order has not previously been entered. The hearing shall take place no later than twelve months following commencement of the current placement episode.

(b) For children over ten, a permanency planning hearing shall be held in all cases where the child has remained in out-of-home care for at least fifteen months and an adoption decree or guardianship order has not previously been entered. The hearing shall take place no later than eighteen months following commencement of the current placement episode.

(4) Whenever a child is removed from the home of a dependency guardian or long-term relative or foster care provider, and the child is not returned to the home of the parent, guardian, or legal custodian but is placed in out-of-home care, a permanency planning hearing shall take place no later than twelve or eighteen months, as provided in subsection (3) of this section, following the date of removal unless, prior to the hearing, the child returns to the home of the dependency guardian or long-term care provider, the child is placed in the home of the parent, guardian, or legal custodian, an adoption decree or guardianship order is entered, or the dependency is dismissed.

(5) No later than ten working days prior to the permanency planning hearing, the agency having custody of the child shall submit a written permanency plan to the court and shall mail a copy of the plan to all parties and their legal counsel, if any.

(6) At the permanency planning hearing, the court shall enter findings as required by RCW 13.34.130(5) and shall review the permanency plan prepared by the agency. If the child has resided in the home of a foster parent or relative for more than six months prior to the permanency planning hearing, the court shall also enter a finding regarding whether the foster parent or relative was informed of the hearing as required in RCW 74.13.280. If a goal of long-term foster or relative care has been achieved prior to the permanency planning hearing, the court shall review the child's status to determine whether the placement and the plan for the child's care remain appropriate. In cases where the primary permanency planning goal has not yet been achieved, the court shall inquire regarding the reasons why the primary goal has not been achieved and determine what needs to be done to make it possible to achieve the primary goal. In all cases, the court shall:

(a)(i) Order the permanency plan prepared by the agency to be implemented; or

(ii) Modify the permanency plan, and order implementation of the modified plan; and

(b)(i) Order the child returned home only if the court finds that a reason for removal as set forth in RCW 13.34.130 no longer exists; or

(ii) Order the child to remain in out-of-home care for a limited specified time period while efforts are made to implement the permanency plan.

(7) If the court orders the child returned home, case-work supervision shall continue for at least six months, at which time a review hearing shall be held pursuant to RCW 13.34.130(5), and the court shall determine the need for continued intervention.

(8) Following the first permanency planning hearing, the court shall hold a further permanency planning hearing in accordance with this section at least once every twelve months until a permanency planning goal is achieved or the dependency is dismissed, whichever occurs first.

(9) Except as otherwise provided in RCW 13.34.235, the status of all dependent children shall continue to be reviewed by the court at least once every six months, in accordance with RCW 13.34.130(5), until the dependency is dismissed. Prior to the second permanency planning hearing, the agency that has custody of the child shall consider whether to file a petition for termination of parental rights.

(10) Nothing in this chapter may be construed to limit the ability of the agency that has custody of the child to file a petition for termination of parental rights or a guardianship petition at any time following the establishment of dependency. Upon the filing of such a petition, a fact-finding hearing shall be scheduled and held in accordance with this chapter unless the agency requests dismissal of the petition prior to the hearing or unless the parties enter an agreed order terminating parental rights, establishing guardianship, or otherwise resolving the matter.

(11) The approval of a permanency plan that does not contemplate return of the child to the parent does not relieve the supervising agency of its obligation to provide reasonable services, under this chapter, intended to effectuate the return of the child to the parent, including but not limited to, visitation rights.

(12) Nothing in this chapter may be construed to limit the procedural due process rights of any party in a termination or guardianship proceeding filed under this chapter. [1995 c 311 § 20; 1995 c 53 § 2; 1994 c 288 § 5; 1993 c 412 § 1; 1989 1st ex.s. c 17 § 18; 1988 c 194 § 3.]

**Reviser's note:** This section was amended by 1995 c 53 § 2 and by 1995 c 311 § 20, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**13.34.233 Guardianship for dependent child—Modification or termination of order—Hearing—Termination of guardianship.** (1) Any party may request the court to modify or terminate a dependency guardianship order under RCW 13.34.150. Notice of any motion to modify or terminate the guardianship shall be served on all other parties, including any agency that was responsible for supervising the child's placement at the time the guardianship petition was filed. Notice shall in all cases be served upon the department of social and health services. If the department was not previously a party to the guardianship proceeding, the department shall nevertheless have the right to initiate a proceeding to modify or terminate a guardian-

ship and the right to intervene at any stage of such a proceeding.

(2) The guardianship may be modified or terminated upon the motion of any party or the department if the court finds by a preponderance of the evidence that there has been a substantial change of circumstances subsequent to the establishment of the guardianship and that it is in the child's best interest to modify or terminate the guardianship. The court shall hold a hearing on the motion before modifying or terminating a guardianship.

(3) Upon entry of an order terminating the guardianship, the dependency guardian shall not have any rights or responsibilities with respect to the child and shall not have legal standing to participate as a party in further dependency proceedings pertaining to the child. The court may allow the child's dependency guardian to attend dependency review proceedings pertaining to the child for the sole purpose of providing information about the child to the court.

(4) Upon entry of an order terminating the guardianship, the child shall remain dependent and the court shall either return the child to the child's parent or order the child into the custody, control, and care of the department of social and health services or a licensed child-placing agency for placement in a foster home or group care facility licensed pursuant to chapter 74.15 RCW or in a home not required to be licensed pursuant to such chapter. The court shall not place a child in the custody of the child's parent unless the court finds that a reason for removal as set forth in RCW 13.34.130 no longer exists and that such placement is in the child's best interest. The court shall thereafter conduct reviews as provided in RCW 13.34.130(5) and, where applicable, shall hold a permanency planning hearing in accordance with RCW 13.34.145. [1995 c 311 § 24; 1994 c 288 § 8; 1981 c 195 § 4.]

### Chapter 13.40

#### JUVENILE JUSTICE ACT OF 1977

##### Sections

13.40.005	Juvenile disposition standards commission— Abolished—References to commission—Transfer of powers, duties, and functions. ( <i>Effective June 30, 1997.</i> )
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13.40.025	Juvenile disposition standards commission—Duties— Members—Chairman—Terms—Vacancies— Meetings—Compensation and expenses—Transfer of powers and duties to sentencing guidelines commission.
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13.40.220	Costs of support, treatment, and confinement— Order—Contempt of court.
13.40.320	Juvenile offender basic training camp program.

#### 13.40.005 Juvenile disposition standards commission—Abolished—References to commission—Transfer of powers, duties, and functions. (*Effective June 30, 1997.*)

(1) The juvenile disposition standards commission is hereby abolished and its powers, duties, and functions are hereby transferred to the sentencing guidelines commission. All references to the director or the juvenile disposition standards commission in the Revised Code of Washington shall be construed to mean the director or the sentencing guidelines commission.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the juvenile disposition standards commission shall be delivered to the custody of the sentencing guidelines commission. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the juvenile disposition standards commission shall be made available to the sentencing guidelines commission. All funds, credits, or other assets held by the juvenile disposition standards commission shall be assigned to the sentencing guidelines commission.

(b) Any appropriations made to the juvenile disposition standards commission shall, on June 30, 1997, be transferred and credited to the sentencing guidelines commission.

(c) If any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the juvenile disposition standards commission are transferred to the jurisdiction of the sentencing guidelines commission. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the sentencing guidelines commission to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the juvenile disposition standards commission shall be continued and acted upon by the sentencing guidelines commission. All existing contracts and obligations shall remain in full force and shall be performed by the sentencing guidelines commission.

(5) The transfer of the powers, duties, functions, and personnel of the juvenile disposition standards commission

shall not affect the validity of any act performed before June 30, 1997.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) Nothing contained in this section may be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement until the agreement has expired or until the bargaining unit has been modified by action of the personnel board as provided by law. [1995 c 269 § 301.]

**Reviser's note:** 1995 c 269 directed that this section be added to chapter 9.94A RCW. This section has been codified in chapter 13.40 RCW, which relates more directly to the juvenile disposition standards commission.

**Effective date—1995 c 269 § 301:** "Section 301 of this act shall take effect June 30, 1997." [1995 c 269 § 3603.]

**Part headings not law—1995 c 269:** "Part headings as used in this act do not constitute any part of the law." [1995 c 269 § 3601.]

**Severability—1995 c 269:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1995 c 269 § 3602.]

**13.40.020 Definitions.** For the purposes of this chapter:

(1) "Serious offender" means a person fifteen years of age or older who has committed an offense which if committed by an adult would be:

(a) A class A felony, or an attempt to commit a class A felony;

(b) Manslaughter in the first degree; or

(c) Assault in the second degree, extortion in the first degree, child molestation in the second degree, kidnapping in the second degree, robbery in the second degree, residential burglary, or burglary in the second degree, where such offenses include the infliction of bodily harm upon another or where during the commission of or immediate withdrawal from such an offense the perpetrator is armed with a deadly weapon;

(2) "Community service" means compulsory service, without compensation, performed for the benefit of the community by the offender as punishment for committing an offense. Community service may be performed through public or private organizations or through work crews;

(3) "Community supervision" means an order of disposition by the court of an adjudicated youth not committed to the department or an order granting a deferred adjudication pursuant to RCW 13.40.125. A community supervision order for a single offense may be for a period of up to two years for a sex offense as defined by RCW 9.94A.030 and up to one year for other offenses. As a mandatory condition of any term of community supervision, the court shall order the juvenile to refrain from committing new offenses. As a mandatory condition of community supervision, the court shall order the juvenile to comply with the mandatory school attendance provisions of chapter 28A.225 RCW and to inform the school of the existence of

this requirement. Community supervision is an individualized program comprised of one or more of the following:

(a) Community-based sanctions;

(b) Community-based rehabilitation;

(c) Monitoring and reporting requirements;

(d) Posting of a probation bond imposed pursuant to RCW 13.40.0357;

(4) Community-based sanctions may include one or more of the following:

(a) A fine, not to exceed one hundred dollars;

(b) Community service not to exceed one hundred fifty hours of service;

(5) "Community-based rehabilitation" means one or more of the following: Attendance of information classes; counseling, outpatient substance abuse treatment programs, outpatient mental health programs, anger management classes, education or outpatient treatment programs to prevent animal cruelty, or other services; or attendance at school or other educational programs appropriate for the juvenile as determined by the school district. Placement in community-based rehabilitation programs is subject to available funds;

(6) "Monitoring and reporting requirements" means one or more of the following: Curfews; requirements to remain at home, school, work, or court-ordered treatment programs during specified hours; restrictions from leaving or entering specified geographical areas; requirements to report to the probation officer as directed and to remain under the probation officer's supervision; and other conditions or limitations as the court may require which may not include confinement;

(7) "Confinement" means physical custody by the department of social and health services in a facility operated by or pursuant to a contract with the state, or physical custody in a detention facility operated by or pursuant to a contract with any county. The county may operate or contract with vendors to operate county detention facilities. The department may operate or contract to operate detention facilities for juveniles committed to the department. Pretrial confinement or confinement of less than thirty-one days imposed as part of a disposition or modification order may be served consecutively or intermittently, in the discretion of the court;

(8) "Court", when used without further qualification, means the juvenile court judge(s) or commissioner(s);

(9) "Criminal history" includes all criminal complaints against the respondent for which, prior to the commission of a current offense:

(a) The allegations were found correct by a court. If a respondent is convicted of two or more charges arising out of the same course of conduct, only the highest charge from among these shall count as an offense for the purposes of this chapter; or

(b) The criminal complaint was diverted by a prosecutor pursuant to the provisions of this chapter on agreement of the respondent and after an advisement to the respondent that the criminal complaint would be considered as part of the respondent's criminal history. A successfully completed deferred adjudication shall not be considered part of the respondent's criminal history;

(10) "Department" means the department of social and health services;

(11) "Detention facility" means a county facility, paid for by the county, for the physical confinement of a juvenile alleged to have committed an offense or an adjudicated offender subject to a disposition or modification order. "Detention facility" includes county group homes, inpatient substance abuse programs, juvenile basic training camps, and electronic monitoring;

(12) "Diversion unit" means any probation counselor who enters into a diversion agreement with an alleged youthful offender, or any other person, community accountability board, or other entity except a law enforcement official or entity, with whom the juvenile court administrator has contracted to arrange and supervise such agreements pursuant to RCW 13.40.080, or any person, community accountability board, or other entity specially funded by the legislature to arrange and supervise diversion agreements in accordance with the requirements of this chapter. For purposes of this subsection, "community accountability board" means a board comprised of members of the local community in which the juvenile offender resides. The superior court shall appoint the members. The boards shall consist of at least three and not more than seven members. If possible, the board should include a variety of representatives from the community, such as a law enforcement officer, teacher or school administrator, high school student, parent, and business owner, and should represent the cultural diversity of the local community;

(13) "Institution" means a juvenile facility established pursuant to chapters 72.05 and 72.16 through 72.20 RCW;

(14) "Juvenile," "youth," and "child" mean any individual who is under the chronological age of eighteen years and who has not been previously transferred to adult court pursuant to RCW 13.40.110 or who is otherwise under adult court jurisdiction;

(15) "Juvenile offender" means any juvenile who has been found by the juvenile court to have committed an offense, including a person eighteen years of age or older over whom jurisdiction has been extended under RCW 13.40.300;

(16) "Manifest injustice" means a disposition that would either impose an excessive penalty on the juvenile or would impose a serious, and clear danger to society in light of the purposes of this chapter;

(17) "Middle offender" means a person who has committed an offense and who is neither a minor or first offender nor a serious offender;

(18) "Minor or first offender" means a person whose current offense(s) and criminal history fall entirely within one of the following categories:

- (a) Four misdemeanors;
- (b) Two misdemeanors and one gross misdemeanor;
- (c) One misdemeanor and two gross misdemeanors; and
- (d) Three gross misdemeanors.

For purposes of this definition, current violations shall be counted as misdemeanors;

(19) "Offense" means an act designated a violation or a crime if committed by an adult under the law of this state, under any ordinance of any city or county of this state, under any federal law, or under the law of another state if the act occurred in that state;

(20) "Respondent" means a juvenile who is alleged or proven to have committed an offense;

(21) "Restitution" means financial reimbursement by the offender to the victim, and shall be limited to easily ascertainable damages for injury to or loss of property, actual expenses incurred for medical treatment for physical injury to persons, lost wages resulting from physical injury, and costs of the victim's counseling reasonably related to the offense if the offense is a sex offense. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses. Nothing in this chapter shall limit or replace civil remedies or defenses available to the victim or offender;

(22) "Secretary" means the secretary of the department of social and health services. "Assistant secretary" means the assistant secretary for juvenile rehabilitation for the department;

(23) "Services" mean services which provide alternatives to incarceration for those juveniles who have pleaded or been adjudicated guilty of an offense or have signed a diversion agreement pursuant to this chapter;

(24) "Sex offense" means an offense defined as a sex offense in RCW 9.94A.030;

(25) "Sexual motivation" means that one of the purposes for which the respondent committed the offense was for the purpose of his or her sexual gratification;

(26) "Foster care" means temporary physical care in a foster family home or group care facility as defined in RCW 74.15.020 and licensed by the department, or other legally authorized care;

(27) "Violation" means an act or omission, which if committed by an adult, must be proven beyond a reasonable doubt, and is punishable by sanctions which do not include incarceration;

(28) "Violent offense" means a violent offense as defined in RCW 9.94A.030;

(29) "Probation bond" means a bond, posted with sufficient security by a surety justified and approved by the court, to secure the offender's appearance at required court proceedings and compliance with court-ordered community supervision or conditions of release ordered pursuant to RCW 13.40.040 or 13.40.050. It also means a deposit of cash or posting of other collateral in lieu of a bond if approved by the court;

(30) "Surety" means an entity licensed under state insurance laws or by the state department of licensing, to write corporate, property, or probation bonds within the state, and justified and approved by the superior court of the county having jurisdiction of the case. [1995 c 395 § 2; 1995 c 134 § 1. Prior: 1994 sp.s. c 7 § 520; 1994 c 271 § 803; 1994 c 261 § 18; 1993 c 373 § 1; 1990 1st ex.s. c 12 § 1; 1990 c 3 § 301; 1989 c 407 § 1; 1988 c 145 § 17; 1983 c 191 § 7; 1981 c 299 § 2; 1979 c 155 § 54; 1977 ex.s. c 291 § 56.]

**Reviser's note:** This section was amended by 1995 c 134 § 1 and by 1995 c 395 § 2, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Finding—Intent—Severability—1994 sp.s. c 7:** See notes following RCW 43.70.540.

**Purpose—Severability—1994 c 271:** See notes following RCW 9A.28.020.



**Finding—Intent—1994 c 261:** See note following RCW 16.52.011.

**Severability—1993 c 373:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1993 c 373 § 3.]

**Effective date—1990 1st ex.s. c 12:** "This act shall take effect July 1, 1990." [1990 1st ex.s. c 12 § 5.]

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3:** See RCW 18.155.900 through 18.155.902.

**Effective date—Savings—Application—1988 c 145:** See notes following RCW 9A.44.010.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**Effective dates—Severability—1977 ex.s. c 291:** See notes following RCW 13.04.005.

**13.40.025 Juvenile disposition standards commission—Duties—Members—Chairman—Terms—Vacancies—Meetings—Compensation and expenses—Transfer of powers and duties to sentencing guidelines commission.** (1) There is established a juvenile disposition standards commission to propose disposition standards to the legislature in accordance with RCW 13.40.030 and perform the other responsibilities set forth in this chapter.

(2) The commission shall be composed of the secretary or the secretary's designee and the following nine members appointed by the governor, subject to confirmation by the senate: (a) A superior court judge; (b) a prosecuting attorney or deputy prosecuting attorney; (c) a law enforcement officer; (d) an administrator of juvenile court services; (e) a public defender actively practicing in juvenile court; (f) a county legislative official or county executive; and (g) three other persons who have demonstrated significant interest in the adjudication and disposition of juvenile offenders. In making the appointments, the governor shall seek the recommendations of the association of superior court judges in respect to the member who is a superior court judge; of Washington prosecutors in respect to the prosecuting attorney or deputy prosecuting attorney member; of the Washington association of sheriffs and police chiefs in respect to the member who is a law enforcement officer; of juvenile court administrators in respect to the member who is a juvenile court administrator; and of the state bar association in respect to the public defender member; and of the Washington association of counties in respect to the member who is either a county legislative official or county executive.

(3) The secretary or the secretary's designee shall serve as chairman of the commission.

(4) The secretary shall serve on the commission during the secretary's tenure as secretary of the department. The term of the remaining members of the commission shall be three years. The initial terms shall be determined by lot conducted at the commission's first meeting as follows: (a) Four members shall serve a two-year term; and (b) four members shall serve a three-year term. In the event of a vacancy, the appointing authority shall designate a new member to complete the remainder of the unexpired term.

(5) Commission members shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. Members shall be compensated in accordance with RCW 43.03.240.

(6) The commission shall cease to exist on June 30, 1997, and its powers and duties shall be transferred to the sentencing guidelines commission established under RCW 9.94A.040. [1995 c 269 § 302; 1986 c 288 § 8; 1984 c 287 § 11; 1981 c 299 § 3.]

**Effective date—1995 c 269:** "Sections 101, 201, 302, 303, 401, 402, 501 through 505, 601, 701, 801, 901, 1001, 1101, 1201 through 1203, 1301, 1302, 1401 through 1407, 1501, 1601, 1701, 1801, 1901, 1902, 2001, 2101, 2102, 2201 through 2204, 2301, 2302, 2401, 2501, 2601 through 2608, 2701, 2801 through 2804, 2901 through 2909, 3001, 3101, 3201, 3301, 3401, and 3501 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995." [1995 c 269 § 3604.]

**Part headings not law—Severability—1995 c 269:** See notes following RCW 13.40.005.

**Severability—1986 c 288:** See note following RCW 13.32A.050.

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

**13.40.0357 Dispositions standards for offenses.**

**SCHEDULE A  
DESCRIPTION AND OFFENSE CATEGORY**

JUVENILE DISPOSITION OFFENSE CATEGORY	DESCRIPTION (RCW CITATION)	JUVENILE DISPOSITION CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY, OR SOLICITATION
<b>Arson and Malicious Mischief</b>		
A	Arson 1 (9A.48.020)	B+
B	Arson 2 (9A.48.030)	C
C	Reckless Burning 1 (9A.48.040)	D
D	Reckless Burning 2 (9A.48.050)	E
B	Malicious Mischief 1 (9A.48.070)	C
C	Malicious Mischief 2 (9A.48.080)	D
D	Malicious Mischief 3 (<\$50 is E class) (9A.48.090)	E
E	Tampering with Fire Alarm Apparatus (9.40.100)	E
A	Possession of Incendiary Device (9.40.120)	B+
<b>Assault and Other Crimes Involving Physical Harm</b>		
A	Assault 1 (9A.36.011)	B+
B+	Assault 2 (9A.36.021)	C+
C+	Assault 3 (9A.36.031)	D+
D+	Assault 4 (9A.36.041)	E
D+	Reckless Endangerment (9A.36.050)	E
C+	Promoting Suicide Attempt (9A.36.060)	D+
D+	Coercion (9A.36.070)	E
C+	Custodial Assault (9A.36.100)	D+
<b>Burglary and Trespass</b>		
B+	Burglary 1 (9A.52.020)	C+
B	Burglary 2 (9A.52.030)	C
D	Burglary Tools (Possession of) (9A.52.060)	E
D	Criminal Trespass 1 (9A.52.070)	E
E	Criminal Trespass 2 (9A.52.080)	E
D	Vehicle Prowling (9A.52.100)	E

<b>Drugs</b>		<b>Obstructing Governmental Operation</b>		
E	Possession/Consumption of Alcohol (66.44.270)	E	Obstructing a Law Enforcement Officer (9A.76.020)	
C	Illegally Obtaining Legend Drug (69.41.020)	E	Resisting Arrest (9A.76.040)	
C+	Sale, Delivery, Possession of Legend Drug with Intent to Sell (69.41.030)	B	Introducing Contraband 1 (9A.76.140)	
E	Possession of Legend Drug (69.41.030)	C	Introducing Contraband 2 (9A.76.150)	
B+	Violation of Uniform Controlled Substances Act - Narcotic Sale (69.50.401(a)(1)(i))	E	Introducing Contraband 3 (9A.76.160)	
C	Violation of Uniform Controlled Substances Act - Nonnarcotic Sale (69.50.401(a)(1)(ii))	B+	Intimidating a Public Servant (9A.76.180)	
E	Possession of Marihuana <40 grams (69.50.401(e))	B+	Intimidating a Witness (9A.72.110)	
C	Fraudulently Obtaining Controlled Substance (69.50.403)	<b>Public Disturbance</b>		
C+	Sale of Controlled Substance for Profit (69.50.410)	C+	Riot with Weapon (9A.84.010)	
E	Unlawful Inhalation (9.47A.020)	D+	Riot Without Weapon (9A.84.010)	
B	Violation of Uniform Controlled Substances Act - Narcotic Counterfeit Substances (69.50.401(b)(1)(i))	C	Failure to Disperse (9A.84.020)	
C	Violation of Uniform Controlled Substances Act - Nonnarcotic Counterfeit Substances (69.50.401(b)(1)(ii), (iii), (iv))	E	Disorderly Conduct (9A.84.030)	
C	Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.401(d))	C+	<b>Sex Crimes</b>	
C	Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.401(c))	E	A	Rape 1 (9A.44.040)
E	<b>Firearms and Weapons</b>		A-	Rape 2 (9A.44.050)
C	Carrying Loaded Pistol Without Permit (9.41.050)	B	C+	Rape 3 (9A.44.060)
C	Possession of Firearms by Minor (<18) *(9.41.040(1)(e))	C	A-	Rape of a Child 1 (9A.44.073)
D+	Possession of Dangerous Weapon (9.41.250)	E	B	Rape of a Child 2 (9A.44.076)
D	Intimidating Another Person by use of Weapon (9.41.270)	E	B	Incest 1 (9A.64.020(1))
A+	<b>Homicide</b>		C	Incest 2 (9A.64.020(2))
A+	Murder 1 (9A.32.030)	A	D+	Indecent Exposure (Victim <14) (9A.88.010)
B+	Murder 2 (9A.32.050)	B+	E	Indecent Exposure (Victim 14 or over) (9A.88.010)
B+	Manslaughter 1 (9A.32.060)	C+	B+	Promoting Prostitution 1 (9A.88.070)
C+	Manslaughter 2 (9A.32.070)	D+	C+	Promoting Prostitution 2 (9A.88.080)
B+	Vehicular Homicide (46.61.520)	C+	E	O & A (Prostitution) (9A.88.030)
A	<b>Kidnapping</b>		B+	Indecent Liberties (9A.44.100)
B+	Kidnap 1 (9A.40.020)	B+	B+	Child Molestation 1 (9A.44.083)
B+	Kidnap 2 (9A.40.030)	C+	C+	Child Molestation 2 (9A.44.086)
C+	Unlawful Imprisonment (9A.40.040)	D+	<b>Theft, Robbery, Extortion, and Forgery</b>	
			B	Theft 1 (9A.56.030)
			C	Theft 2 (9A.56.040)
			D	Theft 3 (9A.56.050)
			B	Theft of Livestock (9A.56.080)
			C	Forgery (9A.60.020)
			A	Robbery 1 (9A.56.200)
			B+	Robbery 2 (9A.56.210)
			B+	Extortion 1 (9A.56.120)
			C+	Extortion 2 (9A.56.130)
			B	Possession of Stolen Property 1 (9A.56.150)
			C	Possession of Stolen Property 2 (9A.56.160)
			D	Possession of Stolen Property 3 (9A.56.170)
			C	Taking Motor Vehicle Without Owner's Permission (9A.56.070)

<b>Motor Vehicle Related Crimes</b>	
E	Driving Without a License (46.20.021)
C	Hit and Run - Injury (46.52.020(4))
D	Hit and Run-Attended (46.52.020(5))
E	Hit and Run-Unattended (46.52.010)
C	Vehicular Assault (46.61.522)
C	Attempting to Elude Pursuing Police Vehicle (46.61.024)
E	Reckless Driving (46.61.500)
D	Driving While Under the Influence (46.61.502 and 46.61.504)
D	Vehicle Prowling (9A.52.100)
C	Taking Motor Vehicle Without Owner's Permission (9A.56.070)
<b>Other</b>	
B	Bomb Threat (9.61.160)
C	Escape 1 <sup>1</sup> (9A.76.110)
C	Escape 2 <sup>1</sup> (9A.76.120)
D	Escape 3 (9A.76.130)
E	Obscene, Harassing, Etc., Phone Calls (9.61.230)
A	Other Offense Equivalent to an Adult Class A Felony
B	Other Offense Equivalent to an Adult Class B Felony
C	Other Offense Equivalent to an Adult Class C Felony
D	Other Offense Equivalent to an Adult Gross Misdemeanor
E	Other Offense Equivalent to an Adult Misdemeanor
V	Violation of Order of Restitution, Community Supervision, or Confinement (13.40.200) <sup>2</sup>

		<b>TIME SPAN</b>		
OFFENSE CATEGORY		0-12 Months	13-24 Months	25 Months or More
A+		.9	.9	.9
A		.9	.8	.6
A-		.9	.8	.5
B+		.9	.7	.4
B		.9	.6	.3
C+		.6	.3	.2
C		.5	.2	.2
D+		.3	.2	.1
D		.2	.1	.1
E		.1	.1	.1

Prior history - Any offense in which a diversion agreement or counsel and release form was signed, or any offense which has been adjudicated by court to be correct prior to the commission of the current offense(s).

**SCHEDULE C  
CURRENT OFFENSE POINTS**

For use with all CURRENT OFFENSES occurring on or after July 1, 1989.

		<b>AGE</b>					
OFFENSE CATEGORY		12 & Under	13	14	15	16	17
A+		<b>STANDARD RANGE 180-224 WEEKS</b>					
A		250	300	350	375	375	375
A-		150	150	150	200	200	200
B+		110	110	120	130	140	150
B		45	45	50	50	57	57
C+		44	44	49	49	55	55
C		40	40	45	45	50	50
D+		16	18	20	22	24	26
D		14	16	18	20	22	24
E		4	4	4	6	8	10

**JUVENILE SENTENCING STANDARDS  
SCHEDULE D-1**

This schedule may only be used for minor/first offenders. After the determination is made that a youth is a minor/first offender, the court has the discretion to select sentencing option A, B, or C.

**MINOR/FIRST OFFENDER**

**OPTION A  
STANDARD RANGE**

Points	Community Supervision	Community Service Hours	Fine
1-9	0-3 months	and/or 0-8	and/or 0-\$10
10-19	0-3 months	and/or 0-8	and/or 0-\$10
20-29	0-3 months	and/or 0-16	and/or 0-\$10
30-39	0-3 months	and/or 8-24	and/or 0-\$25
40-49	3-6 months	and/or 16-32	and/or 0-\$25
50-59	3-6 months	and/or 24-40	and/or 0-\$25

**SCHEDULE B  
PRIOR OFFENSE INCREASE FACTOR**

For use with all CURRENT OFFENSES occurring on or after July 1, 1989.

<sup>1</sup>Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses and the standard range is established as follows:

- 1st escape or attempted escape during 12-month period - 4 weeks confinement
- 2nd escape or attempted escape during 12-month period - 8 weeks confinement
- 3rd and subsequent escape or attempted escape during 12-month period - 12 weeks confinement

<sup>2</sup>If the court finds that a respondent has violated terms of an order, it may impose a penalty of up to 30 days of confinement.

60-69	6-9 months	and/or	32-48	and/or	0-\$50
70-79	6-9 months	and/or	40-56	and/or	0-\$50
80-89	9-12 months	and/or	48-64	and/or	10-\$100
90-109	9-12 months	and/or	56-72	and/or	10-\$100

OR

**OPTION B  
STATUTORY OPTION**

0-12 Months Community Supervision  
0-150 Hours Community Service  
0-100 Fine  
Posting of a Probation Bond

A term of community supervision with a maximum of 150 hours, \$100.00 fine, and 12 months supervision.

OR

**OPTION C  
MANIFEST INJUSTICE**

When a term of community supervision would effectuate a manifest injustice, another disposition may be imposed. When a judge imposes a sentence of confinement exceeding 30 days, the court shall sentence the juvenile to a maximum term and the provisions of RCW 13.40.030(2) shall be used to determine the range.

**JUVENILE SENTENCING STANDARDS  
SCHEDULE D-2**

This schedule may only be used for middle offenders. After the determination is made that a youth is a middle offender, the court has the discretion to select sentencing option A, B, or C.

**MIDDLE OFFENDER  
OPTION A  
STANDARD RANGE**

Points	Community Supervision	Community Service Hours	Fine	Confinement Days	Confinement Weeks
1-9	0-3 months	and/or 0-8	and/or 0-\$10		and/or 0
10-19	0-3 months	and/or 0-8	and/or 0-\$10		and/or 0
20-29	0-3 months	and/or 0-16	and/or 0-\$10		and/or 0
30-39	0-3 months	and/or 8-24	and/or 0-\$25		and/or 2-4
40-49	3-6 months	and/or 16-32	and/or 0-\$25		and/or 2-4
50-59	3-6 months	and/or 24-40	and/or 0-\$25		and/or 5-10
60-69	6-9 months	and/or 32-48	and/or 0-\$50		and/or 5-10
70-79	6-9 months	and/or 40-56	and/or 0-\$50		and/or 10-20
80-89	9-12 months	and/or 48-64	and/or 0-\$100		and/or 10-20
90-109	9-12 months	and/or 56-72	and/or 0-\$100		and/or 15-30
110-129					8-12
130-149					13-16
150-199					21-28
200-249					30-40
250-299					52-65
300-374					80-100
375+					103-129

Middle offenders with 110 points or more do not have to be committed. They may be assigned community supervision under option B.

All A+ offenses 180-224 weeks

OR

**OPTION B  
STATUTORY OPTION**

0-12 Months Community Supervision  
0-150 Hours Community Service  
0-100 Fine  
Posting of a Probation Bond

If the offender has less than 110 points, the court may impose a determinate disposition of community supervision and/or up to 30 days confinement; in which case, if confinement has been imposed, the court shall state either aggravating or mitigating factors as set forth in RCW 13.40.150.

If the middle offender has 110 points or more, the court may impose a disposition under option A and may suspend the disposition on the condition that the offender serve up to thirty days of confinement and follow all conditions of community supervision. If the offender fails to comply with the terms of community supervision, the court may impose sanctions pursuant to RCW 13.40.200 or may revoke the suspended disposition and order execution of the disposition. If the court imposes confinement for offenders with 110 points or more, the court shall state either aggravating or mitigating factors set forth in RCW 13.40.150.

OR

**OPTION C  
MANIFEST INJUSTICE**

If the court determines that a disposition under A or B would effectuate a manifest injustice, the court shall sentence the juvenile to a maximum term and the provisions of RCW 13.40.030(2) shall be used to determine the range.

**JUVENILE SENTENCING STANDARDS  
SCHEDULE D-3**

This schedule may only be used for serious offenders. After the determination is made that a youth is a serious offender, the court has the discretion to select sentencing option A or B.

**SERIOUS OFFENDER  
OPTION A  
STANDARD RANGE**

Points	Institution Time
0-129	8-12 weeks
130-149	13-16 weeks
150-199	21-28 weeks
200-249	30-40 weeks
250-299	52-65 weeks
300-374	80-100 weeks
375+	103-129 weeks
All A+ Offenses	180-224 weeks

OR

**OPTION B  
MANIFEST INJUSTICE**

A disposition outside the standard range shall be determined and shall be comprised of confinement or community supervision including posting a probation bond or a combi-

nation thereof. When a judge finds a manifest injustice and imposes a sentence of confinement exceeding 30 days, the court shall sentence the juvenile to a maximum term, and the provisions of RCW 13.40.030(2) shall be used to determine the range. [1995 c 395 § 3; 1994 sp.s. c 7 § 522; 1989 c 407 § 7.]

**\*Reviser's note:** RCW 9.41.040 was amended by 1995 c 129 § 16 and RCW 9.41.040(1)(e) was redesignated as RCW 9.41.040(1)(b)(iv).

**Finding—Intent—Severability—1994 sp.s. c 7:** See notes following RCW 43.70.540.

**13.40.040 Taking juvenile into custody, grounds—Detention of, grounds—Release on bond, conditions—Bail jumping.** (1) A juvenile may be taken into custody:

(a) Pursuant to a court order if a complaint is filed with the court alleging, and the court finds probable cause to believe, that the juvenile has committed an offense or has violated terms of a disposition order or release order; or

(b) Without a court order, by a law enforcement officer if grounds exist for the arrest of an adult in identical circumstances. Admission to, and continued custody in, a court detention facility shall be governed by subsection (2) of this section; or

(c) Pursuant to a court order that the juvenile be held as a material witness; or

(d) Where the secretary or the secretary's designee has suspended the parole of a juvenile offender.

(2) A juvenile may not be held in detention unless there is probable cause to believe that:

(a) The juvenile has committed an offense or has violated the terms of a disposition order; and

(i) The juvenile will likely fail to appear for further proceedings; or

(ii) Detention is required to protect the juvenile from himself or herself; or

(iii) The juvenile is a threat to community safety; or

(iv) The juvenile will intimidate witnesses or otherwise unlawfully interfere with the administration of justice; or

(v) The juvenile has committed a crime while another case was pending; or

(b) The juvenile is a fugitive from justice; or

(c) The juvenile's parole has been suspended or modified; or

(d) The juvenile is a material witness.

(3) Upon a finding that members of the community have threatened the health of a juvenile taken into custody, at the juvenile's request the court may order continued detention pending further order of the court.

(4) A juvenile detained under this section may be released upon posting a probation bond set by the court. The juvenile's parent or guardian may sign for the probation bond. A court authorizing such a release shall issue an order containing a statement of conditions imposed upon the juvenile and shall set the date of his or her next court appearance. The court shall advise the juvenile of any conditions specified in the order and may at any time amend such an order in order to impose additional or different conditions of release upon the juvenile or to return the juvenile to custody for failing to conform to the conditions imposed. In addition to requiring the juvenile to appear at the next court date, the court may condition the probation

bond on the juvenile's compliance with conditions of release. The juvenile's parent or guardian may notify the court that the juvenile has failed to conform to the conditions of release or the provisions in the probation bond. If the parent notifies the court of the juvenile's failure to comply with the probation bond, the court shall notify the surety. As provided in the terms of the bond, the surety shall provide notice to the court of the offender's noncompliance. Failure to appear on the date scheduled by the court pursuant to this section shall constitute the crime of bail jumping. [1995 c 395 § 4; 1979 c 155 § 57; 1977 ex.s. c 291 § 58.]

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**Effective dates—Severability—1977 ex.s. c 291:** See notes following RCW 13.04.005.

**13.40.050 Detention procedures—Notice of hearing—Conditions of release—Consultation with parent, guardian, or custodian.** (1) When a juvenile taken into custody is held in detention:

(a) An information, a community supervision modification or termination of diversion petition, or a parole modification petition shall be filed within seventy-two hours, Saturdays, Sundays, and holidays excluded, or the juvenile shall be released; and

(b) A detention hearing, a community supervision modification or termination of diversion petition, or a parole modification petition shall be held within seventy-two hours, Saturdays, Sundays, and holidays excluded, from the time of filing the information or petition, to determine whether continued detention is necessary under RCW 13.40.040.

(2) Notice of the detention hearing, stating the time, place, and purpose of the hearing, and stating the right to counsel, shall be given to the parent, guardian, or custodian if such person can be found and shall also be given to the juvenile if over twelve years of age.

(3) At the commencement of the detention hearing, the court shall advise the parties of their rights under this chapter and shall appoint counsel as specified in this chapter.

(4) The court shall, based upon the allegations in the information, determine whether the case is properly before it or whether the case should be treated as a diversion case under RCW 13.40.080. If the case is not properly before the court the juvenile shall be ordered released.

(5) Notwithstanding a determination that the case is properly before the court and that probable cause exists, a juvenile shall at the detention hearing be ordered released on the juvenile's personal recognizance pending further hearing unless the court finds detention is necessary under RCW 13.40.040 as now or hereafter amended.

(6) If detention is not necessary under RCW 13.40.040, as now or hereafter amended, the court shall impose the most appropriate of the following conditions or, if necessary, any combination of the following conditions:

(a) Place the juvenile in the custody of a designated person agreeing to supervise such juvenile;

(b) Place restrictions on the travel of the juvenile during the period of release;

(c) Require the juvenile to report regularly to and remain under the supervision of the juvenile court;

(d) Impose any condition other than detention deemed reasonably necessary to assure appearance as required;

(e) Require that the juvenile return to detention during specified hours; or

(f) Require the juvenile to post a probation bond set by the court under terms and conditions as provided in RCW 13.40.040(4).

(7) If the parent, guardian, or custodian of the juvenile in detention is available, the court shall consult with them prior to a determination to further detain or release the juvenile or treat the case as a diversion case under RCW 13.40.080. [1995 c 395 § 5; 1992 c 205 § 106; 1979 c 155 § 58; 1977 ex.s. c 291 § 59.]

**Part headings not law—Severability—1992 c 205:** See notes following RCW 13.40.010.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**Effective dates—Severability—1977 ex.s. c 291:** See notes following RCW 13.04.005.

**13.40.054 Probation bond or collateral—Modification or revocation of probation bond.** (1) As provided in this chapter, the court may order a juvenile to post a probation bond as defined in RCW 13.40.020 or to deposit cash or post other collateral in lieu of a probation bond, to enhance public safety, increase the likelihood that a respondent will appear as required to respond to charges, and increase compliance with community supervision imposed under various alternative disposition options. The parents or guardians of the juvenile may sign for a probation bond on behalf of the juvenile or deposit cash or other collateral in lieu of a bond if approved by the court.

(2) A parent or guardian who has signed for a probation bond, deposited cash, or posted other collateral on behalf of a juvenile has the right to notify the court if the juvenile violates any of the terms and conditions of the bond. The parent or guardian who signed for a probation bond may move the court to modify the terms of the bond or revoke the bond without penalty to the surety or parent. The court shall notify the surety if a parent or guardian notifies the court that the juvenile has violated conditions of the probation bond and has requested modification or revocation of the bond. At a hearing on the motion, the court may consider the nature and seriousness of the violation or violations and may either keep the bond in effect, modify the terms of the bond with the consent of the parent or guardian and surety, or revoke the bond. If the court revokes the bond the court may require full payment of the face amount of the bond. In the alternative, the court may revoke the bond and impose a partial payment for less than the full amount of the bond or may revoke the bond without imposing any penalty. In reaching its decision, the court may consider the timeliness of the parent's or guardian's notification to the court and the efforts of the parent and surety to monitor the offender's compliance with conditions of the bond and release. A surety shall have the same obligations and rights as provided sureties in adult criminal cases. Rules of forfeiture and revocation of bonds issued in adult criminal cases shall apply to forfeiture and revocation of probation bonds issued under this chapter except as specifically provided in this subsection. [1995 c 395 § 1.]

**13.40.056 Nonrefundable bail fee.** When a juvenile charged with an offense posts a probation bond or deposits cash or posts other collateral in lieu of a bond, ten dollars of the total amount required to be posted as bail shall be paid in cash as a nonrefundable bail fee. The bail fee shall be distributed to the county for costs associated with implementing chapter 395, Laws of 1995. [1995 c 395 § 9.]

**13.40.125 Deferred adjudication.** (1) Upon motion at least fourteen days before commencement of trial, the juvenile court has the power, after consulting the juvenile's custodial parent or parents or guardian and with the consent of the juvenile, to continue the case for adjudication for a period not to exceed one year from the date the motion is granted. The court may continue the case for an additional one-year period for good cause.

(2) Any juvenile granted a deferral of adjudication under this section shall be placed under community supervision. The court may impose any conditions of supervision that it deems appropriate including posting a probation bond. Payment of restitution, as provided in RCW 13.40.190 shall also be a condition of community supervision under this section.

(3) Upon full compliance with conditions of supervision, the court shall dismiss the case with prejudice.

(4) If the juvenile fails to comply with the terms of supervision, the court shall enter an order of adjudication and proceed to disposition. The juvenile's lack of compliance shall be determined by the judge upon written motion by the prosecutor or the juvenile's juvenile court community supervision counselor. A parent who signed for a probation bond or deposited cash may notify the counselor if the juvenile fails to comply with the bond or conditions of supervision. The counselor shall notify the court and surety. A surety shall notify the court of the juvenile's failure to comply with the probation bond. The state shall bear the burden to prove by a preponderance of the evidence that the juvenile has failed to comply with the terms of community supervision.

(5) If the juvenile agrees to a deferral of adjudication, the juvenile shall waive all rights:

(a) To a speedy trial and disposition;

(b) To call and confront witnesses; and

(c) To a hearing on the record. The adjudicatory hearing shall be limited to a reading of the court's record.

(6) A juvenile is not eligible for a deferred adjudication if:

(a) The juvenile's current offense is a sex or violent offense;

(b) The juvenile's criminal history includes any felony;

(c) The juvenile has a prior deferred adjudication; or

(d) The juvenile has had more than two diversions.

[1995 c 395 § 6; 1994 sp.s. c 7 § 545.]

**Finding—Intent—Severability—1994 sp.s. c 7:** See notes following RCW 43.70.540.

**Application—1994 sp.s. c 7 §§ 540-545:** See note following RCW 13.50.010.

**13.40.145 Payment of fees for legal services by publicly funded counsel—Hearing—Order or decree—Entering and enforcing judgments.** Upon disposition or at

the time of a modification or at the time an appellate court remands the case to the trial court following a ruling in favor of the state the court may order the juvenile or a parent or another person legally obligated to support the juvenile to appear, and the court may inquire into the ability of those persons to pay a reasonable sum representing in whole or in part the fees for legal services provided by publicly funded counsel and the costs incurred by the public in producing a verbatim report of proceedings and clerk's papers for use in the appellate courts.

If, after hearing, the court finds the juvenile, parent, or other legally obligated person able to pay part or all of the attorney's fees and costs incurred on appeal, the court may enter such order or decree as is equitable and may enforce the order or decree by execution, or in any way in which a court of equity may enforce its decrees.

In no event may the court order an amount to be paid for attorneys' fees that exceeds the average per case fee allocation for juvenile proceedings in the county where the services have been provided or the average per case fee allocation for juvenile appeals established by the Washington supreme court.

In any case in which there is no compliance with an order or decree of the court requiring a juvenile, parent, or other person legally obligated to support the juvenile to pay for legal services provided by publicly funded counsel, the court may, upon such person or persons being properly summoned or voluntarily appearing, proceed to inquire into the amount due upon the order or decree and enter judgment for that amount against the defaulting party or parties. Judgment shall be docketed in the same manner as are other judgments for the payment of money.

The county in which such judgments are entered shall be denominated the judgment creditor, and the judgments may be enforced by the prosecuting attorney of that county. Any moneys recovered thereon shall be paid into the registry of the court and shall be disbursed to such person, persons, agency, or governmental entity as the court finds entitled thereto.

Such judgments shall remain valid and enforceable for a period of ten years subsequent to entry. [1995 c 275 § 4; 1984 c 86 § 1.]

**Finding—Severability—1995 c 275:** See notes following RCW 10.73.150.

**13.40.150 Disposition hearing—Scope—Factors to be considered prior to entry of dispositional order.** (1) In disposition hearings all relevant and material evidence, including oral and written reports, may be received by the court and may be relied upon to the extent of its probative value, even though such evidence may not be admissible in a hearing on the information. The youth or the youth's counsel and the prosecuting attorney shall be afforded an opportunity to examine and controvert written reports so received and to cross-examine individuals making reports when such individuals are reasonably available, but sources of confidential information need not be disclosed. The prosecutor and counsel for the juvenile may submit recommendations for disposition.

(2) For purposes of disposition:

(a) Violations which are current offenses count as misdemeanors;

(b) Violations may not count as part of the offender's criminal history;

(c) In no event may a disposition for a violation include confinement.

(3) Before entering a dispositional order as to a respondent found to have committed an offense, the court shall hold a disposition hearing, at which the court shall:

(a) Consider the facts supporting the allegations of criminal conduct by the respondent;

(b) Consider information and arguments offered by parties and their counsel;

(c) Consider any predisposition reports;

(d) Consult with the respondent's parent, guardian, or custodian on the appropriateness of dispositional options under consideration and afford the respondent and the respondent's parent, guardian, or custodian an opportunity to speak in the respondent's behalf;

(e) Allow the victim or a representative of the victim and an investigative law enforcement officer to speak;

(f) Determine the amount of restitution owing to the victim, if any;

(g) Determine whether the respondent is a serious offender, a middle offender, or a minor or first offender;

(h) Consider whether or not any of the following mitigating factors exist:

(i) The respondent's conduct neither caused nor threatened serious bodily injury or the respondent did not contemplate that his or her conduct would cause or threaten serious bodily injury;

(ii) The respondent acted under strong and immediate provocation;

(iii) The respondent was suffering from a mental or physical condition that significantly reduced his or her culpability for the offense though failing to establish a defense;

(iv) Prior to his or her detection, the respondent compensated or made a good faith attempt to compensate the victim for the injury or loss sustained; and

(v) There has been at least one year between the respondent's current offense and any prior criminal offense;

(i) Consider whether or not any of the following aggravating factors exist:

(i) In the commission of the offense, or in flight therefrom, the respondent inflicted or attempted to inflict serious bodily injury to another;

(ii) The offense was committed in an especially heinous, cruel, or depraved manner;

(iii) The victim or victims were particularly vulnerable;

(iv) The respondent has a recent criminal history or has failed to comply with conditions of a recent dispositional order or diversion agreement;

(v) The current offense included a finding of sexual motivation pursuant to RCW 13.40.135;

(vi) The respondent was the leader of a criminal enterprise involving several persons; and

(vii) There are other complaints which have resulted in diversion or a finding or plea of guilty but which are not included as criminal history.

(4) The following factors may not be considered in determining the punishment to be imposed:

- (a) The sex of the respondent;
- (b) The race or color of the respondent or the respondent's family;
- (c) The creed or religion of the respondent or the respondent's family;
- (d) The economic or social class of the respondent or the respondent's family; and
- (e) Factors indicating that the respondent may be or is a dependent child within the meaning of this chapter.

(5) A court may not commit a juvenile to a state institution solely because of the lack of facilities, including treatment facilities, existing in the community. [1995 c 268 § 5; 1992 c 205 § 109; 1990 c 3 § 605; 1981 c 299 § 12; 1979 c 155 § 67; 1977 ex.s. c 291 § 69.]

**Purpose—1995 c 268:** See note following RCW 9.94A.030.

**Part headings not law—Severability—1992 c 205:** See notes following RCW 13.40.010.

**Effective date—Application—1990 c 3 §§ 601-605:** See note following RCW 9.94A.127.

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3:** See RCW 18.155.900 through 18.155.902.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**Effective dates—Severability—1977 ex.s. c 291:** See notes following RCW 13.04.005.

**13.40.160 Disposition order—Court's action prescribed—Disposition outside standard range—Right of appeal—Special sex offender disposition alternative.** (1) When the respondent is found to be a serious offender, the court shall commit the offender to the department for the standard range of disposition for the offense, as indicated in option A of schedule D-3, RCW 13.40.0357 except as provided in subsections (5) and (6) of this section.

If the court concludes, and enters reasons for its conclusion, that disposition within the standard range would effectuate a manifest injustice the court shall impose a disposition outside the standard range, as indicated in option B of schedule D-3, RCW 13.40.0357. The court's finding of manifest injustice shall be supported by clear and convincing evidence.

A disposition outside the standard range shall be determinate and shall be comprised of confinement or community supervision, or a combination thereof. When a judge finds a manifest injustice and imposes a sentence of confinement exceeding thirty days, the court shall sentence the juvenile to a maximum term, and the provisions of RCW 13.40.030(2) shall be used to determine the range. A disposition outside the standard range is appealable under RCW 13.40.230 by the state or the respondent. A disposition within the standard range is not appealable under RCW 13.40.230.

(2) Where the respondent is found to be a minor or first offender, the court shall order that the respondent serve a term of community supervision as indicated in option A or option B of schedule D-1, RCW 13.40.0357 except as provided in subsections (5) and (6) of this section. If the court determines that a disposition of community supervision would effectuate a manifest injustice the court may impose another disposition under option C of schedule D-1, RCW

13.40.0357. Except as provided in subsection (5) of this section, a disposition other than a community supervision may be imposed only after the court enters reasons upon which it bases its conclusions that imposition of community supervision would effectuate a manifest injustice. When a judge finds a manifest injustice and imposes a sentence of confinement exceeding thirty days, the court shall sentence the juvenile to a maximum term, and the provisions of RCW 13.40.030(2) shall be used to determine the range. The court's finding of manifest injustice shall be supported by clear and convincing evidence.

Except for disposition of community supervision or a disposition imposed pursuant to subsection (5) of this section, a disposition may be appealed as provided in RCW 13.40.230 by the state or the respondent. A disposition of community supervision or a disposition imposed pursuant to subsection (5) of this section may not be appealed under RCW 13.40.230.

(3) Where a respondent is found to have committed an offense for which the respondent declined to enter into a diversion agreement, the court shall impose a term of community supervision limited to the conditions allowed in a diversion agreement as provided in RCW 13.40.080(2).

(4) If a respondent is found to be a middle offender:

(a) The court shall impose a determinate disposition within the standard range(s) for such offense, as indicated in option A of schedule D-2, RCW 13.40.0357 except as provided in subsections (5) and (6) of this section. If the standard range includes a term of confinement exceeding thirty days, commitment shall be to the department for the standard range of confinement; or

(b) If the middle offender has less than 110 points, the court shall impose a determinate disposition of community supervision and/or up to thirty days confinement, as indicated in option B of schedule D-2, RCW 13.40.0357 in which case, if confinement has been imposed, the court shall state either aggravating or mitigating factors as set forth in RCW 13.40.150. If the middle offender has 110 points or more, the court may impose a disposition under option A and may suspend the disposition on the condition that the offender serve up to thirty days of confinement and follow all conditions of community supervision. If the offender violates any condition of the disposition including conditions of a probation bond, the court may impose sanctions pursuant to RCW 13.40.200 or may revoke the suspension and order execution of the disposition. The court shall give credit for any confinement time previously served if that confinement was for the offense for which the suspension is being revoked.

(c) Only if the court concludes, and enters reasons for its conclusions, that disposition as provided in subsection (4) (a) or (b) of this section would effectuate a manifest injustice, the court shall sentence the juvenile to a maximum term, and the provisions of RCW 13.40.030(2) shall be used to determine the range. The court's finding of manifest injustice shall be supported by clear and convincing evidence.

(d) A disposition pursuant to subsection (4)(c) of this section is appealable under RCW 13.40.230 by the state or the respondent. A disposition pursuant to subsection (4) (a) or (b) of this section is not appealable under RCW 13.40.230.



(5) When a serious, middle, or minor first offender is found to have committed a sex offense, other than a sex offense that is also a serious violent offense as defined by RCW 9.94A.030, and has no history of a prior sex offense, the court, on its own motion or the motion of the state or the respondent, may order an examination to determine whether the respondent is amenable to treatment.

The report of the examination shall include at a minimum the following: The respondent's version of the facts and the official version of the facts, the respondent's offense history, an assessment of problems in addition to alleged deviant behaviors, the respondent's social, educational, and employment situation, and other evaluation measures used. The report shall set forth the sources of the evaluator's information.

The examiner shall assess and report regarding the respondent's amenability to treatment and relative risk to the community. A proposed treatment plan shall be provided and shall include, at a minimum:

- (a)(i) Frequency and type of contact between the offender and therapist;
- (ii) Specific issues to be addressed in the treatment and description of planned treatment modalities;
- (iii) Monitoring plans, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members, legal guardians, or others;
- (iv) Anticipated length of treatment; and
- (v) Recommended crime-related prohibitions.

The court on its own motion may order, or on a motion by the state shall order, a second examination regarding the offender's amenability to treatment. The evaluator shall be selected by the party making the motion. The defendant shall pay the cost of any second examination ordered unless the court finds the defendant to be indigent in which case the state shall pay the cost.

After receipt of reports of the examination, the court shall then consider whether the offender and the community will benefit from use of this special sex offender disposition alternative and consider the victim's opinion whether the offender should receive a treatment disposition under this section. If the court determines that this special sex offender disposition alternative is appropriate, then the court shall impose a determinate disposition within the standard range for the offense, and the court may suspend the execution of the disposition and place the offender on community supervision for up to two years. As a condition of the suspended disposition, the court may impose the conditions of community supervision and other conditions, including up to thirty days of confinement and requirements that the offender do any one or more of the following:

(b)(i) Devote time to a specific education, employment, or occupation;

(ii) Undergo available outpatient sex offender treatment for up to two years, or inpatient sex offender treatment not to exceed the standard range of confinement for that offense. A community mental health center may not be used for such treatment unless it has an appropriate program designed for sex offender treatment. The respondent shall not change sex offender treatment providers or treatment conditions without first notifying the prosecutor, the probation counselor, and the court, and shall not change providers without court

approval after a hearing if the prosecutor or probation counselor object to the change;

(iii) Remain within prescribed geographical boundaries and notify the court or the probation counselor prior to any change in the offender's address, educational program, or employment;

(iv) Report to the prosecutor and the probation counselor prior to any change in a sex offender treatment provider. This change shall have prior approval by the court;

(v) Report as directed to the court and a probation counselor;

(vi) Pay all court-ordered legal financial obligations, perform community service, or any combination thereof;

(vii) Make restitution to the victim for the cost of any counseling reasonably related to the offense; or

(viii) Comply with the conditions of any court-ordered probation bond.

The sex offender treatment provider shall submit quarterly reports on the respondent's progress in treatment to the court and the parties. The reports shall reference the treatment plan and include at a minimum the following: Dates of attendance, respondent's compliance with requirements, treatment activities, the respondent's relative progress in treatment, and any other material specified by the court at the time of the disposition.

At the time of the disposition, the court may set treatment review hearings as the court considers appropriate.

Except as provided in this subsection (5), after July 1, 1991, examinations and treatment ordered pursuant to this subsection shall only be conducted by sex offender treatment providers certified by the department of health pursuant to chapter 18.155 RCW. A sex offender therapist who examines or treats a juvenile sex offender pursuant to this subsection does not have to be certified by the department of health pursuant to chapter 18.155 RCW if the court finds that: (A) The offender has already moved to another state or plans to move to another state for reasons other than circumventing the certification requirements; (B) no certified providers are available for treatment within a reasonable geographical distance of the offender's home; and (C) the evaluation and treatment plan comply with this subsection (5) and the rules adopted by the department of health.

If the offender violates any condition of the disposition or the court finds that the respondent is failing to make satisfactory progress in treatment, the court may revoke the suspension and order execution of the disposition or the court may impose a penalty of up to thirty days' confinement for violating conditions of the disposition. The court may order both execution of the disposition and up to thirty days' confinement for the violation of the conditions of the disposition. The court shall give credit for any confinement time previously served if that confinement was for the offense for which the suspension is being revoked.

For purposes of this section, "victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged. "Victim" may also include a known parent or guardian of a victim who is a minor child unless the parent or guardian is the perpetrator of the offense.

(6) RCW 13.40.193 shall govern the disposition of any juvenile adjudicated of possessing a firearm in violation of

\*RCW 9.41.040(1)(e) or any crime in which a special finding is entered that the juvenile was armed with a firearm.

(7) Whenever a juvenile offender is entitled to credit for time spent in detention prior to a dispositional order, the dispositional order shall specifically state the number of days of credit for time served.

(8) Except as provided for in subsection (4)(b) or (5) of this section or RCW 13.40.125, the court shall not suspend or defer the imposition or the execution of the disposition.

(9) In no case shall the term of confinement imposed by the court at disposition exceed that to which an adult could be subjected for the same offense. [1995 c 395 § 7; 1994 sp.s. c 7 § 523; 1992 c 45 § 6; 1990 c 3 § 302; 1989 c 407 § 4; 1983 c 191 § 8; 1981 c 299 § 13; 1979 c 155 § 68; 1977 ex.s. c 291 § 70.]

\*Reviser's note: RCW 9.41.040 was amended by 1995 c 129 § 16 and RCW 9.41.040(1)(e) was redesignated as RCW 9.41.040(1)(b)(iv).

**Finding—Intent—Severability—1994 sp.s. c 7:** See notes following RCW 43.70.540.

**Severability—Application—1992 c 45:** See notes following RCW 9.94A.151.

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3:** See RCW 18.155.900 through 18.155.902.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**Effective dates—Severability—1977 ex.s. c 291:** See notes following RCW 13.04.005.

**13.40.190 Disposition order—Restitution for loss—Waiver or modification of restitution.** (1) In its dispositional order, the court shall require the respondent to make restitution to any persons who have suffered loss or damage as a result of the offense committed by the respondent. In addition, restitution may be ordered for loss or damage if the offender pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor's recommendation that the offender be required to pay restitution to a victim of an offense or offenses which, pursuant to a plea agreement, are not prosecuted. The payment of restitution shall be in addition to any punishment which is imposed pursuant to the other provisions of this chapter. The court may determine the amount, terms, and conditions of the restitution including a payment plan extending up to ten years if the court determines that the respondent does not have the means to make full restitution over a shorter period. Restitution may include the costs of counseling reasonably related to the offense. If the respondent participated in the crime with another person or other persons, all such participants shall be jointly and severally responsible for the payment of restitution. For the purposes of this section, the respondent shall remain under the court's jurisdiction for a maximum term of ten years after the respondent's eighteenth birthday. The court may not require the respondent to pay full or partial restitution if the respondent reasonably satisfies the court that he or she does not have the means to make full or partial restitution and could not reasonably acquire the means to pay such restitution over a ten-year period. In cases where an offender has been committed to the department for a period of confinement exceeding fifteen weeks, restitution may be waived.

(2) Regardless of the provisions of subsection (1) of this section, the court shall order restitution in all cases where

the victim is entitled to benefits under the crime victims' compensation act, chapter 7.68 RCW. If the court does not order restitution and the victim of the crime has been determined to be entitled to benefits under the crime victims' compensation act, the department of labor and industries, as administrator of the crime victims' compensation program, may petition the court within one year of entry of the disposition order for entry of a restitution order. Upon receipt of a petition from the department of labor and industries, the court shall hold a restitution hearing and shall enter a restitution order.

(3) If an order includes restitution as one of the monetary assessments, the county clerk shall make disbursements to victims named in the order. The restitution to victims named in the order shall be paid prior to any payment for other penalties or monetary assessments.

(4) A respondent under obligation to pay restitution may petition the court for modification of the restitution order. [1995 c 33 § 5; 1994 sp.s. c 7 § 528; 1987 c 281 § 5; 1985 c 257 § 2; 1983 c 191 § 9; 1979 c 155 § 69; 1977 ex.s. c 291 § 73.]

**Finding—Intent—Severability—1994 sp.s. c 7:** See notes following RCW 43.70.540.

**Effective date—1987 c 281:** See note following RCW 7.68.020.

**Severability—1985 c 257:** See note following RCW 13.34.165.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**Effective dates—Severability—1977 ex.s. c 291:** See notes following RCW 13.04.005.

**13.40.200 Violation of order of restitution, community supervision, fines, penalty assessments, or confinement—Modification of order after hearing—Scope—Rights—Use of fines.** (1) When a respondent fails to comply with an order of restitution, community supervision, penalty assessments, or confinement of less than thirty days, the court upon motion of the prosecutor or its own motion, may modify the order after a hearing on the violation.

(2) The hearing shall afford the respondent the same due process of law as would be afforded an adult probationer. The court may issue a summons or a warrant to compel the respondent's appearance. The state shall have the burden of proving by a preponderance of the evidence the fact of the violation. The respondent shall have the burden of showing that the violation was not a willful refusal to comply with the terms of the order. If a respondent has failed to pay a fine, penalty assessments, or restitution or to perform community service hours, as required by the court, it shall be the respondent's burden to show that he or she did not have the means and could not reasonably have acquired the means to pay the fine, penalty assessments, or restitution or perform community service.

(3)(a) If the court finds that a respondent has willfully violated the terms of an order pursuant to subsections (1) and (2) of this section, it may impose a penalty of up to thirty days' confinement. Penalties for multiple violations occurring prior to the hearing shall not be aggregated to exceed thirty days' confinement. Regardless of the number of times a respondent is brought to court for violations of the terms of a single disposition order, the combined total number of days spent by the respondent in detention shall

never exceed the maximum term to which an adult could be sentenced for the underlying offense.

(b) If the violation of the terms of the order under (a) of this subsection is failure to pay fines, penalty assessments, complete community service, or make restitution, the term of confinement imposed under (a) of this subsection shall be assessed at a rate of one day of confinement for each twenty-five dollars or eight hours owed.

(4) If a respondent has been ordered to pay a fine or monetary penalty and due to a change of circumstance cannot reasonably comply with the order, the court, upon motion of the respondent, may order that the unpaid fine or monetary penalty be converted to community service. The number of hours of community service in lieu of a monetary penalty or fine shall be converted at the rate of the prevailing state minimum wage per hour. The monetary penalties or fines collected shall be deposited in the county general fund. A failure to comply with an order under this subsection shall be deemed a failure to comply with an order of community supervision and may be proceeded against as provided in this section.

(5) When a respondent has willfully violated the terms of a probation bond, the court may modify, revoke, or retain the probation bond as provided in RCW 13.40.054. [1995 c 395 § 8; 1986 c 288 § 5; 1983 c 191 § 15; 1979 c 155 § 70; 1977 ex.s. c 291 § 74.]

**Severability—1986 c 288:** See note following RCW 13.32A.050.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**Effective dates—Severability—1977 ex.s. c 291:** See notes following RCW 13.04.005.

**13.40.215 Juveniles found to have committed violent or sex offense or stalking—Notification of discharge, parole, leave, release, transfer, or escape—To whom given—School attendance—Definitions.** (1)(a) Except as provided in subsection (2) of this section, at the earliest possible date, and in no event later than thirty days before discharge, parole, or any other authorized leave or release, or before transfer to a community residential facility, the secretary shall send written notice of the discharge, parole, authorized leave or release, or transfer of a juvenile found to have committed a violent offense, a sex offense, or stalking, to the following:

(i) The chief of police of the city, if any, in which the juvenile will reside;

(ii) The sheriff of the county in which the juvenile will reside; and

(iii) The approved private schools and the common school district board of directors of the district in which the juvenile intends to reside or the approved private school or public school district in which the juvenile last attended school, whichever is appropriate, except when it has been determined by the department that the juvenile is twenty-one years old; is not required to return to school under chapter 28A.225 RCW; or will be in the community for less than seven consecutive days on approved leave and will not be attending school during that time.

(b) The same notice as required by (a) of this subsection shall be sent to the following, if such notice has been requested in writing about a specific juvenile:

(i) The victim of the offense for which the juvenile was found to have committed or the victim's next of kin if the crime was a homicide;

(ii) Any witnesses who testified against the juvenile in any court proceedings involving the offense; and

(iii) Any person specified in writing by the prosecuting attorney.

Information regarding victims, next of kin, or witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting attorney to receive the notice, and the notice are confidential and shall not be available to the juvenile. The notice to the chief of police or the sheriff shall include the identity of the juvenile, the residence where the juvenile will reside, the identity of the person, if any, responsible for supervising the juvenile, and the time period of any authorized leave.

(c) The thirty-day notice requirements contained in this subsection shall not apply to emergency medical furloughs.

(d) The existence of the notice requirements in this subsection will not require any extension of the release date in the event the release plan changes after notification.

(2)(a) If a juvenile found to have committed a violent offense, a sex offense, or stalking escapes from a facility of the department, the secretary shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city and the sheriff of the county in which the juvenile resided immediately before the juvenile's arrest. If previously requested, the secretary shall also notify the witnesses and the victim of the offense which the juvenile was found to have committed or the victim's next of kin if the crime was a homicide. If the juvenile is recaptured, the secretary shall send notice to the persons designated in this subsection as soon as possible but in no event later than two working days after the department learns of such recapture.

(b) The secretary may authorize a leave, for a juvenile found to have committed a violent offense, a sex offense, or stalking, which shall not exceed forty-eight hours plus travel time, to meet an emergency situation such as a death or critical illness of a member of the juvenile's family. The secretary may authorize a leave, which shall not exceed the time medically necessary, to obtain medical care not available in a juvenile facility maintained by the department. Prior to the commencement of an emergency or medical leave, the secretary shall give notice of the leave to the appropriate law enforcement agency in the jurisdiction in which the juvenile will be during the leave period. The notice shall include the identity of the juvenile, the time period of the leave, the residence of the juvenile during the leave, and the identity of the person responsible for supervising the juvenile during the leave. If previously requested, the department shall also notify the witnesses and victim of the offense which the juvenile was found to have committed or the victim's next of kin if the offense was a homicide.

In case of an emergency or medical leave the secretary may waive all or any portion of the requirements for leaves pursuant to RCW 13.40.205 (2)(a), (3), (4), and (5).

(3) If the victim, the victim's next of kin, or any witness is under the age of sixteen, the notice required by this section shall be sent to the parents or legal guardian of the child.

(4) The secretary shall send the notices required by this chapter to the last address provided to the department by the requesting party. The requesting party shall furnish the department with a current address.

(5) Upon discharge, parole, or other authorized leave or release, a convicted juvenile sex offender shall not attend a public elementary, middle, or high school that is attended by a victim of the sex offender. The parents or legal guardians of the convicted juvenile sex offender shall be responsible for transportation or other costs associated with or required by the sex offender's change in school that otherwise would be paid by a school district. Upon discharge, parole, or other authorized leave or release of a convicted juvenile sex offender, the secretary shall send written notice of the discharge, parole, or other authorized leave or release and the requirements of this subsection to the common school district board of directors of the district in which the sex offender intends to reside or the district in which the sex offender last attended school, whichever is appropriate.

(6) For purposes of this section the following terms have the following meanings:

(a) "Violent offense" means a violent offense under RCW 9.94A.030;

(b) "Sex offense" means a sex offense under RCW 9.94A.030;

(c) "Stalking" means the crime of stalking as defined in RCW 9A.46.110;

(d) "Next of kin" means a person's spouse, parents, siblings, and children. [1995 c 324 § 1. Prior: 1994 c 129 § 6; 1994 c 78 § 1; 1993 c 27 § 1; 1990 c 3 § 101.]

**Findings—Intent—1994 c 129:** See note following RCW 4.24.550.

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3:** See RCW 18.155.900 through 18.155.902.

**13.40.220 Costs of support, treatment, and confinement—Order—Contempt of court.** (1) Whenever legal custody of a child is vested in someone other than his or her parents, under this chapter, and not vested in the department of social and health services, after due notice to the parents or other persons legally obligated to care for and support the child, and after a hearing, the court may order and decree that the parent or other legally obligated person shall pay in such a manner as the court may direct a reasonable sum representing in whole or in part the costs of support, treatment, and confinement of the child after the decree is entered.

(2) If the parent or other legally obligated person willfully fails or refuses to pay such sum, the court may proceed against such person for contempt.

(3) Whenever legal custody of a child is vested in the department under this chapter, the parents or other persons legally obligated to care for and support the child shall be liable for the costs of support, treatment, and confinement of the child, in accordance with the department's reimbursement of cost schedule. The department shall adopt a reimbursement of cost schedule based on the costs of providing such services, and shall determine an obligation based on the responsible parents' or other legally obligated person's ability to pay. The department is authorized to adopt additional rules as appropriate to enforce this section.

(4) To enforce subsection (3) of this section, the department shall serve on the parents or other person legally obligated to care for and support the child a notice and finding of financial responsibility requiring the parents or other legally obligated person to appear and show cause in an adjudicative proceeding why the finding of responsibility and/or the amount thereof is incorrect and should not be ordered. This notice and finding shall relate to the costs of support, treatment, and confinement of the child in accordance with the department's reimbursement of cost schedule adopted under this section, including periodic payments to be made in the future. The hearing shall be held pursuant to chapter 34.05 RCW, the Administrative Procedure Act, and the rules of the department.

(5) The notice and finding of financial responsibility shall be served in the same manner prescribed for the service of a summons in a civil action or may be served on the parent or legally obligated person by certified mail, return receipt requested. The receipt shall be prima facie evidence of service.

(6) If the parents or other legally obligated person objects to the notice and finding of financial responsibility, then an application for an adjudicative hearing may be filed within twenty days of the date of service of the notice. If an application for an adjudicative proceeding is filed, the presiding or reviewing officer shall determine the past liability and responsibility, if any, of the parents or other legally obligated person and shall also determine the amount of periodic payments to be made in the future. If the parents or other legally responsible person fails to file an application within twenty days, the notice and finding of financial responsibility shall become a final administrative order.

(7) Debts determined pursuant to this section are subject to collection action without further necessity of action by a presiding or reviewing officer. The department may collect the debt in accordance with RCW 43.20B.635, 43.20B.640, 74.20A.060, and 74.20A.070. The department shall exempt from payment parents receiving adoption support under RCW 74.13.100 through 74.13.145, parents eligible to receive adoption support under RCW 74.13.150, and a parent or other legally obligated person when the parent or other legally obligated person, or such person's child, spouse, or spouse's child, was the victim of the offense for which the child was committed.

(8) An administrative order entered pursuant to this section shall supersede any court order entered prior to June 13, 1994.

(9) The department shall be subrogated to the right of the child and his or her parents or other legally responsible person to receive support payments for the benefit of the child from any parent or legally obligated person pursuant to a support order established by a superior court or pursuant to RCW 74.20A.055. The department's right of subrogation under this section is limited to the liability established in accordance with its cost schedule for support, treatment, and confinement, except as addressed in subsection (10) of this section.

(10) Nothing in this section precludes the department from recouping such additional support payments from the child's parents or other legally obligated person as required to qualify for receipt of federal funds. The department may adopt such rules dealing with liability for recoupment of

support, treatment, or confinement costs as may become necessary to entitle the state to participate in federal funds unless such rules would be expressly prohibited by law. If any law dealing with liability for recoupment of support, treatment, or confinement costs is ruled to be in conflict with federal requirements which are a prescribed condition of the allocation of federal funds, such conflicting law is declared to be inoperative solely to the extent of the conflict. [1995 c 300 § 1; 1994 sp.s. c 7 § 529; 1993 c 466 § 1; 1977 ex.s. c 291 § 76.]

**Effective date—1995 c 300:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 9, 1995]." [1995 c 300 § 2.]

**Finding—Intent—Severability—1994 sp.s. c 7:** See notes following RCW 43.70.540.

**Effective dates—Severability—1977 ex.s. c 291:** See notes following RCW 13.04.005.

**13.40.320 Juvenile offender basic training camp program.** (1) The department of social and health services shall establish and operate a medium security juvenile offender basic training camp program. The department shall site a juvenile offender basic training camp facility in the most cost-effective facility possible and shall review the possibility of using an existing abandoned and/or available state, federally, or military-owned site or facility.

(2) The department may contract under this chapter with private companies, the national guard, or other federal, state, or local agencies to operate the juvenile offender basic training camp, notwithstanding the provisions of RCW 41.06.380. Requests for proposals from possible contractors shall not call for payment on a per diem basis.

(3) The juvenile offender basic training camp shall accommodate at least seventy offenders. The beds shall count as additions to, and not be used as replacements for, existing bed capacity at existing department of social and health services juvenile facilities.

(4) The juvenile offender basic training camp shall be a structured and regimented model lasting one hundred twenty days emphasizing the building up of an offender's self-esteem, confidence, and discipline. The juvenile offender basic training camp program shall provide participants with basic education, prevocational training, work-based learning, live work, work ethic skills, conflict resolution counseling, substance abuse intervention, anger management counseling, and structured intensive physical training. The juvenile offender basic training camp program shall have a curriculum training and work schedule that incorporates a balanced assignment of these or other rehabilitation and training components for no less than sixteen hours per day, six days a week.

The department shall adopt rules for the safe and effective operation of the juvenile offender basic training camp program, standards for an offender's successful program completion, and rules for the continued after-care supervision of offenders who have successfully completed the program.

(5) Offenders eligible for the juvenile offender basic training camp option shall be those with a disposition of not more than seventy-eight weeks. Violent and sex offenders

shall not be eligible for the juvenile offender basic training camp program.

(6) If the court determines that the offender is eligible for the juvenile offender basic training camp option, the court may recommend that the department place the offender in the program. The department shall evaluate the offender and may place the offender in the program. The evaluation shall include, at a minimum, a risk assessment developed by the department and designed to determine the offender's suitability for the program. No juvenile who is assessed as a high risk offender or suffers from any mental or physical problems that could endanger his or her health or drastically affect his or her performance in the program shall be admitted to or retained in the juvenile offender basic training camp program.

(7) All juvenile offenders eligible for the juvenile offender basic training camp sentencing option shall spend one hundred twenty days of their disposition in a juvenile offender basic training camp. If the juvenile offender's activities while in the juvenile offender basic training camp are so disruptive to the juvenile offender basic training camp program, as determined by the secretary according to rules adopted by the department, as to result in the removal of the juvenile offender from the juvenile offender basic training camp program, or if the offender cannot complete the juvenile offender basic training camp program due to medical problems, the secretary shall require that the offender be committed to a juvenile institution to serve the entire remainder of his or her disposition, less the amount of time already served in the juvenile offender basic training camp program.

(8) All offenders who successfully graduate from the one hundred twenty day juvenile offender basic training camp program shall spend the remainder of their disposition on parole in a division of juvenile rehabilitation intensive aftercare program in the local community. The program shall provide for the needs of the offender based on his or her progress in the aftercare program as indicated by ongoing assessment of those needs and progress. The intensive aftercare program shall monitor postprogram juvenile offenders and assist them to successfully reintegrate into the community. In addition, the program shall develop a process for closely monitoring and assessing public safety risks. The intensive aftercare program shall be designed and funded by the department of social and health services.

(9) The department shall also develop and maintain a data base to measure recidivism rates specific to this incarceration program. The data base shall maintain data on all juvenile offenders who complete the juvenile offender basic training camp program for a period of two years after they have completed the program. The data base shall also maintain data on the criminal activity, educational progress, and employment activities of all juvenile offenders who participated in the program. The department shall produce an outcome evaluation report on the progress of the juvenile offender basic training camp program to the appropriate committees of the legislature no later than December 12, 1996. [1995 c 40 § 1; 1994 sp.s. c 7 § 532.]

**Findings and intent—Juvenile basic training camps—1994 sp.s. c 7:** "The legislature finds that the number of juvenile offenders and the severity of their crimes is increasing rapidly state-wide. In addition, many juvenile offenders continue to reoffend after they are released from the

juvenile justice system causing disproportionately high and expensive rates of recidivism.

The legislature further finds that juvenile criminal behavior is often the result of a lack of self-discipline, the lack of systematic work habits and ethics, the inability to deal with authority figures, and an unstable or unstructured living environment. The legislature further finds that the department of social and health services currently operates an insufficient number of confinement beds to meet the rapidly growing juvenile offender population. Together these factors are combining to produce a serious public safety hazard and the need to develop more effective and stringent juvenile punishment and rehabilitation options.

The legislature intends that juvenile offenders who enter the state rehabilitation system have the opportunity and are given the responsibility to become more effective participants in society by enhancing their personal development, work ethics, and life skills. The legislature recognizes that structured incarceration programs for juvenile offenders such as juvenile offender basic training camps, can instill the self-discipline, accountability, self-esteem, and work ethic skills that could discourage many offenders from returning to the criminal justice system. Juvenile offender basic training camp incarceration programs generally emphasize life skills training, prevocational work skills training, anger management, dealing with difficult at-home family problems and/or abuses, discipline, physical training, structured and intensive work activities, and educational classes. The legislature further recognizes that juvenile offenders can benefit from a highly structured basic training camp environment and the public can also benefit through increased public protection and reduced cost due to lowered rates of recidivism." [1994 sp.s. c 7 § 531.]

**Finding—Intent—Severability—1994 sp.s. c 7:** See notes following RCW 43.70.540.

### Chapter 13.50

#### KEEPING AND RELEASE OF RECORDS BY JUVENILE JUSTICE OR CARE AGENCIES

##### Sections

13.50.100 Records not relating to commission of juvenile offenses—Maintenance and access.

**13.50.100 Records not relating to commission of juvenile offenses—Maintenance and access.** (1) This section governs records not covered by RCW 13.50.050.

(2) Records covered by this section shall be confidential and shall be released only pursuant to this section and RCW 13.50.010.

(3) Records retained or produced by any juvenile justice or care agency may be released to other participants in the juvenile justice or care system only when an investigation or case involving the juvenile in question is being pursued by the other participant or when that other participant is assigned the responsibility of supervising the juvenile. Records covered under this section and maintained by the juvenile courts which relate to the official actions of the agency may be entered in the state-wide juvenile court information system.

(4) A juvenile, his or her parents, the juvenile's attorney and the juvenile's parent's attorney, shall, upon request, be given access to all records and information collected or retained by a juvenile justice or care agency which pertain to the juvenile except:

(a) If it is determined by the agency that release of this information is likely to cause severe psychological or physical harm to the juvenile or his or her parents the agency may withhold the information subject to other order of the court: PROVIDED, That if the court determines that limited release of the information is appropriate, the court

may specify terms and conditions for the release of the information; or

(b) If the information or record has been obtained by a juvenile justice or care agency in connection with the provision of counseling, psychological, psychiatric, or medical services to the juvenile, when the services have been sought voluntarily by the juvenile, and the juvenile has a legal right to receive those services without the consent of any person or agency, then the information or record may not be disclosed to the juvenile's parents without the informed consent of the juvenile unless otherwise authorized by law; or

(c) That the department of social and health services may delete the name and identifying information regarding persons or organizations who have reported suspected child abuse or neglect.

(5) A juvenile or his or her parent denied access to any records following an agency determination under subsection (4) of this section may file a motion in juvenile court requesting access to the records. The court shall grant the motion unless it finds access may not be permitted according to the standards found in subsections (4) (a) and (b) of this section.

(6) The person making a motion under subsection (5) of this section shall give reasonable notice of the motion to all parties to the original action and to any agency whose records will be affected by the motion.

(7) Subject to the rules of discovery in civil cases, any party to a proceeding seeking a declaration of dependency or a termination of the parent-child relationship and any party's counsel and the guardian ad litem of any party, shall have access to the records of any natural or adoptive child of the parent, subject to the limitations in subsection (4) of this section. [1995 c 311 § 16; 1990 c 246 § 9; 1983 c 191 § 20; 1979 c 155 § 10.]

**Severability—1990 c 246:** See note following RCW 13.34.060.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

### Chapter 13.64

#### EMANCIPATION OF MINORS

##### Sections

13.64.020 Petition for emancipation—Filing fees.

##### **13.64.020 Petition for emancipation—Filing fees.**

(1) A petition for emancipation shall be signed and verified by the petitioner, and shall include the following information: (a) The full name of the petitioner, the petitioner's birthdate, and the state and county of birth; (b) a certified copy of the petitioner's birth certificate; (c) the name and last known address of the petitioner's parent or parents, guardian, or custodian; (d) the petitioner's present address, and length of residence at that address; (e) a declaration by the petitioner indicating that he or she has the ability to manage his or her financial affairs, including any supporting information; and (f) a declaration by the petitioner indicating that he or she has the ability to manage his or her personal, social, educational, and nonfinancial affairs, including any supporting information.

(2) Fees for this section are set under RCW 36.18.014. [1995 c 292 § 7; 1993 c 294 § 2.]

## Title 14 AERONAUTICS

### Chapters

#### 14.08 Municipal airports—1945 act.

#### Chapter 14.08

#### MUNICIPAL AIRPORTS—1945 ACT

#### Sections

14.08.090 Issuance of bonds—Security.

**14.08.090 Issuance of bonds—Security.** Any bonds to be issued by any municipality pursuant to the provisions of this chapter shall be authorized and issued in the manner and within the limitation prescribed by the Constitution and laws of this state or the charter of the municipality for the issuance and authorization of bonds thereof for public purposes generally, secured by the revenues of the airport, a mortgage on facilities, or a general tax levy as allowed by law, if the plan and system resolution are approved by the secretary of transportation or the state auditor. [1995 c 301 § 32; 1984 c 7 § 4; 1945 c 182 § 6; Rem. Supp. 1945 § 2722-35.]

**Severability—1984 c 7:** See note following RCW 47.01.141.

*Levy of taxes: Chapter 84.52 RCW.*

*Public contracts and indebtedness: Title 39 RCW.*

## Title 15 AGRICULTURE AND MARKETING

### Chapters

- 15.04 General provisions.
- 15.26 Tree fruit research act.
- 15.36 Fluid milk.
- 15.44 Dairy products commission.
- 15.53 Commercial feed.
- 15.58 Washington pesticide control act.
- 15.65 Washington state agricultural enabling act of 1961—Commodity boards.
- 15.76 Agricultural fairs, youth shows, exhibitions.
- 15.80 Weighmasters.
- 15.92 Center for sustaining agriculture and natural resources.

#### Chapter 15.04

#### GENERAL PROVISIONS

#### Sections

15.04.410 Declarations of "Washington state grown"—Restrictions—Violations unlawful—Application of consumer protection act.

**15.04.410 Declarations of "Washington state grown"—Restrictions—Violations unlawful—Application of consumer protection act.** (1) Before being offered for retail sale in this state, any agricultural commodity, defined under RCW 15.66.010, that was grown or raised in this state may be advertised, labeled, described, sold, marked, or otherwise held out, with the words "Washington state grown," or other similar language indicating that the product is from Washington state grown or raised agricultural commodities.

(2) An agricultural commodity that was not grown or raised in this state and packages of that product shall not be advertised, labeled, described, sold, marked, or otherwise held out as "Washington state grown," or in any way as to imply that such product is a Washington state grown or raised agricultural commodity.

(3) It is unlawful for any person to violate this section.

(4) The legislature finds that the practices covered by this section are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. Violations of this section are not reasonable in relation to the development and preservation of business. A violation of this section is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW. [1995 c 97 § 1.]

#### Chapter 15.26

#### TREE FRUIT RESEARCH ACT

#### Sections

15.26.125 Assessment on cherries in excess of the fiscal growth factor under chapter 43.135 RCW—Washington tree fruit research commission.

**15.26.125 Assessment on cherries in excess of the fiscal growth factor under chapter 43.135 RCW—Washington tree fruit research commission.** The Washington tree fruit research commission may raise the assessment on cherries in excess of the fiscal growth factor under chapter 43.135 RCW from the assessment of two dollars per ton in effect under chapter 16-560 WAC on July 1, 1995, to four dollars per ton. The commission may also establish an additional assessment on all tree fruits under RCW 15.26.155 of not more than eight cents per ton.

The assessment limits established by this section are set solely to provide prior legislative authority for the purposes of RCW 43.135.055 and may not be construed as providing a limitation on the authority of the tree fruit research commission to alter assessments in any manner not limited by RCW 43.135.055. However, any alteration in assessments made under the authority of this section shall be made in compliance with the procedural requirements established by this chapter for altering or amending such assessments. [1995 c 109 § 2.]

**Effective date—1995 c 109:** See note following RCW 15.65.405.

## Chapter 15.36 FLUID MILK

### Sections

15.36.012	Definitions.
15.36.071	Milk hauler's license—Endorsements.
15.36.121	Transferring, mixing, or dipping milk or cream—Delivery containers—Cooling—Quarantined residences.
15.36.171	Grades of milk and milk products that may be sold.
15.36.221	Grade A raw milk—Cooling.
15.36.411	Licenses—Endorsements—Grounds for suspension, revocation.
15.36.431	Dairy technician's license required for certain duties—Penalty.
15.36.441	Examination of milk and milk products—Residue test results—Civil penalty.
15.36.551	Dairy inspection program—Assessment—Expiration of section.

**15.36.012 Definitions.** For the purpose of this chapter:

"Adulterated milk" means milk that is deemed adulterated under appendix L of the PMO.

"Aseptic processing" means the process by which milk or milk products have been subjected to sufficient heat processing and packaged in a hermetically sealed container so as to meet the standards of the PMO.

"Colostrum milk" means milk produced within ten days before or until practically colostrum free after parturition.

"DMO" means supplement I, the recommended sanitation ordinance for grade A condensed and dry milk products and condensed and dry whey, to the PMO published by the United States public health service, food and drug administration.

"Dairy farm" means a place or premises where one or more cows, goats, or other mammals are kept, a part or all of the milk or milk products from which is sold or offered for sale to a milk processing plant, transfer station, or receiving station.

"Dairy technician" means any person who takes samples of milk or cream or fluid derivatives thereof, on which sample tests are to be made as a basis of payment, or who grades, weighs, or measures milk or cream or the fluid derivatives thereof, the grade, weight, or measure to be used as a basis of payment, or who operates equipment wherein milk or products thereof are pasteurized.

"Department" means the state department of agriculture.

"Director" means the director of agriculture of the state of Washington or the director's duly authorized representative.

"Distributor" means a person other than a producer who offers for sale or sells to another, milk or milk products.

"Grade A milk processing plant" means any milk processing plant that meets all of the standards of the PMO to process grade A pasteurized milk or milk products.

"Grade A pasteurized milk" means grade A raw milk that has been pasteurized.

"Grade A raw milk" means raw milk produced upon dairy farms conforming with all of the items of sanitation contained in the PMO, in which the bacterial plate count does not exceed twenty thousand per milliliter and the coliform count does not exceed ten per milliliter as determined in accordance with RCW 15.36.201.

"Grade A raw milk for pasteurization" means raw milk produced upon dairy farms conforming with all of the same items of sanitation contained in the PMO of grade A raw milk, and the bacterial plate count, as delivered from the farm, does not exceed eighty thousand per milliliter as determined in accordance with RCW 15.36.201.

"Grade C milk" is milk that violates any of the requirements for grade A milk but that is not deemed to be adulterated.

"Homogenized" means milk or milk products which have been treated to ensure breakup of the fat globules to an extent consistent with the requirements outlined in the PMO.

"Milk" means the lacteal secretion, practically free of colostrum, obtained by the complete milking of one or more healthy cows, goats, or other mammals.

"Milk hauler" means a person who transports milk or milk products in bulk to or from a milk processing plant, receiving station, or transfer station.

"Milk processing" means the handling, preparing, packaging, or processing of milk in any manner in preparation for sale as food, as defined in chapter 69.04 RCW. Milk processing does not include milking or producing milk on a dairy farm that is shipped to a milk processing plant for further processing.

"Milk processing plant" means a place, premises, or establishment where milk or milk products are collected, handled, processed, stored, bottled, pasteurized, aseptically processed, bottled, or prepared for distribution, except an establishment that merely receives the processed milk products and serves them or sells them at retail.

"Milk products" means the product of a milk manufacturing process.

"Misbranded milk" means milk or milk products that carries a grade label unless such grade label has been awarded by the director and not revoked, or that fails to conform in any other respect with the statements on the label.

"Official brucellosis adult vaccinated cattle" means those cattle, officially vaccinated over the age of official calfhood vaccinated cattle, that the director has determined have been commingled with, or kept in close proximity to, cattle identified as brucellosis reactors, and have been vaccinated against brucellosis in a manner and under the conditions prescribed by the director after a hearing and under rules adopted under chapter 34.05 RCW, the administrative procedure act.

"Official laboratory" means a biological, chemical, or physical laboratory that is under the direct supervision of the state or a local regulatory agency.

"Officially designated laboratory" means a commercial laboratory authorized to do official work by the department, or a milk industry laboratory officially designated by the department for the examination of grade A raw milk for pasteurization and commingled milk tank truck samples of raw milk for antibiotic residues and bacterial limits.

"PMO" means the grade "A" pasteurized milk ordinance published by the United States public health service, food and drug administration.

"Pasteurized" means the process of heating every particle of milk or milk product in properly designed and operated equipment to the temperature and time standards specified in the PMO.



"Person" means an individual, partnership, firm, corporation, company, trustee, or association.

"Producer" means a person or organization who operates a dairy farm and provides, sells, or offers milk for sale to a milk processing plant, receiving station, or transfer station.

"Receiving station" means a place, premises, or establishment where raw milk is received, collected, handled, stored, or cooled and prepared for further transporting.

"Sale" means selling, offering for sale, holding for sale, preparing for sale, trading, bartering, offering a gift as an inducement for sale of, and advertising for sale in any media.

"Transfer station" means any place, premises, or establishment where milk or milk products are transferred directly from one milk tank truck to another.

"Ultrapasteurized" means the process by which milk or milk products have been thermally processed in accordance with the time and temperature standards of the PMO, so as to produce a product which has an extended shelf life under refrigerated conditions.

"Ungraded processing plant" means a milk processing plant that meets all of the standards of the PMO to produce milk products other than grade A milk or milk products.

"Wash station" means a place, facility, or establishment where milk tanker trucks are cleaned in accordance with the standards of the PMO.

All dairy products mentioned in this chapter mean those fit or used for human consumption. [1995 c 374 § 1; 1994 c 143 § 102; 1989 c 354 § 1; 1961 c 11 § 15.32.010. Prior: 1955 c 238 § 71; prior: (i) 1943 c 90 § 1, part; 1933 c 188 § 1, part; 1929 c 213 § 1, part; 1927 c 192 § 1, part; 1919 c 192 § 1, part; Rem. Supp. 1943 § 6164, part. (ii) 1929 c 213 § 6, part; 1927 c 192 § 16, part; 1921 c 104 § 3, part; 1919 c 192 § 41, part; RRS § 6203, part. Formerly RCW 15.32.010.]

**Effective date—1995 c 374 §§ 1-47, 50-53, and 59-68:** "Sections 1 through 47, 50 through 53, and 59 through 68 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect June 30, 1995." [1995 c 374 § 81.]

**Severability—1989 c 354:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1989 c 354 § 89.]

**15.36.071 Milk hauler's license—Endorsements.** A milk hauler must obtain a milk hauler's license to conduct the operation under this chapter. A milk hauler's license is not transferable with respect to persons or locations or both. The license, issued by the director upon approval of an application for the license and compliance with the provisions of this chapter, shall contain the license number, name, residence, and place of business, if any, of the licensee. A milk hauler's license shall also contain endorsements for individual milk transport vehicles. The license plate number and registration number for each milk transport vehicle shall be listed on the endorsement. [1995 c 374 § 2; 1994 c 143 § 205.]

**Effective date—1995 c 374 §§ 1-47, 50-53, and 59-68:** See note following RCW 15.36.012.

**15.36.121 Transferring, mixing, or dipping milk or cream—Delivery containers—Cooling—Quarantined residences.** Except as permitted in this section, no milk producer or distributor shall transfer milk or milk products from one container to another on the street, or in any vehicle, or store, or in any place except a bottling or milk room especially used for that purpose.

Milk and milk products sold in the distributor's containers in quantities of one gallon or less shall be delivered in standard milk bottles or in single-service containers. It shall be unlawful for hotels, soda fountains, restaurants, groceries, hospitals, and similar establishments to sell or serve any milk or milk products except in the individual original container in which it was received from the distributor or from a bulk container equipped with an approved dispensing device: PROVIDED, That this requirement shall not apply to cream or milk consumed on the premises in serving sizes not to exceed two hundred thirty-six milliliters or one-half pint, which may be served from the original bottle or from a dispenser approved for such service.

It shall be unlawful for any hotel, soda fountain, restaurant, grocery, hospital, or similar establishment to sell or serve any milk or milk product which has not been maintained, while in its possession, at a temperature of forty-five degrees Fahrenheit or less. If milk or milk products are stored in water for cooling, the pouring lip of the container shall not be submerged.

It shall be the duty of all persons to whom milk or milk products are delivered to clean thoroughly the containers in which such milk or milk products are delivered before returning such containers. Apparatus, containers, equipment, and utensils used in the handling, storage, processing, or transporting of milk or milk products shall not be used for any other purpose without the permission of the director.

The delivery of milk or milk products to and the collection of milk or milk products containers from residences in which cases of communicable disease transmissible through milk supplies exists shall be subject to the special requirements of the health officer. [1995 c 225 § 2; 1994 c 143 § 210; 1961 c 11 § 15.36.490. Prior: 1949 c 168 § 10; Rem. Supp. 1949 § 6266-38. Formerly RCW 15.36.490.]

**15.36.171 Grades of milk and milk products that may be sold.** No milk or milk products shall be sold to the final consumer or to restaurants, soda fountains, grocery stores, or similar establishments except grade A pasteurized milk, or grade A raw milk. The director may revoke the license of any milk distributor, milk processing plant, or producer whose product fails to qualify as grade A pasteurized or grade A raw, or in lieu thereof may degrade his or her product to grade C and permit its sale as other than fluid milk or grade A milk products during a period not exceeding thirty days. In the event of an emergency, the director may permit the sale of grade C milk for more than thirty days. [1995 c 374 § 3; 1994 c 143 § 301; 1989 c 354 § 22; 1961 c 11 § 15.36.470. Prior: 1949 c 168 § 8; Rem. Supp. 1949 § 6266-37. Formerly RCW 15.36.470.]

**Effective date—1995 c 374 §§ 1-47, 50-53, and 59-68:** See note following RCW 15.36.012.

**Severability—1989 c 354:** See note following RCW 15.36.012.

**15.36.221 Grade A raw milk—Cooling.** Milk and milk products for consumption in the raw state or for pasteurization shall be cooled within two hours of completion of milking to forty degrees Fahrenheit or less and maintained at that temperature until picked up, in accordance with RCW 15.36.201, so long as the blend temperature after the first and following milkings does not exceed fifty degrees Fahrenheit. [1995 c 374 § 4; 1984 c 226 § 5; 1961 c 11 § 15.36.260. Prior: 1955 c 238 § 37; prior: 1949 c 168 § 7, part; Rem. Supp. 1949 § 6266-36, part. Formerly RCW 15.36.260.]

**Effective date—**1995 c 374 §§ 1-47, 50-53, and 59-68: See note following RCW 15.36.012.

**15.36.411 Licenses—Endorsements—Grounds for suspension, revocation.** The director may, subsequent to a hearing on the license, suspend or revoke a license issued under this chapter if the director determines that an applicant has committed any of the following acts:

(1) Refused, neglected, or failed to comply with the provisions of this chapter, the rules adopted under this chapter, or a lawful order of the director.

(2) Refused, neglected, or failed to keep and maintain records required by this chapter, or to make the records available if requested under the provisions of this chapter.

(3) Refused the department access to a portion or area of a facility regulated under this chapter, for the purpose of carrying out the provisions of this chapter.

(4) Refused the department access to records required to be kept under the provisions of this chapter.

(5) Refused, neglected, or failed to comply with the applicable provisions of chapter 69.04 RCW, Washington food, drug, and cosmetic act, or rules adopted under chapter 69.04 RCW.

The provisions of this section requiring that a hearing be conducted before an action may be taken against a license do not apply to an action taken under RCW 15.36.111, 15.36.201, or 15.36.421.

Whenever a milk transport vehicle is found in violation of this chapter or rules adopted under this chapter, the endorsement for that milk transport vehicle contained on a milk hauler's license shall be suspended or revoked. The suspension or revocation does not apply to any other milk transport vehicle operated by the milk hauler. [1995 c 374 § 5; 1994 c 143 § 502.]

**Effective date—**1995 c 374 §§ 1-47, 50-53, and 59-68: See note following RCW 15.36.012.

**15.36.431 Dairy technician's license required for certain duties—Penalty.** No person shall employ a tester, sampler, weigher, grader, or pasteurizer who is not licensed as a dairy technician.

A person who violates the provisions of this section may be fined not less than two hundred fifty nor more than one thousand dollars, and his or her license issued under this chapter revoked or suspended subject to a hearing as provided under chapter 34.05 RCW. [1995 c 374 § 6; 1994 c 143 § 504; 1963 c 58 § 11; 1961 c 11 § 15.32.610. Prior: 1927 c 192 § 7, part; 1923 c 27 § 6, part; 1919 c 192 § 25, part; RRS § 6188. Formerly RCW 15.32.610.]

**Effective date—**1995 c 374 §§ 1-47, 50-53, and 59-68: See note following RCW 15.36.012.

[1995 RCW Supp—page 122]

**15.36.441 Examination of milk and milk products—Residue test results—Civil penalty.** (1) If the results of an antibiotic, pesticide, or other drug residue test under RCW 15.36.201 are above the actionable level established in the PMO and determined using procedures set forth in the PMO, a person holding a milk producer's license is subject to a civil penalty. The penalty shall be in an amount equal to one-half the value of the sum of the volumes of milk equivalent produced under the license on the day prior to and the day of the adulteration. The value of the milk shall be computed by the weighted average price for the federal market order under which the milk is delivered.

(2) The penalty is imposed by the department giving a written notice which is either personally served upon or transmitted by certified mail, return receipt requested, to the person incurring the penalty. The notice of the civil penalty shall be a final order of the department unless, within fifteen days after the notice is received, the person incurring the penalty appeals the penalty by filing a notice of appeal with the department. If a notice of appeal is filed in a timely manner, a hearing shall be conducted on behalf of the department by the office of administrative hearings in accordance with chapters 34.05 and 34.12 RCW. At the conclusion of the hearing, the department shall determine whether the penalty should be affirmed, and, if so, shall issue a final order setting forth the civil penalty assessed, if any. The order may be appealed to superior court in accordance with chapter 34.05 RCW. Tests performed for antibiotic, pesticide, or other drug residues by an official laboratory or an officially designated laboratory of a milk sample drawn by a department official or a licensed dairy technician shall be admitted as prima facie evidence of the presence or absence of an antibiotic, pesticide, or other drug residue.

(3) Any penalty imposed under this section is due and payable upon the issuance of the final order by the department. The penalty shall be deducted by the violator's marketing organization from the violator's final payment for the month following the issuance of the final order. The department shall promptly notify the violator's marketing organization of any penalties contained in the final order.

(4) All penalties received or recovered from violations of this section shall be remitted monthly by the violator's marketing organization to the Washington state dairy products commission and deposited in a revolving fund to be used solely for the purposes of education and research. No appropriation is required for disbursements from this fund.

(5) In case of a violation of the antibiotic, pesticide, or other drug residue test requirements, an investigation shall be made to determine the cause of the residue which shall be corrected. Follow-up sampling and testing must be done in accordance with the requirements of the PMO. [1995 c 374 § 7; 1994 c 143 § 505; 1993 c 212 § 1. Prior: 1989 c 354 § 18; 1989 c 175 § 48; 1984 c 226 § 1. Formerly RCW 15.36.115.]

**Effective date—**1995 c 374 §§ 1-47, 50-53, and 59-68: See note following RCW 15.36.012.

**Severability—**1989 c 354: See note following RCW 15.36.012.

**Effective date—**1989 c 175: See note following RCW 34.05.010.

**15.36.551 Dairy inspection program—Assessment—Expiration of section.** There is levied on all milk processed in this state an assessment not to exceed fifty-four one-hundredths of one cent per hundredweight. The director shall determine, by rule, an assessment, that with contribution from the general fund, will support an inspection program to maintain compliance with the provisions of the pasteurized milk ordinance of the national conference on interstate milk shipment. All assessments shall be levied on the operator of the first milk plant receiving the milk for processing. This shall include milk plants that produce their own milk for processing and milk plants that receive milk from other sources. All moneys collected under this section shall be paid to the director by the twentieth day of the succeeding month for the previous month's assessments. The director shall deposit the funds into the dairy inspection account hereby created within the agricultural local fund established in RCW 43.23.230. The funds shall be used only to provide inspection services to the dairy industry. If the operator of a milk plant fails to remit any assessments, that sum shall be a lien on any property owned by him or her, and shall be reported by the director and collected in the manner and with the same priority over other creditors as prescribed for the collection of delinquent taxes under chapters 84.60 and 84.64 RCW.

This section shall expire June 30, 2000. [1995 c 15 § 1; 1994 c 34 § 1; 1993 sp.s. c 19 § 1; 1992 c 160 § 1. Formerly RCW 15.36.105.]

**Effective date—1995 c 15:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [April 12, 1995]." [1995 c 15 § 2.]

**Chapter 15.44**

**DAIRY PRODUCTS COMMISSION**

Sections

15.44.033 Nomination and election procedure.

**15.44.033 Nomination and election procedure.**

Producer members of the commission shall be nominated and elected by producers within the district that such producer members represent in the year in which a commission member's term shall expire. Such producer members receiving the largest number of the votes cast in the respective districts which they represent shall be elected. The election shall be by secret mail ballot and under the supervision of the director.

Nomination for candidates to be elected to the commission shall be conducted by mail by the director. Such nomination forms shall be mailed by the director to each producer in a district where a vacancy is about to occur. Such mailing shall be made on or after April 1st, but not later than April 10th of the year the commission vacancy will occur. The nomination form shall provide for the name of the producer being nominated and the names of five producers nominating such nominee. The producers nominating such nominee shall affix their signatures to such form and shall further attest that the said nominee meets the qualifications for a producer member to serve on the

commission and that he or she will be willing to serve on the commission if elected.

All nominations as provided for herein shall be returned to the director by April 30th, and the director shall not accept any nomination postmarked later than midnight April 30th, nor place the candidate thereon on the election ballot.

Ballots for electing members to the commission will be mailed by the director to all eligible producers no later than May 15th, in districts where elections are to be held and such ballots to be valid shall be returned postmarked no later than May 31st of the year mailed, to the director in Olympia.

If only one person is nominated for a position on the commission, the director shall determine whether the person possesses the qualifications required by statute for the position and, if the director determines that the person possesses such qualifications, the director shall declare that the person has been duly elected. [1995 c 374 § 59; 1967 c 240 § 30; 1965 ex.s. c 44 § 6.]

**Effective date—1995 c 374 §§ 1-47, 50-53, and 59-68:** See note following RCW 15.36.012.

**Severability—1967 c 240:** See note following RCW 43.23.010.

**Chapter 15.53**

**COMMERCIAL FEED**

Sections

- 15.53.901 Definitions.
- 15.53.9012 Administration and administrative rules.
- 15.53.9013 Commercial feed license—Required—Exemptions—Application—Fees—Renewal—Denial or revocation for noncompliance—Violation—Penalty—Rules.
- 15.53.9014 Registration of pet food and specialty pet food—Exemption—Application—Renewal—Fees—Refusal or cancellation for noncompliance—Violation—Penalty.
- 15.53.9016 Labeling—Required information—Recordkeeping—Rules.
- 15.53.9018 Inspection fees—Reports—Confidentiality, exception.
- 15.53.9020 Adulteration—Definition—Unlawful to distribute.
- 15.53.9022 Misbranding—Definition—Unlawful to distribute.
- 15.53.9024 Inspections—Verification of records and procedures—Official samples—Warrants authorized.
- 15.53.9026 Repealed.
- 15.53.9028 through 15.53.9034 Repealed.
- 15.53.9036 Repealed.
- 15.53.9038 Department's remedies for noncompliance—"Withdrawal from distribution" order—Condemnation—Seizure.
- 15.53.9042 Department to publish distribution information, production data, and analyses comparison.
- 15.53.905 Decodified.
- 15.53.9052 Decodified.
- 15.53.9053 Continuation of prior licenses and registrations.

**15.53.901 Definitions.** The definitions set forth in this section apply throughout this chapter.

(1) "Brand name" means a word, name, symbol, or device, or any combination thereof, identifying the commercial feed of a distributor or registrant and distinguishing it from that of others.

(2) "Commercial feed" means all materials or combination of materials that are distributed or intended for distribution for use as feed or for mixing in feed, unless such materials are specifically exempted. Unmixed whole seeds and physically altered entire unmixed seeds, when such

whole seeds or physically altered seeds are not chemically changed or not adulterated within the meaning of RCW 15.53.902, are exempt. The department by rule may exempt from this definition, or from specific provisions of this chapter, commodities such as hay, straw, stover, silage, cobs, husks, hulls, and individual chemical compounds or substances where such commodities, compounds, or substances are not intermixed with other materials, and are not adulterated within the meaning of RCW 15.53.902.

(3) "Contract feeder" means a person who is an independent contractor and feeds commercial feed to animals pursuant to a contract whereby such commercial feed is supplied, furnished, or otherwise provided to such person and whereby such person's remuneration is determined all or in part by feed consumption, mortality, profits, or amount or quality of product.

(4) "Customer-formula feed" means commercial feed that consists of a mixture of commercial feeds or feed ingredients, or both, each batch of which is manufactured according to the instructions of the final purchaser.

(5) "Department" means the department of agriculture of the state of Washington or its duly authorized representative.

(6) "Director" means the director of the department or a duly authorized representative.

(7) "Distribute" means to offer for sale, sell, exchange or barter, commercial feed; or to supply, furnish, or otherwise provide commercial feed to a contract feeder.

(8) "Distributor" means a person who distributes.

(9) "Drug" means an article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than people and articles, other than feed intended to affect the structure or a function of the animal body.

(10) "Exempt buyer" means a licensee who has agreed to be responsible for reporting tonnage and paying inspection fees for all commercial feeds they distribute. An exempt buyer must apply for exempt buyer status with the department. The department shall maintain a list of all exempt buyers and make the list available on request.

(11) "Feed ingredient" means each of the constituent materials making up a commercial feed.

(12) "Final purchaser" means a person who purchases commercial feed to feed to animals in his or her care.

(13) "Initial distributor" means a person who first distributes a commercial feed in or into this state.

(14) "Label" means a display of written, printed, or graphic matter upon or affixed to the container in which a commercial feed is distributed, or on the invoice or delivery slip with which a commercial feed is distributed.

(15) "Labeling" means all labels and other written, printed, or graphic matter: (a) Upon a commercial feed or any of its containers or wrappers; or (b) accompanying such commercial feed.

(16) "Licensee" means a person who holds a commercial feed license as prescribed in this chapter.

(17) "Manufacture" means to grind, mix or blend, or further process a commercial feed for distribution.

(18) "Medicated feed" means a commercial feed containing a drug or other medication.

(19) "Mineral feed" means a commercial feed intended to supply primarily mineral elements or inorganic nutrients.

(20) "Official sample" means a sample of feed taken by the department, obtained and analyzed as provided in RCW 15.53.9024 (3), (5), or (6).

(21) "Percent" or "percentage" means percentage by weight.

(22) "Person" means an individual, firm, partnership, corporation, or association.

(23) "Pet" means a domesticated animal normally maintained in or near the household of the owner of the pet.

(24) "Pet food" means a commercial feed prepared and distributed for consumption by pets.

(25) "Product name" means the name of the commercial feed that identifies it as to kind, class, or specific use.

(26) "Retail" means to distribute to the final purchaser.

(27) "Sell" or "sale" includes exchange.

(28) "Specialty pet" means a domesticated animal pet normally maintained in a cage or tank, such as, but not limited to, gerbils, hamsters, canaries, psittacine birds, mynahs, finches, tropical fish, goldfish, snakes, and turtles.

(29) "Specialty pet food" means a commercial feed prepared and distributed for consumption by specialty pets.

(30) "Ton" means a net weight of two thousand pounds avoirdupois.

(31) "Quantity statement" means the net weight (mass), net volume (liquid or dry), or count. [1995 c 374 § 33; 1982 c 177 § 1; 1975 1st ex.s. c 257 § 3; 1965 ex.s. c 31 § 2. Prior acts on this subject: 1961 c 11 §§ 15.53.010 through 15.53.900; 1953 c 80 §§ 1-35.]

**Effective date—1995 c 374 §§ 1-47, 50-53, and 59-68:** See note following RCW 15.36.012.

**Construction—Effective date—1975 1st ex.s. c 257:** See RCW 15.53.9053 and note.

#### 15.53.9012 Administration and administrative rules.

(1) The department shall administer, enforce and carry out the provisions of this chapter and may adopt rules necessary to carry out its purpose. In adopting such rules, the director shall consider (a) the official definitions of feed ingredients and official feed terms adopted by the association of American feed control officials and published in the official publication of that organization; and (b) any regulation adopted pursuant to the authority of the federal food, drug, and cosmetic act (21 U.S.C. Sec. 301, et seq.), if the department would have the authority under this chapter to adopt the regulations. The adoption of rules shall be subject to a public hearing and all other applicable provisions of chapter 34.05 RCW (Administrative Procedure Act).

(2) The director when adopting rules in respect to the feed industry shall consult with affected parties, such as manufacturers and distributors of commercial feed and any final rule adopted shall be designed to promote orderly marketing and shall be reasonable and necessary and based upon the requirements and condition of the industry and shall be for the purpose of promoting the well-being of the members of the feed industry as well as the well-being of the purchasers and users of feed and for the general welfare of the people of the state. [1995 c 374 § 34; 1965 ex.s. c 31 § 3.]

**Effective date—1995 c 374 §§ 1-47, 50-53, and 59-68:** See note following RCW 15.36.012.

**15.53.9013 Commercial feed license—Required—Exemptions—Application—Fees—Renewal—Denial or revocation for noncompliance—Violation—Penalty—Rules.** (1) Beginning January 1, 1996, a person who manufactures a commercial feed, is an initial distributor of a commercial feed, or whose name appears as the responsible party on a commercial feed label to be distributed in or into this state shall first obtain from the department a commercial feed license for each facility. Sale of food processing byproducts from fruit, vegetable, or potato processing plants, freezing or dehydrating facilities, or juice or jelly preserving plants, bona fide experimental feed on which accurate records and experimental programs are maintained, and pet food and specialty pet food are exempt from the requirement of a commercial feed license. The sale of byproducts or products of sugar refineries are not exempt from the requirement of a commercial feed license.

(2) Application for a commercial feed license shall be made annually on forms provided by the department and shall be accompanied by a fee of fifty dollars, except that for the period beginning January 1, 1996, and ending June 30, 1996, the fee shall be twenty-five dollars. The commercial feed license shall expire on June 30th of each year.

(3) An application for license shall include the following:

- (a) The name and address of the applicant;
- (b) Other information required by the department by rule.

(4) After January 1, 1996, application for license renewal is due July 1st of each year. If an application for license renewal provided for in this section is not filed with the department prior to July 15th, a delinquency fee of fifty dollars shall be assessed and added to the original fee and must be paid by the applicant before the renewal license is issued. The assessment of the delinquency fee shall not prevent the department from taking other action as provided for in this chapter. The penalty does not apply if the applicant furnishes an affidavit that he or she has not distributed a commercial feed subsequent to the expiration of his or her prior license.

(5) The department may deny a license application if the applicant is not in compliance with this chapter or applicable rules, and may revoke a license if the licensee is not in compliance with this chapter or applicable rules. Prior to denial or revocation of a license, the department shall provide notice and an opportunity to correct deficiencies. If an applicant or licensee fails to correct the deficiency, the department shall deny or revoke the license. If aggrieved by the decision, the applicant or licensee may request a hearing as authorized under chapter 34.05 RCW.

(6) Notwithstanding the payment of a delinquency fee, it is a violation to distribute a commercial feed by an unlicensed person, and nothing in this chapter shall prevent the department from imposing a penalty authorized by this chapter for the violation.

(7) The department may under conditions specified by rule, request copies of labels and labeling in order to determine compliance with the provisions of this chapter. [1995 c 374 § 35.]

**Effective date—1995 c 374 §§ 1-47, 50-53, and 59-68:** See note following RCW 15.36.012.

**15.53.9014 Registration of pet food and specialty pet food—Exemption—Application—Renewal—Fees—Refusal or cancellation for noncompliance—Violation—Penalty.** (1) Each pet food and specialty pet food shall be registered with the department and such registration shall be renewed annually before such commercial feed may be distributed in this state.

(2) The application for registration of pet food and specialty pet food shall be on forms provided by the department and shall be accompanied by the fees in subsection (3) of this section. Registrations expire on June 30th of each year.

(3) Pet food and specialty pet food registration fees are as follows:

(a) Each pet food and specialty pet food distributed in packages of ten pounds or more shall be accompanied by a fee of eleven dollars, except that for the period beginning January 1, 1996, and ending June 30, 1996, the fee shall be five dollars and fifty cents. If such commercial feed is also distributed in packages of less than ten pounds it shall be registered under (b) of this subsection.

(b) Each pet food and specialty pet food distributed in packages of less than ten pounds shall be accompanied by a fee of forty-five dollars, except that for the period beginning January 1, 1996, and ending June 30, 1996, the fee shall be twenty-two dollars and fifty cents. No inspection fee may be collected on pet food and specialty pet food distributed in packages of less than ten pounds.

(4) The department may require that the application for registration of pet food and specialty pet food be accompanied by a label and/or other printed matter describing the product.

(5) A distributor shall not be required to register a pet food or specialty pet food that is already registered under the provisions of this chapter, as long as it is distributed with the original label.

(6) Changes in the guarantee of either chemical or ingredient composition of a pet food or specialty pet food registered under the provisions of this chapter may be permitted if there is satisfactory evidence that such changes would not result in a lowering of the feed value of the product for the purpose for which it was designed.

(7) The department is authorized to refuse registration of any application not in compliance with the provisions of this chapter and any rule adopted under this chapter and to cancel any registration subsequently found to be not in compliance with any provisions of this chapter and any rule adopted under this chapter. Prior to refusal or cancellation of a registration, the applicant or registrant of an existing registered pet food or specialty pet food shall be notified of the reasons and given an opportunity to amend the application to comply. If the applicant does not make the necessary corrections, the department shall refuse to register the feed. The applicant or registrant of an existing registered pet food or specialty pet food may request a hearing as provided for in chapter 34.05 RCW.

(8) After January 1, 1996, application for renewal of registration is due July 1st of each year. If an application for renewal of the registration provided for in this section is not filed prior to July 15th of any one year, a penalty of ten dollars per product shall be assessed and added to the

original fee and shall be paid by the applicant before the renewal registration may be issued, unless the applicant furnishes an affidavit that he has not distributed this feed subsequent to the expiration of his or her prior registration.

(9) It is a violation of this chapter to distribute an unregistered pet food or specialty pet food. Payment of a delinquency fee shall not prevent the department from imposing a penalty authorized by this chapter for the violation. [1995 c 374 § 36; 1993 sp.s. c 19 § 2; 1982 c 177 § 2; 1975 1st ex.s. c 257 § 4; 1965 ex.s. c 31 § 4.]

**Effective date—1995 c 374 §§ 1-47, 50-53, and 59-68:** See note following RCW 15.36.012.

**Construction—Effective date—1975 1st ex.s. c 257:** See RCW 15.53.9053 and note.

**15.53.9016 Labeling—Required information—Recordkeeping—Rules.** (1) Any commercial feed, except a customer-formula feed, distributed in this state shall be accompanied by a legible label bearing the following information:

(a) The product name and the brand name, if any, under which the commercial feed is distributed.

(b) The guaranteed analysis stated in such terms as the department by rule determines is required to advise the user of the composition of the feed or to support claims made in the labeling. In all cases the substances or elements must be determinable by laboratory methods such as the methods published by the association of official analytical chemists.

(c) The common or usual name of each ingredient used in the manufacture of the commercial feed, except as the department may, by regulation, permit the use of a collective term for a group of ingredients all of which perform the same function. An ingredient statement is not required for single standardized ingredient feeds which are officially defined.

(d) The name and principal mailing address of the person responsible for distributing the commercial feed.

(e) Adequate directions for use for all commercial feeds containing drugs and for all such other commercial feeds as the department may require by rule as necessary for their safe and effective use.

(f) Precautionary statements as the department by rule determines are necessary for the safe and effective use of the commercial feed.

(g) The net weight as required under chapter 19.94 RCW.

(2) When a commercial feed, except a customer-formula feed, is distributed in this state in bags or other containers, the label shall be placed on or affixed to the container; when a commercial feed, except a customer-formula feed, is distributed in bulk the label shall accompany delivery and be furnished to the purchaser at time of delivery.

(3) A customer-formula feed shall be labeled by shipping document. The shipping document, which is to accompany delivery and be supplied to the purchaser at the time of delivery, shall bear the following information:

(a) Name and address of the manufacturer;

(b) Name and address of the purchaser;

(c) Date of delivery;

(d) Product name and the net weight as required under chapter 19.94 RCW;

(e) Adequate directions for use for all customer-formula feeds containing drugs and for such other feeds as the department may require by rule as necessary for their safe and effective use;

(f) The directions for use and precautionary statements as required by subsection (1) (e) and (f) of this section; and

(g) If a drug containing product is used:

(i) The purpose of the medication (claim statement);

(ii) The established name of each active drug ingredient and the level of each drug used in the final mixture expressed in accordance with rules established by the department.

(4) The product name and quantity statement of each commercial feed and each other ingredient used in the customer formula feed must be on file at the plant producing the product. These records must be kept on file for one year after the last sale. This information shall be made available to the purchaser, the dealer making the sale, and the department on request. [1995 c 374 § 37; 1965 ex.s. c 31 § 5.]

**Effective date—1995 c 374 §§ 1-47, 50-53, and 59-68:** See note following RCW 15.36.012.

**15.53.9018 Inspection fees—Reports—Confidentiality, exception.** (1) Except as provided in subsection (4) of this section, each initial distributor of a commercial feed in this state shall pay to the department an inspection fee on all commercial feed sold by such person during the year. The fee shall be not less than four cents nor more than twelve cents per ton as prescribed by the director by rule: PROVIDED, That such fees shall be used for routine enforcement and administration of this chapter and rules adopted under this chapter.

(2) An inspection fee is not required for: (a) Commercial feed distributed by a person having proof that inspection fees have been paid by his or her supplier (manufacturer); (b) commercial feed in packages weighing less than ten pounds; (c) commercial feed for shipment to points outside this state; (d) food processing byproducts from fruit, vegetable, or potato processing plants, freezing or dehydrating facilities, or juice or jelly preserving plants; and (e) bona fide experimental feeds on which accurate records and experimental programs are maintained.

(3) Tonnage will be reported and inspection fees will be paid on (a) byproducts or products of sugar refineries; (b) materials used in the preparation of pet foods and specialty pet food.

(4) When more than one distributor is involved in the distribution of a commercial feed, the initial distributor is responsible for reporting the tonnage and paying the inspection fee, unless this sale or transaction is made to an exempt buyer.

(5) Each person made responsible by this chapter for the payment of inspection fees for commercial feed sold in this state shall file a report with the department on January 1st and July 1st of each year showing the number of tons of such commercial feed sold during the six calendar months immediately preceding the date the report is due. The proper inspection fee shall be remitted with the report. The person required to file the report and pay the fee shall have a thirty-day period of grace immediately following the day the report and payment are due to file the report, and pay the fee. Upon permission of the department, an annual state-

ment under oath may be filed by any person distributing within the state less than one hundred tons for each six-month period during any year, and upon filing such statement such person shall pay the inspection fee at the rate provided for in subsection (1) of this section. The minimum inspection fee shall be twelve dollars and fifty cents for each six-month reporting period or twenty-five dollars if reporting annually.

(6) For the purpose of determining accurate tonnage of commercial feed distributed in this state or to identify or verify semiannual tonnage reports, the department may require each registrant or licensee, or both, to maintain records or file additional reports.

(7) The department may examine at reasonable times the records maintained under this section. Records shall be maintained in usable condition by the registrant or licensee for a period of two years unless by rule this retention period is extended.

(8) The registrant or licensee shall maintain records required under this section and submit these records to the department upon request.

(9) Any person responsible for reporting tonnage or paying inspection fees who fails to do so before the thirty-first day following the last day of each reporting period, shall pay a penalty equal to fifteen percent of the inspection fee due or fifty dollars, whichever is greater. The penalty, together with any delinquent inspection fee is due before the forty-first day following the last day of each reporting period. The department may cancel registration of a registrant or may revoke a license of a licensee who fails to pay the penalty and delinquent inspection fees within that time period. The applicant or licensee may request a hearing as authorized under chapter 34.05 RCW.

(10) The report required by subsection (5) of this section shall not be a public record, and it is a misdemeanor for any person to divulge any information given in such report which would reveal the business operation of the person making the report: PROVIDED, That nothing contained in this subsection shall be construed to prevent or make unlawful the use of information concerning the business operation of a person if any action, suit, or proceeding instituted under the authority of this chapter, including any civil action for collection of unpaid inspection fees, which action is hereby authorized and which shall be as an action at law in the name of the director of the department.

(11) Any commercial feed purchased by a consumer or contract feeder outside the jurisdiction of this state and brought into this state for use is subject to all the provisions of this chapter, including inspection fees. [1995 c 374 § 38; 1982 c 177 § 3; 1981 c 297 § 17; 1979 c 91 § 1; 1975 1st ex.s. c 257 § 5; 1967 c 240 § 32; 1965 ex.s. c 31 § 6.]

**Effective date—1995 c 374 §§ 1-47, 50-53, and 59-68:** See note following RCW 15.36.012.

**Effective date—1981 c 297 § 17:** "Section 17 of this act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 30, 1981." [1981 c 297 § 44.] This applies to the 1981 c 297 amendment to RCW 15.53.9018.

**Severability—1981 c 297:** See note following RCW 15.36.201.

**Effective date—1979 c 91:** "This act shall take effect on January 1, 1980." [1979 c 91 § 2.] This applies to the 1979 c 91 amendment to RCW 15.53.9018.

**Construction—Effective date—1975 1st ex.s. c 257:** See RCW 15.53.9053 and note.

**Severability—1967 c 240:** See note following RCW 43.23.010.

**15.53.902 Adulteration—Definition—Unlawful to distribute.** It is unlawful for any person to distribute an adulterated feed. A commercial feed is deemed to be adulterated:

(1) If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, such commercial feed shall not be considered adulterated under this subsection if the quantity of such substance in such commercial feed does not ordinarily render it injurious to health; or

(2) If it bears or contains any added poisonous, added deleterious, or added nonnutritive substance which is unsafe within the meaning of section 406 of the federal food, drug, and cosmetic act (other than one which is (a) a pesticide chemical in or on a raw agricultural commodity; or (b) a food additive); or

(3) If it is, or it bears, or contains any food additive which is unsafe within the meaning of section 409 of the federal food, drug, and cosmetic act (21 U.S.C. Sec. 348); or

(4) If it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of section 408(a) of the federal food, drug, and cosmetic act: PROVIDED, That where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or a tolerance prescribed under section 408 of the Federal Food, Drug, and Cosmetic Act and such raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating, or milling, the residue of such pesticide chemical remaining in or on such processed feed shall not be deemed unsafe if such residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and the concentration of such residue in the processed feed is not greater than the tolerance prescribed for the raw agricultural commodity unless the feeding of such processed feed will result or is likely to result in a pesticide residue in the edible product of the animal, which is unsafe within the meaning of section 408(a) of the federal food, drug, and cosmetic act; or

(5) If it is, or it bears or contains any color additive which is unsafe within the meaning of section 706 of the federal food, drug, and cosmetic act; or

(6) If it is, or it bears or contains any new animal drug that is unsafe within the meaning of section 512 of the federal food, drug, and cosmetic act (21 U.S.C. Sec. 360b); or

(7) If any valuable constituent has been in whole or in part omitted or abstracted therefrom or any less valuable substance substituted therefor; or

(8) If its composition or quality falls below or differs from that which it is purported or is represented to possess by its labeling; or

(9) If it contains a drug and the methods used in or the facilities or controls used for its manufacture, processing, or packaging do not conform to current good manufacturing practice rules adopted by the department to assure that the drug meets the requirements of this chapter as to safety and has the identity and strength and meets the quality and purity

characteristics that it purports or is represented to possess. In adopting such rules, the department shall adopt the current good manufacturing practice regulations for type A medicated articles and type B and type C medicated feeds established under authority of the federal food, drug, and cosmetic act, unless the department determines that they are not appropriate to the conditions that exist in this state; or

(10) If it contains viable, prohibited (primary) noxious weed seeds in excess of one per pound, or if it contains viable, restricted (secondary) noxious weed seeds in excess of twenty-five per pound. The primary and secondary noxious weed seeds shall be those as named pursuant to the provisions of chapter 15.49 RCW and rules adopted thereunder. [1995 c 374 § 39; 1982 c 177 § 4; 1979 c 154 § 2; 1965 ex.s. c 31 § 7.]

**Effective date—1995 c 374 §§ 1-47, 50-53, and 59-68:** See note following RCW 15.36.012.

**Severability—1979 c 154:** See note following RCW 15.49.330.

**15.53.9022 Misbranding—Definition—Unlawful to distribute.** It shall be unlawful for any person to distribute misbranded feed. A commercial feed shall be deemed to be misbranded:

(1) If its labeling is false or misleading in any particular;

(2) If it is distributed under the name of another commercial feed;

(3) If it is not labeled as required in RCW 15.53.9016 and in rules prescribed under this chapter;

(4) If it purports to be or is represented as a commercial feed, or if it purports to contain or is represented as containing a commercial feed or feed ingredient, unless such commercial feed or feed ingredient conforms to the definition of identity, if any, prescribed by rule of the department. In the adopting of such rules the department may consider commonly accepted definitions such as those issued by nationally recognized associations or groups of feed control officials;

(5) If any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(6) If its composition or quality falls below or differs from that which it is purported or is represented to possess by its labeling. [1995 c 374 § 40; 1965 ex.s. c 31 § 8.]

**Effective date—1995 c 374 §§ 1-47, 50-53, and 59-68:** See note following RCW 15.36.012.

**15.53.9024 Inspections—Verification of records and procedures—Official samples—Warrants authorized.** (1) For the purpose of enforcement of this chapter, and in order to determine whether its provisions have been complied with, including whether an operation is subject to such provisions, inspectors duly designated by the director, upon presenting appropriate credentials, and a written notice to the owner, operator, or agent in charge, are authorized (a) to enter, during normal business hours, a factory, warehouse, or establishment within the state in which commercial feeds are

manufactured, processed, packed, or held for distribution, or to enter a vehicle being used to transport or hold such feeds; and (b) to inspect at reasonable times and within reasonable limits and in a reasonable manner, such factory, warehouse, establishment, or vehicle and all pertinent equipment, finished and unfinished materials, containers, and labeling. The inspection may include the verification of only such records, and production and control procedures as may be necessary to determine compliance with the current good manufacturing practice regulations established under RCW 15.53.902(9) and rules adopted under good manufacturing practices for feeds to include nonmedicated feeds.

(2) A separate notice shall be given for each such inspection, but a notice is not required for each entry made during the period covered by the inspection. Each such inspection shall be commenced and completed with reasonable promptness. Upon completion of the inspection, the person in charge of the facility or vehicle shall be so notified.

(3) If the inspector or employee making such inspection of a factory, warehouse, or other establishment has obtained a sample in the course of the inspection, upon completion of the inspection and prior to leaving the premises, he or she shall give to the owner, operator, or agent in charge, a receipt describing the samples obtained.

(4) If the owner of a factory, warehouse, or establishment described in subsection (1) of this section, or his or her agent, refuses to admit the director or his or her agent to inspect in accordance with subsections (1) and (2) of this section, the director or his or her agent is authorized to obtain from any court of competent jurisdiction a warrant directing such owner or his or her agent to submit the premises described in the warrant to inspection.

(5) For the enforcement of this chapter, the director or his or her duly assigned agent is authorized to enter upon any public or private premises including any vehicle of transport during regular business hours to have access to, and to obtain samples, and to examine records relating to distribution of commercial feeds.

(6) Sampling and analysis shall be conducted in accordance with methods published by the association of official analytical chemists, or in accordance with other generally recognized methods.

(7) The results of all analyses of official samples shall be forwarded by the department to the person named on the label and to the purchaser, if known. If the inspection and analysis of an official sample indicates a commercial feed has been adulterated or misbranded and upon request within thirty days following the receipt of the analysis, the department shall furnish to the registrant or licensee a portion of the sample concerned. If referee analysis is requested, a portion of the official sample shall be furnished by the department and shall be sent directly to an independent lab agreed to by all parties.

(8) The department, in determining for administrative purposes whether a feed is deficient in any component, shall be guided solely by the official sample as defined in RCW 15.53.901(20) and obtained and analyzed as provided for in this section.

(9) Analysis of an official sample by the department shall be accepted as prima facie evidence by any court of



competent jurisdiction. [1995 c 374 § 41; 1965 ex.s. c 31 § 9.]

**Effective date**—1995 c 374 §§ 1-47, 50-53, and 59-68: See note following RCW 15.36.012.

*Prosecutions, official analysis as evidence: RCW 15.53.904.*

**15.53.9026 Repealed.** See Table of Disposition of Former RCW Sections, Volume 0.

**15.53.9028 through 15.53.9034 Repealed.** See Table of Disposition of Former RCW Sections, Volume 0.

**15.53.9036 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**15.53.9038 Department's remedies for noncompliance—"Withdrawal from distribution" order—Condemnation—Seizure.** (1) When the department has reasonable cause to believe that any lot of commercial feed is adulterated or misbranded or is being distributed in violation of this chapter or any rules hereunder it may issue and enforce a written or printed "withdrawal from distribution" order, or "stop sale" order, warning the distributor not to dispose of the lot of feed in any manner until written permission is given by the department. The department shall release the lot of commercial feed so withdrawn when the provisions and rules have been complied with. If compliance is not obtained within thirty days, parties may agree to an alternative disposition in writing or the department may institute condemnation proceedings in a court of competent jurisdiction.

(2) Any lot of commercial feed not in compliance with the provisions and rules is subject to seizure on complaint of the department to a court of competent jurisdiction in the area in which the commercial feed is located. If the court finds the commercial feed to be in violation of this chapter and orders the condemnation of the commercial feed, it shall be disposed of in any manner consistent with the quality of the commercial feed and the laws of the state. The court shall first give the claimant an opportunity to apply to the court for release of the commercial feed or for permission to process or relabel the commercial feed to bring it into compliance with this chapter. [1995 c 374 § 42; 1982 c 177 § 5; 1975 1st ex.s. c 257 § 7; 1965 ex.s. c 31 § 16.]

**Effective date**—1995 c 374 §§ 1-47, 50-53, and 59-68: See note following RCW 15.36.012.

**Construction**—**Effective date**—1975 1st ex.s. c 257: See RCW 15.53.9053 and note.

**15.53.9042 Department to publish distribution information, production data, and analyses comparison.** The department shall publish at least annually, in such forms as it may deem proper, information concerning the distribution of commercial feed, together with such data on their production and use as it may consider advisable, and a report of the results of the analyses of official samples of commercial feed within the state as compared with the analyses guaranteed on the label or as calculated from the invoice data for customer-formula feeds: **PROVIDED**, That the information concerning production and use of commercial

feeds shall not disclose the operations of any person. [1995 c 374 § 43; 1965 ex.s. c 31 § 18.]

**Effective date**—1995 c 374 §§ 1-47, 50-53, and 59-68: See note following RCW 15.36.012.

**15.53.905 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**15.53.9052 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**15.53.9053 Continuation of prior licenses and registrations.** All licenses and registrations in effect on July 1, 1995, shall continue in full force and effect until their regular expiration date, December 31, 1995. No registration or license that has already been paid under the requirements of prior law shall be refunded. [1995 c 374 § 44; 1975 1st ex.s. c 257 § 12.]

**Effective date**—1995 c 374 §§ 1-47, 50-53, and 59-68: See note following RCW 15.36.012.

**Effective date**—1975 1st ex.s. c 257: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions and shall take effect on July 1, 1975." [1975 1st ex.s. c 257 § 13.]

## Chapter 15.58

### WASHINGTON PESTICIDE CONTROL ACT

#### Sections

- 15.58.070 Pesticide annual registration fee—Home and garden use products, optional—Special local need application fee.
- 15.58.410 Repealed.
- 15.58.411 Use of license fees.

**15.58.070 Pesticide annual registration fee—Home and garden use products, optional—Special local need application fee.** (1) Except as provided in subsection (4) of this section, any person desiring to register a pesticide with the department shall pay to the director an annual registration fee for each pesticide registered by the department for such person. The registration fee for the registration of pesticides for any one person during a calendar year shall be: One hundred five dollars for each of the first twenty-five pesticides registered; one hundred dollars for each of the twenty-sixth through one-hundredth pesticides registered; seventy-five dollars for each of the one hundred first through one hundred fiftieth pesticides registered; and fifty dollars for each additional pesticide registered. In addition, the department may establish by rule a registration fee not to exceed ten dollars for each registered product labeled and intended for home and garden use only.

(2) The revenue generated by the pesticide registration fees shall be deposited in the agricultural local fund to support the activities of the pesticide program within the department. The revenue generated by the home and garden use only fees shall be deposited in the agriculture—local fund, to be used to assist in funding activities of the pesticide incident reporting and tracking review panel.

(3) All pesticide registrations expire on December 31st of each year. A registrant may elect to register a pesticide

for a two-year period by prepaying for a second year at the time of registration.

(4) A person desiring to register a label where a special local need exists shall pay to the director a nonrefundable application fee of two hundred dollars upon submission of the registration request. In addition, a person desiring to renew an approved special local need registration shall pay to the director an annual registration fee of two hundred dollars for each special local needs label registered by the department for such person. The revenue generated by the special local needs application fees and the special local needs renewal fees shall be deposited in the agricultural local fund to be used to assist in funding the department's special local needs registration activities. All special local needs registrations expire on December 31st of each year.

(5) Any registration approved by the director and in effect on the 31st day of December for which a renewal application has been made and the proper fee paid, continues in full force and effect until the director notifies the applicant that the registration has been renewed, or otherwise denied in accord with the provision of RCW 15.58.110. [1995 c 374 § 66; 1994 c 46 § 1; 1989 c 380 § 6; 1983 c 95 § 2; 1971 ex.s. c 190 § 7.]

**Effective date—1995 c 374 §§ 1-47, 50-53, and 59-68:** See note following RCW 15.36.012.

**Effective date—1994 c 46:** "Sections 1 through 20, 26, and 27 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [March 21, 1994]." [1994 c 46 § 28.]

*Surcharge: RCW 15.58.415.*

**15.58.410 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**15.58.411 Use of license fees.** All license fees collected under this chapter shall be paid to the director for use exclusively in the enforcement of this chapter. [1995 c 374 § 67.]

**Effective date—1995 c 374 §§ 1-47, 50-53, and 59-68:** See note following RCW 15.36.012.

### Chapter 15.65

#### WASHINGTON STATE AGRICULTURAL ENABLING ACT OF 1961—COMMODITY BOARDS

##### Sections

15.65.405 Annual assessment in excess of the fiscal growth factor under chapter 43.135 RCW—Hop commodity board—Mint commodity board.

**15.65.405 Annual assessment in excess of the fiscal growth factor under chapter 43.135 RCW—Hop commodity board—Mint commodity board.** The hop commodity board may raise the rate of annual assessment in excess of the fiscal growth factor under chapter 43.135 RCW from the assessment of two dollars and fifty cents per affected unit in effect under chapter 16-532 WAC on July 1, 1995, to three dollars per affected unit. For this purpose, the affected unit is two hundred pounds net of hops or the amount of lupulin, extract, or oil produced from two hundred pounds net of hops.

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The mint commodity board may raise the rate of annual assessment in excess of the fiscal growth factor under chapter 43.135 RCW from the assessment of three and one-half cents per affected unit in effect under chapter 16-540 WAC on July 1, 1995, to five cents per affected unit. For this purpose, the affected unit is one pound of mint oil as distilled from mint plants grown by an affected producer and as weighed by the first purchaser.

The assessment limits established by this section are set solely to provide prior legislative authority for the purposes of RCW 43.135.055 and may not be construed as providing a limitation on the authority of either commodity board to alter assessments in any manner not limited by RCW 43.135.055. However, any alteration in assessments made under the authority of this section shall be made in compliance with the procedural requirements established by this chapter for altering or amending such assessments. [1995 c 109 § 1.]

**Effective date—1995 c 109:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995." [1995 c 109 § 3.]

### Chapter 15.76

#### AGRICULTURAL FAIRS, YOUTH SHOWS, EXHIBITIONS

##### Sections

15.76.140 Eligibility requirements for state allocation—Temporary waiver.

**15.76.140 Eligibility requirements for state allocation—Temporary waiver.** (1) Before any agricultural fair may become eligible for state allocations it must have conducted two successful consecutive annual fairs immediately preceding application for such allocations, and have its application therefor approved by the director.

(2) Beginning January 1, 1994, and until June 30, 1997, the director may waive this requirement for an agricultural fair that through itself or its predecessor sponsoring organization has successfully operated at least two years as a county fair, has received a funding allocation as a county fair under chapter 374, Laws of 1995 for those two years, and that reorganizes as an area fair. [1995 c 374 § 71; 1965 ex.s. c 32 § 1; 1961 c 61 § 5.]

### Chapter 15.80

#### WEIGHMASTERS

##### Sections

15.80.660 Collected moneys—Deposit.

**15.80.660 Collected moneys—Deposit.** All moneys collected under this chapter shall be placed in the weights and measures account created in RCW 19.94.185. [1995 c 355 § 25.]

**Application—Effective dates—1995 c 355:** See notes following RCW 19.94.015.

## Chapter 15.92

CENTER FOR SUSTAINING AGRICULTURE AND  
NATURAL RESOURCES

## Sections

15.92.010	Definitions.
15.92.060	Laboratory responsibilities.
15.92.090	Commission on pesticide registration—Established— Composition—Duration of membership—Compensation.
15.92.095	Pesticide registration—Washington State University— Restrictions on use of state money—Commission ap- proval required.
15.92.100	Commission on pesticide registration—Duties.
15.92.105	Commission on pesticide registration—Report on activi- ties—Review by legislature.
15.92.110	Commission on pesticide registration—Receipt of gifts, grants, and endowments.

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

(1) "Agricultural commodity" means any distinctive type of agricultural, horticultural, viticultural, floricultural, vegetable, or animal product, including but not limited to, products qualifying as organic food products under chapter 15.86 RCW, private sector cultured aquatic products as defined in RCW 15.85.020, bees and honey, and Christmas trees but not including timber or timber products.

(2) "Center" means the center for sustaining agriculture and natural resources established at Washington State University.

(3) "Laboratory" means the food and environmental quality laboratory established at Washington State University at Tri-Cities.

(4) "Integrated pest management" is a strategy that uses various combinations of pest control methods, biological, cultural, and chemical, in a compatible manner to achieve satisfactory control and ensure favorable economic and environmental consequences.

(5) "IR-4 program" means interregional research project number four, clearances of chemicals and biologics for minor or special uses, established in 1963 by the cooperative state research service of the United States department of agriculture, the coordinated national program involving land-grant universities and the United States department of agriculture to provide data required for the registration of pesticides needed for the production of minor crops.

(6) "Minor crop" means an agricultural crop considered to be minor in the national context of registering pesticides.

(7) "Minor use" means a pesticide use considered to be minor in the national context of registering pesticides including, but not limited to, a use for a special local need.

(8) "Natural resources" means soil, water, air, forests, wetlands, wildlands, and wildlife.

(9) "Pesticide" means chemical or biologic used to control pests such as insect, rodent, nematode, snail, slug, weed, virus, or any organism the director of agriculture may declare to be a pest.

(10) "Registration" means use of a pesticide approved by the state department of agriculture.

(11) "Sustainable agriculture" means a systems approach to farming, ranching, and natural resource production that builds on and supports the physical, biological, and ecologi-

cal resource base upon which agriculture depends. The goals of sustainable agriculture are to provide human food and fiber needs in an economically viable manner for the agriculture industry and in a manner which protects the environment and contributes to the overall safety and quality of life. [1995 c 390 § 4; 1991 c 341 § 2.]

**15.92.060 Laboratory responsibilities.** The responsibilities of the laboratory shall include:

(1) Evaluating regional requirements for minor crop registration through the federal IR-4 program;

(2) Providing a program for tracking the availability of effective pesticides for minor crops, minor uses, and emergency uses in this state;

(3) Conducting studies on the fate of pesticides on crops and in the environment, including soil, air, and water;

(4) Improving pesticide information and education programs;

(5) Assisting federal and state agencies with questions regarding registration of pesticides which are deemed critical to crop production, consistent with priorities established in RCW 15.92.070; and

(6) Assisting in the registration of biopesticides, pheromones, and other alternative chemical and biological methods. [1995 c 390 § 5; 1991 c 341 § 7.]

**15.92.090 Commission on pesticide registration—Established—Composition—Duration of membership—Compensation.** (1) A commission on pesticide registration is established. The commission shall be composed of twelve voting members appointed by the governor as follows:

(a) Eight members from the following segments of the state's agricultural industry as nominated by a state-wide private agricultural association or agricultural commodity commission formed under Title 15 RCW: (i) The tree fruit industry; (ii) hop growers; (iii) potato growers; (iv) wheat growers; (v) vegetable and seed growers; (vi) berry growers; (vii) wine grape growers; and (viii) the nursery and landscape industry. Although members are appointed from various segments of the agriculture industry, they are appointed to represent and advance the interests of the industry as a whole.

(b) One member from each of the following: (i) Forest protection industry; (ii) food processors; (iii) agricultural chemical industry; and (iv) professional pesticide applicators. One member shall be appointed for each such segment of the industry and shall be nominated by a state-wide, private association of that segment of the industry. The representative of the agricultural chemical industry shall be involved in the manufacture of agricultural crop protection products.

The following shall be ex officio, nonvoting members of the commission: The coordinator of the interregional project number four at Washington State University; the director of the department of ecology or the director's designee; the director of the department of agriculture or the director's designee; the director of the department of labor and industries or the director's designee; and the secretary of the department of health or the secretary's designee.

(2) Each voting member of the commission shall serve a term of three years. However, the first appointments in the first year shall be made by the governor for one, two, and

three-year terms so that, in subsequent years, approximately one-third of the voting members shall be appointed each year. The governor shall assign the initial one, two, and three-year terms to members by lot. A vacancy shall be filled by appointment for the unexpired term in the same manner provided for an appointment to the full term. No member of the commission may be removed by the governor during his or her term of office unless for cause of incapacity, incompetence, neglect of duty, or malfeasance in office. Each member of the commission shall receive travel expenses in accordance with RCW 43.03.050 and 43.03.060 for attending meetings of the commission and for performing special duties, in the way of official commission business, specifically assigned to the person by the commission. The voting members of the commission serve without compensation from the state other than such travel expenses.

(3) Nominations for the initial appointments to the commission under subsection (1) of this section shall be submitted by September 1, 1995. The governor shall make initial appointments to the commission by October 15, 1995.

(4) The commission shall elect a chair from among its voting members each calendar year. After its original organizational meeting, the commission shall meet at the call of the chair. A majority of the voting members of the commission constitutes a quorum and an official action of the commission may be taken by a majority vote of the voting members. [1995 c 390 § 1.]

**15.92.095 Pesticide registration—Washington State University—Restrictions on use of state money—Commission approval required.** (1) The following apply to the use of state moneys appropriated to Washington State University specifically and expressly for studies or activities regarding the registration of pesticides:

(a) The moneys may not be expended without the express approval of the commission on pesticide registration;

(b) The moneys may be used for: (i) Evaluations, studies, or investigations approved by the commission on pesticide registration regarding the registration or reregistration of pesticides for minor crops or minor uses or regarding the availability of pesticides for emergency uses. These evaluations, studies, or investigations may be conducted by the food and environmental quality laboratory or may be secured by the commission from other qualified laboratories, researchers, or contractors by contract, which contracts may include, but are not limited to, those purchasing the use of proprietary information; (ii) the tracking system described in RCW 15.92.060; and (iii) the support of the commission on pesticide registration and its activities; and

(c) Not less than twenty-five percent of such moneys shall be dedicated to studies or investigations concerning the registration or use of pesticides for crops that are not among the top twenty agricultural commodities in production value produced in the state, as determined annually by the Washington agricultural statistics service.

(2) The commission on pesticide registration shall establish priorities to guide it in approving the use of moneys for evaluations, studies, and investigations under this section. Each biennium, the commission shall prepare a contingency plan for providing funding for laboratory studies or investigations that are necessary to pesticide registrations

or related processes that will address emergency conditions for agricultural crops that are not generally predicted at the beginning of the biennium. [1995 c 390 § 2.]

**15.92.100 Commission on pesticide registration—Duties.** The commission on pesticide registration shall:

(1) Provide guidance to the food and environmental quality laboratory established in RCW 15.92.050 regarding the laboratory's studies, investigations, and evaluations concerning the registration of pesticides for use in this state for minor crops and minor uses and concerning the availability of pesticides for emergency uses;

(2) Encourage agricultural organizations to assist in providing funding, in-kind services, or materials for laboratory studies and investigations concerning the registration of pesticides for minor crops and minor uses that would benefit the organizations;

(3) Provide guidance to the laboratory regarding a program for: Tracking the availability of effective pesticides for minor crops, minor uses, and emergency uses; providing this information to organizations of agricultural producers; and maintaining close contact between the laboratory, the department of agriculture, and organizations of agricultural producers regarding the need for research to support the registration of pesticides for minor crops and minor uses and the availability of pesticides for emergency uses;

(4) Ensure that the activities of the commission and the laboratory are coordinated with the activities of other laboratories in the Pacific Northwest, the United States department of agriculture, and the United States environmental protection agency to maximize the effectiveness of regional efforts to assist in the registration of pesticides for minor crops and minor uses and in providing for the availability of pesticides for emergency uses for the region and the state; and

(5) Ensure that prior to approving any residue study that there is written confirmation of registrant support and willingness or ability to add the given minor crop to its label including any restrictions or guidelines the registrant intends to impose. [1995 c 390 § 3.]

**15.92.105 Commission on pesticide registration—Report on activities—Review by legislature.** By December 15, 2002, the commission shall file with the legislature a report on the activities supported by the commission for the period beginning on July 23, 1995, and ending on December 1, 2002. The report shall include an identification of: The priorities that have been set by the commission; the state appropriations made to Washington State University that have been within the jurisdiction of the commission; the evaluations, studies, and investigations funded in whole or in part by such moneys and the registrations and uses of pesticides made possible in large part by those evaluations, studies, and investigations; the matching moneys, in-kind services, and materials provided by agricultural organizations for those evaluations, studies, and investigations; and the program or programs for tracking pesticide availability provided by the laboratory under the guidance of the commission and the means used for providing this information to organizations of agricultural producers.

During the regular session of the legislature in the year 2003, the appropriate committees of the house of representatives and senate shall evaluate the effectiveness of the commission in fulfilling its statutory responsibilities. [1995 c 390 § 6.]

**15.92.110 Commission on pesticide registration—Receipt of gifts, grants, and endowments.** The commission on pesticide registration, and Washington State University on behalf of the commission, may receive such gifts, grants, and endowments from public or private sources as may be used from time to time, in trust or otherwise, for the use and benefit of the commission and expend the same or any income therefrom according to the terms of the gifts, grants, or endowments. [1995 c 390 § 7.]

## Title 16

### ANIMALS, ESTRAYS, BRANDS AND FENCES

#### Chapters

- 16.24** Stock restricted areas.  
**16.57** Identification of livestock.  
**16.65** Public livestock markets.

#### Chapter 16.24

##### STOCK RESTRICTED AREAS

#### Sections

- 16.24.130 Impounding—Notice—Copy to owner.  
 16.24.150 Sale of impounded animal—Retroactive effect.

#### **16.24.130 Impounding—Notice—Copy to owner.**

The brand inspector shall cause to be published once in a newspaper published in the county where the animal was found, a notice of the impounding.

The notice shall state:

- (1) A description of the animal, including brand, tattoo or other identifying characteristics;
- (2) When and where found;
- (3) Where impounded; and
- (4) That if unclaimed, the animal will be sold at a public livestock market sale or other public sale, and the date of such sale: PROVIDED, That if no newspaper shall be published in such county, copies of the notice shall be posted at four commonly frequented places therein.

If the animal is marked with a brand or tattoo which is registered with the director of agriculture, the brand inspector, on or before the date of publication or posting, shall send a copy of the notice to the owner of record by registered mail. [1995 c 374 § 69; 1975 1st ex.s. c 7 § 16; 1951 c 31 § 4. Formerly RCW 16.13.040.]

**Effective date—1995 c 374 §§ 69, 70, and 72-79:** "Sections 69, 70, and 72 through 79 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 16, 1995]." [1995 c 374 § 82.]

**16.24.150 Sale of impounded animal—Retroactive effect.** If no person shall claim the animal within ten days after the date of publication or posting of the notice, it shall be sold at the next succeeding public livestock market sale to be held at the sales yard where impounded, provided that in the director's discretion the department of agriculture may otherwise cause the animal to be sold at public sale.

The legislature intends this to be a clarification of existing law; therefore, this section shall have retroactive effect as of December 1, 1994. [1995 c 374 § 70; 1975 1st ex.s. c 7 § 17; 1951 c 31 § 6. Formerly RCW 16.13.060.]

**Effective date—1995 c 374 §§ 69, 70, and 72-79:** See note following RCW 16.24.130.

#### Chapter 16.57

##### IDENTIFICATION OF LIVESTOCK

#### Sections

- 16.57.220 Cattle and horses—Brand inspection charge—Lien—Fee schedule. (*Expires July 1, 1997.*)  
 16.57.220 Cattle and horses—Brand inspection charge—Lien—Fee schedule. (*Effective July 1, 1997.*)  
 16.57.230 Charges for brand inspection—Actual inspection required.  
 16.57.240 Record of cattle—Requirements—Exception.  
 16.57.280 Possession of livestock marked with another's brand—Penalty.  
 16.57.290 Unbranded and undocumented cattle and horses—Disposition.

**16.57.220 Cattle and horses—Brand inspection charge—Lien—Fee schedule. (*Expires July 1, 1997.*)** The director shall cause a charge to be made for all brand inspection of cattle and horses required under this chapter and rules adopted hereunder. Such charges shall be paid to the department by the owner or person in possession unless requested by the purchaser and then such brand inspection shall be paid by the purchaser requesting such brand inspection. Except as provided by rule, such inspection charges shall be due and payable at the time brand inspection is performed and shall be paid upon billing by the department and if not shall constitute a prior lien on the cattle or cattle hides or horses or horse hides brand inspected until such charge is paid. The director in order to best utilize the services of the department in performing brand inspection may establish schedules by days and hours when a brand inspector will be on duty to perform brand inspection at established inspection points. The fees for brand inspection shall be not less than fifty cents nor more than seventy-five cents per head for cattle and not less than two dollars nor more than three dollars per head for horses as prescribed by the director by rule subsequent to a hearing under chapter 34.05 RCW and in conformance with RCW 16.57.015. Fees for brand inspection of cattle and horses at points other than those designated by the director or not in accord with the schedules established by the director shall be based on a fee schedule not to exceed actual net cost to the department of performing the brand inspection service. For the purpose of this section, actual costs shall mean fifteen dollars per hour and the current mileage rate set by the office of financial management. [1995 c 374 § 48; 1994 c 46 § 19; 1993 c 354 § 8; 1981 c 296 § 17; 1971 ex.s. c 135 § 5; 1967 c 240 § 35; 1959 c 54 § 22.]

**Effective date—Expiration date—1995 c 374 §§ 48, 49, 56, and 57:** "(1) Sections 49 and 57 of this act shall take effect July 1, 1997.

(2) Sections 48 and 56 of this act shall expire July 1, 1997." [1995 c 374 § 58.]

**Effective date—1994 c 46:** See note following RCW 15.58.070.

**Prior legislative approval—1994 c 46:** See note following RCW 16.65.030.

**Severability—1981 c 296:** See note following RCW 15.04.020.

**16.57.220 Cattle and horses—Brand inspection charge—Lien—Fee schedule. (Effective July 1, 1997.)**

The director shall cause a charge to be made for all brand inspection of cattle and horses required under this chapter and rules adopted hereunder. Such charges shall be paid to the department by the owner or person in possession unless requested by the purchaser and then such brand inspection shall be paid by the purchaser requesting such brand inspection. Except as provided by rule, such inspection charges shall be due and payable at the time brand inspection is performed and shall be paid upon billing by the department and if not shall constitute a prior lien on the cattle or cattle hides or horses or horse hides brand inspected until such charge is paid. The director in order to best utilize the services of the department in performing brand inspection may establish schedules by days and hours when a brand inspector will be on duty to perform brand inspection at established inspection points. The fees for brand inspection performed at inspection points according to schedules established by the director shall be sixty cents per head for cattle and not more than two dollars and forty cents per head for horses as prescribed by the director subsequent to a hearing under chapter 34.05 RCW and in conformance with RCW 16.57.015. Fees for brand inspection of cattle and horses at points other than those designated by the director or not in accord with the schedules established by the director shall be based on a fee schedule not to exceed actual net cost to the department of performing the brand inspection service. For the purpose of this section, actual costs shall mean fifteen dollars per hour and the current mileage rate set by the office of financial management. [1995 c 374 § 49. Prior: 1994 c 46 § 25; 1994 c 46 § 19; 1993 c 354 § 8; 1981 c 296 § 17; 1971 ex.s. c 135 § 5; 1967 c 240 § 35; 1959 c 54 § 22.]

**Effective date—Expiration date—1995 c 374 §§ 48, 49, 56, and 57:** See note following RCW 16.57.220.

**Effective date—1994 c 46:** See note following RCW 16.65.030.

**Effective date—1994 c 46:** See note following RCW 15.58.070.

**Prior legislative approval—1994 c 46:** See note following RCW 16.65.030.

**Severability—1981 c 296:** See note following RCW 15.04.020.

**16.57.230 Charges for brand inspection—Actual inspection required.**

No person shall collect or make a charge for brand inspection of livestock unless there has been an actual brand inspection of such livestock. [1995 c 374 § 50; 1959 c 54 § 23.]

**Effective date—1995 c 374 §§ 1-47, 50-53, and 59-68:** See note following RCW 15.36.012.

**16.57.240 Record of cattle—Requirements—**

**Exception.** Any person purchasing, selling, holding for sale, trading, bartering, transferring title, slaughtering, handling,

or transporting cattle shall keep a record on forms prescribed by the director. Such forms shall show the number, specie, brand or other method of identification of such cattle and any other necessary information required by the director. The original shall be kept for a period of three years or shall be furnished to the director upon demand or as prescribed by rule, one copy shall accompany the cattle to their destination and shall be subject to inspection at any time by the director or any peace officer or member of the state patrol: PROVIDED, That in the following instances only, cattle may be moved or transported within this state without being accompanied by an official certificate of permit, brand inspection certificate, bill of sale, or self-inspection slip:

(1) When such cattle are moved or transported upon lands under the exclusive control of the person moving or transporting such cattle;

(2) When such cattle are being moved or transported for temporary grazing or feeding purposes and have the registered brand of the person having or transporting such cattle. [1995 c 374 § 51; 1991 c 110 § 4; 1985 c 415 § 8; 1981 c 296 § 18; 1959 c 54 § 24.]

**Effective date—1995 c 374 §§ 1-47, 50-53, and 59-68:** See note following RCW 15.36.012.

**Severability—1981 c 296:** See note following RCW 15.04.020.

**16.57.280 Possession of livestock marked with another's brand—Penalty.** No person shall knowingly have unlawful possession of any livestock marked with a recorded brand or tattoo of another person unless:

(1) Such livestock lawfully bears the person's own healed recorded brand; or

(2) Such livestock is accompanied by a certificate of permit from the owner of the recorded brand or tattoo; or

(3) Such livestock is accompanied by a brand inspection certificate; or

(4) Such cattle is accompanied by a self-inspection slip; or

(5) Such livestock is accompanied by a bill of sale from the previous owner or other satisfactory proof of ownership.

A violation of this section constitutes a gross misdemeanor punishable to the same extent as a gross misdemeanor or that is punishable under RCW 9A.20.021. [1995 c 374 § 52; 1991 c 110 § 5; 1959 c 54 § 28.]

**Effective date—1995 c 374 §§ 1-47, 50-53, and 59-68:** See note following RCW 15.36.012.

**16.57.290 Unbranded and undocumented cattle and horses—Disposition.**

All unbranded cattle and horses and those bearing brands not recorded, in the current edition of this state's brand book, which are not accompanied by a certificate of permit, and those bearing brands recorded, in the current edition of this state's brand book, which are not accompanied by a certificate of permit signed by the owner of the brand when presented for inspection by the director, shall be sold by the director or the director's representative, unless other satisfactory proof of ownership is presented showing the person presenting them to be lawfully in possession. Upon the sale of such cattle or horses, the director or the director's representative shall give the purchasers a bill of sale therefor, or, if theft is suspected, the cattle or horses may be impounded by the director or the

director's representative. [1995 c 374 § 53; 1989 c 286 § 23; 1981 c 296 § 20; 1979 c 154 § 18; 1967 ex.s. c 120 § 6; 1959 c 54 § 29.]

**Effective date—1995 c 374 §§ 1-47, 50-53, and 59-68:** See note following RCW 15.36.012.

**Severability—1989 c 286:** See note following RCW 16.04.010.

**Severability—1981 c 296:** See note following RCW 15.04.020.

**Severability—1979 c 154:** See note following RCW 15.49.330.

**Chapter 16.65**

**PUBLIC LIVESTOCK MARKETS**

Sections

- 16.65.030 Public livestock market license—Application—Fee.
- 16.65.035 Approval of application—License—Fee—Rules. (*Expires July 1, 1997.*)
- 16.65.037 Approval of application—License—Fee—Rules. (*Effective July 1, 1997.*)

**16.65.030 Public livestock market license—Application—Fee.** (1) On and after June 10, 1959, no person shall operate a public livestock market without first having obtained a license from the director. Application for such license shall be in writing on forms prescribed by the director, and shall include the following:

- (a) A nonrefundable original license application fee of fifteen hundred dollars.
- (b) A legal description of the property upon which the public livestock market shall be located.
- (c) A complete description and blueprints or plans of the public livestock market physical plant, yards, pens, and all facilities the applicant proposes to use in the operation of such public livestock market.
- (d) A detailed statement showing all the assets and liabilities of the applicant which must reflect a sufficient net worth to construct or operate a public livestock market.
- (e) The schedule of rates and charges the applicant proposes to impose on the owners of livestock for services rendered in the operation of such livestock market.
- (f) The weekly or monthly sales day or days on which the applicant proposes to operate his or her public livestock market sales.
- (g) Projected source and quantity of livestock, by county, anticipated to be handled.
- (h) Projected income and expense statements for the first year's operation.
- (i) Facts upon which are based the conclusion that the trade area and the livestock industry will benefit because of the proposed market.
- (j) Such other information as the director may reasonably require.

(2) The director shall, after public hearing as provided by chapter 34.05 RCW, grant or deny an application for original license for a public livestock market after considering evidence and testimony relating to all of the requirements of this section and giving reasonable consideration at the same hearing to:

- (a) Benefits to the livestock industry to be derived from the establishment and operation of the public livestock market proposed in the application; and

(b) The present market services elsewhere available to the trade area proposed to be served.

(3) Applications for renewal under RCW 16.65.040 shall include all information under subsection (1) of this section, except subsection (1)(a) of this section. [1995 c 374 § 54; (1994 c 46 § 21 repealed by 1995 c 374 § 55); 1994 c 46 § 12; 1993 c 354 § 1; 1991 c 17 § 1; 1979 ex.s. c 91 § 1; 1971 ex.s. c 192 § 1; 1967 ex.s. c 120 § 5; 1961 c 182 § 2; 1959 c 107 § 3.]

**Prior legislative approval—1994 c 46:** "The reenactment of sections 12 through 20 of this act constitutes approval of fee increases for which prior legislative approval is required by RCW 43.135.055 (section 8, chapter 2, Laws of 1994, Initiative Measure No. 601)." [1994 c 46 § 26.]

**Effective date—1994 c 46:** See note following RCW 15.58.070.

**16.65.035 Approval of application—License—Fee—Rules. (*Expires July 1, 1997.*)** (1) Upon the approval of the application by the director and compliance with the provisions of this chapter, the applicant shall be issued a license or renewal thereof. Any license issued under the provisions of this chapter shall only be valid at location and for the sales day or days for which the license was issued.

(2) The license fee shall be based on the average gross sales volume per official sales day of that market:

- (a) Markets with an average gross sales volume up to and including ten thousand dollars, a fee of no less than one hundred dollars or more than one hundred fifty dollars;
- (b) Markets with an average gross sales volume over ten thousand dollars and up to and including fifty thousand dollars, a fee of no less than two hundred dollars or more than three hundred fifty dollars; and
- (c) Markets with an average gross sales volume over fifty thousand dollars, a fee of no less than three hundred dollars or more than four hundred fifty dollars.

The fees for public livestock market licenses shall be set by the director by rule subsequent to a hearing under chapter 34.05 RCW and in conformance with RCW 16.57.015.

(3) Any applicant operating more than one public livestock market shall make a separate application for a license to operate each such public livestock market, and each such application shall be accompanied by the appropriate application fee. [1995 c 374 § 56.]

**Effective date—Expiration date—1995 c 374 §§ 48, 49, 56, and 57:** See note following RCW 16.57.220.

**16.65.037 Approval of application—License—Fee—Rules. (*Effective July 1, 1997.*)** (1) Upon the approval of the application by the director and compliance with the provisions of this chapter, the applicant shall be issued a license or renewal thereof. Any license issued under the provisions of this chapter shall only be valid at location and for the sales day or days for which the license was issued.

(2) The license fee shall be based on the average gross sales volume per official sales day of that market:

- (a) Markets with an average gross sales volume up to and including ten thousand dollars, a one hundred twenty dollar fee;
- (b) Markets with an average gross sales volume over ten thousand dollars and up to and including fifty thousand dollars, a two hundred forty dollar fee; and
- (c) Markets with an average gross sales volume over fifty thousand dollars, a three hundred sixty dollar fee.

The fees for public market licenses shall be set by the director by rule subsequent to a hearing under chapter 34.05 RCW and in conformance with RCW 16.57.015.

(3) Any applicant operating more than one public livestock market shall make a separate application for a license to operate each such public livestock market, and each such application shall be accompanied by the appropriate application fee. [1995 c 374 § 57.]

**Effective date—Expiration date—1995 c 374 §§ 48, 49, 56, and 57:** See note following RCW 16.57.220.

## Title 17

### WEEDS, RODENTS AND PESTS

#### Chapters

- 17.10** Noxious weeds—Control boards.  
**17.26** Control of spartina and purple loosestrife.

#### Chapter 17.10

### NOXIOUS WEEDS—CONTROL BOARDS

#### Sections

- 17.10.005 Findings—Intent.  
 17.10.010 Definitions.  
 17.10.145 State agencies' duty to control spread of noxious weeds.  
 17.10.240 Special assessments, appropriations for noxious weed control—Assessment rates.

**17.10.005 Findings—Intent.** The legislature finds that in Washington, the loss of state lands from productive use due to infestation by noxious weeds is a major public concern.

It is the intent of the legislature that serious and fundamental policy direction be given to state agencies to:

- (1) Ensure that state lands set an example of excellence in noxious weed control and eradication on state lands;
- (2) Halt the spread of noxious weeds from state to private lands;
- (3) Recognize that state agencies are ultimately responsible for noxious weed control on state land, regardless of type, timing, or amount of use;
- (4) Recognize that the public is not well served by the spread of noxious weeds on state lands, in part, because of the decrease in wildlife habitat and loss of land productivity.

The legislature further finds that biological control agents represent one of the only cost-effective control measures for existing, widespread noxious weed infestations. Members of the genus *Centaurea*, commonly referred to as knapweeds, currently infest and destroy the productivity of hundreds of thousands of acres in Washington. [1995 c 374 § 72.]

**Effective date—1995 c 374 §§ 69, 70, and 72-79:** See note following RCW 16.24.130.

**17.10.010 Definitions.** Unless a different meaning is plainly required by the context, the following words and phrases as hereinafter used in this chapter shall have the following meanings:

(1) "Noxious weed" means any plant which when established is highly destructive, competitive, or difficult to control by cultural or chemical practices.

(2) "State noxious weed list" means a list of noxious weeds adopted by the state noxious weed control board which list is divided into three classes:

(a) Class A shall consist of those noxious weeds not native to the state that are of limited distribution or are unrecorded in the state and that pose a serious threat to the state;

(b) Class B shall consist of those noxious weeds not native to the state that are of limited distribution or are unrecorded in a region of the state and that pose a serious threat to that region;

(c) Class C shall consist of any other noxious weeds.

(3) "Person" means any individual, partnership, corporation, firm, the state or any department, agency, or subdivision thereof, or any other entity.

(4) "Owner" means the person in actual control of property, or his agent, whether such control is based on legal or equitable title or on any other interest entitling the holder to possession and, for purposes of liability, pursuant to RCW 17.10.170 or 17.10.210, means the possessor of legal or equitable title or the possessor of an easement: PROVIDED, That when the possessor of an easement has the right to control or limit the growth of vegetation within the boundaries of an easement, only the possessor of such easement shall be deemed, for the purpose of this chapter, an "owner" of the property within the boundaries of such easement.

(5) As pertains to the duty of an owner, the words "control", "contain", "eradicate", and the term "prevent the spread of noxious weeds" shall mean conforming to the standards of noxious weed control or prevention adopted by rule or regulation by the state noxious weed control board and an activated county noxious weed control board.

(6) "Agent" means any occupant or any other person acting for the owner and working or in charge of the land.

(7) "Agricultural purposes" are those which are intended to provide for the growth and harvest of food and fiber.

(8) "Director" means the director of the department of agriculture or the director's appointed representative.

(9) "Weed district" means a weed district as defined in chapters 17.04 and 17.06 RCW.

(10) "Aquatic noxious weed" means an aquatic plant species that is listed on the state weed list under RCW 17.10.080. [1995 c 255 § 6; 1987 c 438 § 1; 1975 1st ex.s. c 13 § 1; 1969 ex.s. c 113 § 1.]

**Severability—Effective date—1995 c 255:** See RCW 17.26.900 and 17.26.901.

**17.10.145 State agencies' duty to control spread of noxious weeds.** All state agencies shall control noxious weeds on lands they own, lease, or otherwise control. Agencies shall develop plans to control noxious weeds in accordance with standards in this chapter. All state agencies' lands must comply with this chapter, regardless of noxious weed control efforts on adjacent lands. County noxious weed control boards shall assist landowners to meet and exceed the standards on state lands. [1995 c 374 § 75.]

**Effective date—1995 c 374 §§ 69, 70, and 72-79:** See note following RCW 16.24.130.



**17.10.240 Special assessments, appropriations for noxious weed control—Assessment rates.** The activated county noxious weed control board of each county shall annually submit a budget to the county legislative authority for the operating cost of the county's weed program for the ensuing fiscal year: PROVIDED, That if the board finds the budget approved by the legislative authority is insufficient for an effective county noxious weed control program it shall petition the county legislative authority to hold a hearing as provided in RCW 17.10.890. Control of weeds is a special benefit to the lands within any such section. Funding for the budget shall be derived from any or all of the following:

(1) The county legislative authority may, in lieu of a tax, levy an assessment against the land for this purpose. Prior to the levying of an assessment the county noxious weed control board shall hold a public hearing at which it shall gather information to serve as a basis for classification and shall then classify the lands into suitable classifications, including but not limited to dry lands, range lands, irrigated lands, nonuse lands, forest lands, or federal lands. The board shall develop and forward to the county legislative authority, as a proposed level of assessment for each class, such an amount as shall seem just. The assessment rate shall be either uniform per acre in its respective class or a flat rate per parcel rate plus a uniform rate per acre: PROVIDED, That if no special benefits should be found to accrue to a class of land, a zero assessment may be levied. The legislative authority, upon receipt of the proposed levels of assessment from the board, after a hearing, shall accept, modify, or refer back to the board for its reconsideration all or any portion of the proposed levels of assessment. The findings by the county legislative authority of such special benefits, when so declared by resolution and spread upon the minutes of said authority shall be conclusive as to whether or not the same constitutes a special benefit to the lands within the section. The amount of such assessment shall constitute a lien against the property. The county legislative authority may by resolution or ordinance require that notice of the lien be sent to each owner of property for which the assessment has not been paid by the date it was due and that each such lien created shall be collected by the treasurer in the same manner as delinquent real property tax, if within thirty days from the date the owner is sent notice of the lien, including the amount thereof, the lien remains unpaid and an appeal has not been made pursuant to RCW 17.10.180. Liens treated as delinquent taxes shall bear interest at the rate of twelve percent per annum and such interest shall accrue as of the date notice of the lien is sent to the owner: PROVIDED FURTHER, That any collections for such lien shall not be considered as tax; or

(2) The county legislative authority may appropriate money from the county general fund necessary for the administration of the county noxious weed control program. In addition the county legislative authority may make emergency appropriations as it deems necessary for the implementation of this chapter.

(3) Forest lands used solely for the planting, growing, or harvesting of trees and which are typified, except during a single period of five years following clear-cut logging, by canopies so dense as to prohibit growth of an understory may be subject to an annual noxious weed assessment levied

by a county legislative authority that shall not exceed one-tenth of the weighted average per acre noxious weed assessment levied on all other lands in unincorporated areas within the county that are subject to the weed assessment. This assessment shall be computed in accordance with the formula in subsection (4) of this section.

(4) The calculation of the "weighted average per acre noxious weed assessment" shall be a ratio expressed as follows: (a) The numerator shall be the total amount of funds estimated to be collected from the per acre assessment on all lands except (i) forest lands as identified in subsection (3) of this section, (ii) lands exempt from the noxious weed assessment, and (iii) lands located in an incorporated area. (b) The denominator shall be the total acreage from which funds in (a) of this subsection are collected. For lands of less than one acre in size, the denominator calculation may be based on the following assumptions: (i) Unimproved lands shall be calculated as being one-half acre in size on the average, and (ii) improved lands shall be calculated as being one-third acre in size on the average. The county legislative authority may choose to calculate the denominator for lands of less than one acre in size using other assumptions about average parcel size based on local information.

(5) For those counties that levy a per parcel assessment to help fund noxious weed control programs, the per parcel assessment on forest lands as defined in subsection (3) of this section shall not exceed one-tenth of the per parcel assessment on nonforest lands. [1995 c 374 § 77; 1987 c 438 § 31; 1975 1st ex.s. c 13 § 10; 1969 ex.s. c 113 § 24.]

**Effective date—1995 c 374 §§ 69, 70, and 72-79:** See note following RCW 16.24.130.

## Chapter 17.26

### CONTROL OF SPARTINA AND PURPLE LOOSESTRIFE

#### Sections

17.26.005	Findings.
17.26.006	Findings—Purpose.
17.26.007	Findings—Application to appropriations.
17.26.010	Restriction on state agencies and local governments.
17.26.011	Spartina removal includes restoration—Study.
17.26.015	Lead agency—Responsibilities.
17.26.020	High priority for all state agencies—Definitions.
17.26.900	Severability—1995 c 255.
17.26.901	Effective date—1995 c 255.

#### 17.26.005 Findings. The legislature finds that:

(1) *Spartina alterniflora*, *Spartina anglica*, *Spartina x townsendii*, and *Spartina patens* which are collectively called spartina are not native to the state of Washington nor to the west coast of North America. This noxious weed was inadvertently introduced into the wetlands of the state and is now aggressively invading new areas to the detriment of native ecosystems and aquatic habitat. The spread of spartina threatens to permanently convert and displace native freshwater and saltwater wetlands and intertidal zones, including critical habitat for migratory birds, many fish species, bivalves, invertebrates, marine mammals, and other animals. The continued spread of spartina will permanently reduce the diversity and the quantity of these species and will have a significant negative environmental impact.

Spartina poses a significant hydrological threat. Clumps and meadows of spartina are dense environments that bind sediments and lift the intertidal gradient up out of the intertidal zone through time. This process reduces flows during flood conditions, raises flood levels, and significantly alters the hydrological regime of estuarine areas.

Spartina spreads by rhizomes and seed production. Through lateral growth by rhizomes, spartina establishes a dense monotypic meadow. Through seed production and the spread of seed through the air and by water, spartina is currently being spread to other states and to Canadian provinces.

(2) Purple loosestrife was first documented in the state in 1929 along freshwater shorelands. It is now present throughout the state and is particularly abundant in Grant county and its neighboring counties. The plant appears to be colonizing more rapidly on the eastern side of the state than on the western side. It was first introduced to the Winchester wasteway area in the 1960's and has invaded the area rapidly. Purple loosestrife is displacing native plants and as a result is threatening an extremely important part of this state's wildlife habitat. *Lythrum salicaria* and *L. virgatum* are closely related loosestrife species that are morphologically similar and not easily distinguished from each other in the field. Both species have been referred to as purple loosestrife.

(3) Current laws and rules designed to protect the environment and preserve the wetland habitats, fish, and wildlife of the state are not designed to respond to an ecosystem-wide threat of this kind. State and federal agencies, local governments, weed boards, concerned individuals, and property owners attempting to deal with the ecological emergency posed by spartina and purple loosestrife infestations have been frustrated by interagency disagreements, demands for an undue amount of procedural and scientific process and information, dilatory appeals, and the improper application of laws and regulations by agencies that have in fact undermined the legislative purposes of those same laws while ignoring the long-term implications of delay and inaction. There is a compelling need for strong leadership, coordination, and reporting by a single state agency to respond appropriately to this urgent environmental challenge.

Any further delay of control efforts will significantly increase the cost of spartina and purple loosestrife control and reduce the likelihood of long-term success. Control efforts must be coordinated across political and ownership boundaries in order to be effective.

(4) The presence of noxious weeds on public lands constitutes a public nuisance and negatively impacts public and private lands. The legislature finds that control and eradication of noxious weeds on private lands is in the public interest. [1995 c 255 § 1.]

**17.26.006 Findings—Purpose.** This state is facing an environmental disaster that will affect other states as well as other nations. The legislature finds that six years is sufficient time for state agencies to debate solutions to the spartina and purple loosestrife problems that are occurring in state waters. One of the purposes of chapter 255, Laws of 1995 is to focus agency action on control and future eradication of spartina and purple loosestrife. It is the mandate of

the legislature that one state agency, the department of agriculture, be responsible for a unified effort to eliminate spartina and control purple loosestrife, with the advice of the state noxious weed control board, and that state agency shall be directly accountable to the legislature on the progress of the spartina eradication and purple loosestrife control program. [1995 c 255 § 2.]

**17.26.007 Findings—Application to appropriations.**

This section applies to appropriations made to the department of agriculture specifically for the removal or control of spartina or purple loosestrife or both plants. The legislature finds that: The presence of spartina or purple loosestrife on private lands threatens wildlife habitat and provides a source of renewed infestation for public lands; and effective eradication or control of spartina or purple loosestrife requires concerted efforts on both public and private lands to protect public resources. The department of agriculture may grant funds to other state agencies, local governments, and nonprofit corporations for eradication or control purposes and may use those moneys itself. The department of agriculture may match private funds for eradication or control programs on private property on a fifty-fifty matching basis. The accounting and supervision of the funds at the local level shall be conducted by the department of agriculture. [1995 c 255 § 11.]

**17.26.010 Restriction on state agencies and local governments.** State agencies and local governments may not use any other local, state, or federal permitting requirement, regulatory authority, or legal mechanism to override the legislative intent and statutory mandates of chapter 255, Laws of 1995. [1995 c 255 § 8.]

**17.26.011 Spartina removal includes restoration—Study.** Spartina removal shall include restoration to return intertidal land and other infested lands to the condition found on adjacent unaffected lands in the same tidal elevation. The department of fish and wildlife, the department of ecology, the department of agriculture, and the department of natural resources shall develop a restoration plan in cooperation with owners of spartina infested lands and shall submit the plan to the appropriate standing committees of the house of representatives and the senate by December 31, 1995. [1995 c 255 § 9.]

**17.26.015 Lead agency—Responsibilities.** (1) The state department of agriculture is the lead agency for the control of spartina and purple loosestrife with the advice of the state noxious weed control board.

(2) Responsibilities of the lead agency include:

(a) Coordination of the control program including memorandums of understanding, contracts, and agreements with local, state, federal, and tribal governmental entities and private parties;

(b) Preparation of a state-wide spartina management plan utilizing integrated vegetation management strategies that encompass all of Washington's tidelands. The plan shall be developed in cooperation with local, state, federal, and tribal governments, private landowners, and concerned citizens. The plan shall prioritize areas for control. Nothing

in this subsection prohibits the department from taking action to control spartina in a particular area of the state in accordance with a plan previously prepared by the state while preparing the state-wide plan;

(c) Directing on the ground control efforts that include, but are not limited to: (i) Control work and contracts; (ii) spartina survey; (iii) collection and maintenance of spartina location data; (iv) purchasing equipment, goods, and services; (v) survey of threatened and endangered species; and (vi) site-specific environmental information and documents; and

(d) Evaluating the effectiveness of the control efforts.

The lead agency shall report to the appropriate standing committees of the house of representatives and the senate no later than May 15th and December 15th of each year through the year 1999 on the progress of the program, the number of acres treated by various methods of control, and on the funds spent. [1995 c 255 § 10.]

#### **17.26.020 High priority for all state agencies—**

**Definitions.** (1) Facilitating the control of spartina and purple loosestrife is a high priority for all state agencies.

(2) The department of natural resources is responsible for spartina and purple loosestrife control on state-owned aquatic lands managed by the department of natural resources.

(3) The department of fish and wildlife is responsible for spartina and purple loosestrife control on state-owned aquatic lands managed by the department of fish and wildlife.

(4) The state parks and recreation commission is responsible for spartina and purple loosestrife control on state-owned aquatic lands managed by the state parks and recreation commission.

(5) Unless the context clearly requires otherwise, the definitions in this subsection apply throughout this chapter, RCW 90.48.020, 90.58.030, and 75.20.108:

(a) "Spartina" means *Spartina alterniflora*, *Spartina anglica*, *Spartina x townsendii*, and *Spartina patens*.

(b) "Purple loosestrife" means *Lythrum salicaria* and *Lythrum virgatum*.

(c) "Aquatic noxious weed" means an aquatic weed on the state noxious weed list adopted under RCW 17.10.080. [1995 c 255 § 12.]

**17.26.900 Severability—1995 c 255.** 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. [1995 c 255 § 14.]

**17.26.901 Effective date—1995 c 255.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 5, 1995]. [1995 c 255 § 15.]

## **Title 18**

### **BUSINESSES AND PROFESSIONS**

#### **Chapters**

<b>18.06</b>	<b>Acupuncture.</b>
<b>18.16</b>	<b>Cosmetologists, barbers, and manicurists.</b>
<b>18.19</b>	<b>Counselors.</b>
<b>18.20</b>	<b>Boarding homes.</b>
<b>18.25</b>	<b>Chiropractic.</b>
<b>18.29</b>	<b>Dental hygienist.</b>
<b>18.30</b>	<b>Denturists.</b>
<b>18.32</b>	<b>Dentistry.</b>
<b>18.34</b>	<b>Dispensing opticians.</b>
<b>18.39</b>	<b>Embalmers—Funeral directors.</b>
<b>18.43</b>	<b>Engineers and land surveyors.</b>
<b>18.44</b>	<b>Escrow agent registration act.</b>
<b>18.46</b>	<b>Maternity homes.</b>
<b>18.48</b>	<b>Adult family homes.</b>
<b>18.51</b>	<b>Nursing homes.</b>
<b>18.53</b>	<b>Optometry.</b>
<b>18.54</b>	<b>Optometry board.</b>
<b>18.64</b>	<b>Pharmacists.</b>
<b>18.64A</b>	<b>Pharmacy assistants.</b>
<b>18.71</b>	<b>Physicians.</b>
<b>18.74</b>	<b>Physical therapy.</b>
<b>18.79</b>	<b>Nursing care.</b>
<b>18.83</b>	<b>Psychologists.</b>
<b>18.85</b>	<b>Real estate brokers and salespersons.</b>
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<b>18.92</b>	<b>Veterinary medicine, surgery, and dentistry.</b>
<b>18.100</b>	<b>Professional service corporations.</b>
<b>18.104</b>	<b>Water well construction.</b>
<b>18.106</b>	<b>Plumbers.</b>
<b>18.108</b>	<b>Massage practitioners.</b>
<b>18.120</b>	<b>Regulation of health professions—Criteria.</b>
<b>18.130</b>	<b>Regulation of health professions—Uniform disciplinary act.</b>
<b>18.145</b>	<b>Court reporting practice act.</b>
<b>18.165</b>	<b>Private detectives.</b>
<b>18.170</b>	<b>Security guards.</b>

#### **Chapter 18.06**

#### **ACUPUNCTURE**

##### **Sections**

18.06.010	Definitions.
18.06.020	Practice without license unlawful.
18.06.045	Exemptions from chapter.
18.06.080	Authority of secretary—Examination—Contents—Ad hoc committee—Immunity.
18.06.090	Fluency in English required.
18.06.110	Application of Uniform Disciplinary Act.
18.06.120	Annual registration—Renewal—Fee—Lapse.
18.06.130	Patient information form.
18.06.140	Consultation and referral to other health care practitioners.
18.06.190	Licensing by endorsement.
18.06.200	Health care insurance benefits not mandatory.

**18.06.010 Definitions.** The following terms in this chapter shall have the meanings set forth in this section unless the context clearly indicates otherwise:

(1) "Acupuncture" means a health care service based on an Oriental system of medical theory utilizing Oriental diagnosis and treatment to promote health and treat organic or functional disorders by treating specific acupuncture points or meridians. Acupuncture includes the following techniques:

- (a) Use of acupuncture needles to stimulate acupuncture points and meridians;
- (b) Use of electrical, mechanical, or magnetic devices to stimulate acupuncture points and meridians;
- (c) Moxibustion;
- (d) Acupressure;
- (e) Cupping;
- (f) Dermal friction technique;
- (g) Infra-red;
- (h) Sonopuncture;
- (i) Laserpuncture;
- (j) Point injection therapy (aquapuncture); and
- (k) Dietary advice based on Oriental medical theory provided in conjunction with techniques under (a) through (j) of this subsection.

(2) "Acupuncturist" means a person licensed under this chapter.

(3) "Department" means the department of health.

(4) "Secretary" means the secretary of health or the secretary's designee. [1995 c 323 § 4; 1992 c 110 § 1; 1991 c 3 § 4; 1985 c 326 § 1.]

**18.06.020 Practice without license unlawful.** (1) No one may hold themselves out to the public as an acupuncturist or licensed acupuncturist or any derivative thereof which is intended to or is likely to lead the public to believe such a person is an acupuncturist or licensed acupuncturist unless licensed as provided for in this chapter.

(2) A person may not practice acupuncture if the person is not licensed under this chapter.

(3) No one may use any configuration of letters after their name (including Ac.) which indicates a degree or formal training in acupuncture unless licensed as provided for in this chapter.

(4) The secretary may by rule proscribe or regulate advertising and other forms of patient solicitation which are likely to mislead or deceive the public as to whether someone is licensed under this chapter. [1995 c 323 § 5; 1991 c 3 § 5; 1985 c 326 § 2.]

**18.06.045 Exemptions from chapter.** Nothing in this chapter shall be construed to prohibit or restrict:

(1) The practice by an individual credentialed under the laws of this state and performing services within such individual's authorized scope of practice;

(2) The practice by an individual employed by the government of the United States while engaged in the performance of duties prescribed by the laws of the United States;

(3) The practice by a person who is a regular student in an educational program approved by the secretary, and whose performance of services is pursuant to a regular course of instruction or assignments from an instructor and under the general supervision of the instructor;

(4) The practice of acupuncture by any person credentialed to perform acupuncture in any other jurisdiction where such person is doing so in the course of regular instruction of a school of acupuncture approved by the secretary or in an educational seminar by a professional organization of acupuncture, provided that in the latter case, the practice is supervised directly by a person licensed under this chapter or licensed under any other healing art whose scope of practice includes acupuncture. [1995 c 323 § 6; 1992 c 110 § 2.]

**18.06.080 Authority of secretary—Examination—Contents—Ad hoc committee—Immunity.** (1) The secretary is hereby authorized and empowered to execute the provisions of this chapter and shall offer examinations in acupuncture at least twice a year at such times and places as the secretary may select. The examination shall be a written examination and may include a practical examination.

(2) The secretary shall develop or approve a licensure examination in the subjects that the secretary determines are within the scope of and commensurate with the work performed by licensed acupuncturists and shall include but not necessarily be limited to anatomy, physiology, microbiology, biochemistry, pathology, hygiene, and acupuncture. All application papers shall be deposited with the secretary and there retained for at least one year, when they may be destroyed.

(3) If the examination is successfully passed, the secretary shall confer on such candidate the title of Licensed Acupuncturist.

(4) The secretary may appoint members of the profession to serve in an ad hoc advisory capacity to the secretary in carrying out this chapter. The members will serve for designated times and provide advice on matters specifically identified and requested by the secretary. The members shall be compensated in accordance with RCW 43.03.220 and reimbursed for travel expenses under RCW 43.03.040 and 43.03.060.

(5) The secretary, ad hoc committee members, or individuals acting in their behalf are immune from suit in a civil action based on any certification or disciplinary proceedings or other official acts performed in the course of their duties. [1995 c 323 § 7; 1994 sp.s. c 9 § 502; 1992 c 110 § 3; 1991 c 3 § 10; 1985 c 326 § 8.]

**Severability—Headings and captions not law—Effective date—1994 sp.s. c 9:** See RCW 18.79.900 through 18.79.902.

*Health professions advisory committee: RCW 18.138.120.*

**18.06.090 Fluency in English required.** Before licensure, each applicant shall demonstrate sufficient fluency in reading, speaking, and understanding the English language to enable the applicant to communicate with other health care providers and patients concerning health care problems and treatment. [1995 c 323 § 8; 1985 c 326 § 9.]

**18.06.110 Application of Uniform Disciplinary Act.** The Uniform Disciplinary Act, chapter 18.130 RCW, governs uncertified practice, the issuance and denial of licenses, and the disciplining of license holders under this chapter. The secretary shall be the disciplining authority

under this chapter. [1995 c 323 § 9; 1991 c 3 § 11; 1987 c 150 § 9; 1985 c 326 § 11.]

**Severability—1987 c 150:** See RCW 18.122.901.

**18.06.120 Annual registration—Renewal—Fee—**

**Lapse.** (1) Every person licensed in acupuncture shall register with the secretary annually and pay an annual renewal fee determined by the secretary as provided in RCW 43.70.250 on or before the license holder's birth anniversary date. The license of the person shall be renewed for a period of one year or longer in the discretion of the secretary. A person whose practice is exclusively out-of-state or who is on sabbatical shall be granted an inactive licensure status and pay a reduced fee. The reduced fee shall be set by the secretary under RCW 43.70.250.

(2) Any failure to register and pay the annual renewal fee shall render the license invalid. The license shall be reinstated upon: (a) Written application to the secretary; (b) payment to the state of a penalty fee determined by the secretary as provided in RCW 43.70.250; and (c) payment to the state of all delinquent annual license renewal fees.

(3) Any person who fails to renew his or her license for a period of three years shall not be entitled to renew the licensure under this section. Such person, in order to obtain a licensure in acupuncture in this state, shall file a new application under this chapter, along with the required fee, and shall meet examination or continuing education requirements as the secretary, by rule, provides.

(4) All fees collected under this section and RCW 18.06.070 shall be credited to the health professions account as required under RCW 43.70.320. [1995 c 323 § 10; 1992 c 110 § 4; 1991 c 3 § 12; 1985 c 326 § 12.]

**18.06.130 Patient information form.** The secretary shall develop a form to be used by an acupuncturist to inform the patient of the acupuncturist's scope of practice and qualifications. All license holders shall bring the form to the attention of the patients in whatever manner the secretary, by rule, provides. [1995 c 323 § 11; 1991 c 3 § 13; 1985 c 326 § 13.]

**18.06.140 Consultation and referral to other health care practitioners.** Every licensed acupuncturist shall develop a written plan for consultation, emergency transfer, and referral to other health care practitioners operating within the scope of their authorized practices. The written plan shall be submitted with the initial application for licensure as well as annually thereafter with the license renewal fee to the department. The department may withhold licensure or renewal of licensure if the plan fails to meet the standards contained in rules adopted by the secretary.

When the acupuncturist sees patients with potentially serious disorders such as cardiac conditions, acute abdominal symptoms, and such other conditions, the acupuncturist shall immediately request a consultation or recent written diagnosis from a physician licensed under chapter 18.71 or 18.57 RCW. In the event that the patient with the disorder refuses to authorize such consultation or provide a recent diagnosis from such physician, acupuncture treatment shall not be

continued. [1995 c 323 § 12; 1991 c 3 § 14; 1985 c 326 § 14.]

**18.06.190 Licensing by endorsement.** The secretary may license a person without examination if such person is credentialed as an acupuncturist in another jurisdiction if, in the secretary's judgment, the requirements of that jurisdiction are equivalent to or greater than those of Washington state. [1995 c 323 § 13; 1991 c 3 § 18; 1985 c 326 § 19.]

**18.06.200 Health care insurance benefits not mandatory.** Nothing in this chapter may be construed to require that individual or group policies or contracts of an insurance carrier, health care service contractor, or health maintenance organization provide benefits or coverage for services and supplies provided by a person licensed under this chapter. [1995 c 323 § 14; 1985 c 326 § 20.]

**Chapter 18.16**

**COSMETOLOGISTS, BARBERS, AND MANICURISTS**

Sections

18.16.050 Advisory board—Members—Compensation.

**18.16.050 Advisory board—Members—Compensation.** (1) There is created a state cosmetology, barbering, esthetics, and manicuring advisory board consisting of seven members appointed by the director. These seven members of the board shall include a representative of a private cosmetology school and a representative of a public vocational technical school involved in cosmetology training, with the balance made up of currently practicing licensees who have been engaged in the practice of manicuring, esthetics, barbering, or cosmetology for at least three years. One member of the board shall be a consumer who is unaffiliated with the cosmetology, barbering, esthetics, or manicuring industry. The term of office for all board members serving as of July 1, 1995, expires June 30, 1995. On June 30, 1995, the director shall appoint seven new members to the board. These new members shall serve a term of two years, at the conclusion of which the board shall cease to exist. Any members serving on the advisory board as of July 1, 1995, are eligible to be reappointed. Any board member may be removed for just cause. The director may appoint a new member to fill any vacancy on the board for the remainder of the unexpired term.

(2) The board appointed on June 30, 1995, together with the director or the director's designee, shall conduct a thorough review of educational requirements, licensing requirements, and enforcement and health standards for persons engaged in cosmetology, barbering, esthetics, or manicuring and shall prepare a report to be delivered to the governor, the director, and the chairpersons of the governmental operations committees of the house of representatives and the senate. The report must summarize their findings and make recommendations, including, if appropriate, recommendations for legislation reforming and restructuring the regulation of cosmetology, barbering, esthetics, and manicuring.

(3) Board members shall be entitled to compensation pursuant to RCW 43.03.240 for each day spent conducting official business and to reimbursement for travel expenses as provided by RCW 43.03.050 and 43.03.060. [1995 c 269 § 402; 1991 c 324 § 3; 1984 c 208 § 9.]

**Findings—1995 c 269:** "The legislature finds that the economic opportunities for cosmetologists, barbers, estheticians, and manicurists have deteriorated in this state as a result of the lack of skilled practitioners, inadequate licensing controls, and inadequate enforcement of health standards. To increase the opportunities for individuals to earn viable incomes in these professions and to protect the general health of the public, the state cosmetology, barbering, esthetics, and manicuring advisory board should be reconstituted and given a new charge to develop appropriate responses to this situation, including legislative proposals." [1995 c 269 § 401.]

**Effective date—1995 c 269:** See note following RCW 13.40.025.

**Part headings not law—Severability—1995 c 269:** See notes following RCW 13.40.005.

### Chapter 18.19 COUNSELORS

#### Sections

18.19.120 Certification of mental health counselors—Practice defined—Continuing education.

**18.19.120 Certification of mental health counselors—Practice defined—Continuing education.** (1) The department shall issue a certified mental health counselor certificate to any applicant meeting the following requirements:

(a) A master's or doctoral degree in mental health counseling or a behavioral science master's or doctoral degree in a related field with the program equivalency as determined by rule by the department based on nationally recognized standards; and

(b) Two years of postgraduate practice of counseling under the supervision of a qualified mental health counselor-supervisor or other mental health professional deemed appropriate by the secretary that may be accumulated concurrently with completion of the required program equivalency; and

(c) Qualification by an examination, submission of all necessary documents, and payment of required fees.

(2) Certified mental health counseling practice is that aspect of counseling that involves the provision of professional mental health counseling services to individuals, couples, and families, singly or in groups, whether the services are offered directly to the general public or through organizations, either public or private, for a fee, monetary or otherwise. "Certified mental health counseling" means the application of principles of human development, learning theory, group dynamics, and etiology of mental illness and dysfunctional behavior to individuals, couples, families, groups, and organizations, for the purpose of treating mental disorders and promoting optimal mental health and functionality. Certified mental health counseling also includes, but is not limited to, the assessment, diagnosis, and treatment of mental and emotional disorders, educational techniques developed to prevent such disorders, as well as the application of a wellness model of mental health.

(3) Nothing in this definition shall be construed as permitting the administration or prescribing of drugs or in

any way infringing upon the practice of medicine and surgery as defined in chapter 18.71 RCW.

(4) The secretary may establish rules governing mandatory continuing education requirements for a certified mental health counselor applying for renewal. [1995 c 183 § 1; 1991 c 3 § 27; 1987 c 512 § 13.]

### Chapter 18.20 BOARDING HOMES

#### Sections

18.20.130 Fire protection—Duties of chief of the Washington state patrol.

18.20.190 Department authority to take actions in response to noncompliance or violations.

**18.20.130 Fire protection—Duties of chief of the Washington state patrol.** Standards for fire protection and the enforcement thereof, with respect to all boarding homes to be licensed hereunder, shall be the responsibility of the chief of the Washington state patrol, through the director of fire protection, who shall adopt such recognized standards as may be applicable to boarding homes for the protection of life against the cause and spread of fire and fire hazards. The department upon receipt of an application for a license, shall submit to the chief of the Washington state patrol, through the director of fire protection, in writing, a request for an inspection, giving the applicant's name and the location of the premises to be licensed. Upon receipt of such a request, the chief of the Washington state patrol, through the director of fire protection, or his or her deputy, shall make an inspection of the boarding home to be licensed, and if it is found that the premises do not comply with the required safety standards and fire regulations as promulgated by the chief of the Washington state patrol, through the director of fire protection, he or she shall promptly make a written report to the boarding home and the department or authorized department as to the manner and time allowed in which the premises must qualify for a license and set forth the conditions to be remedied with respect to fire regulations. The department, authorized department, applicant or licensee shall notify the chief of the Washington state patrol, through the director of fire protection, upon completion of any requirements made by him or her, and the chief of the Washington state patrol, through the director of fire protection, or his or her deputy, shall make a reinspection of such premises. Whenever the boarding home to be licensed meets with the approval of the chief of the Washington state patrol, through the director of fire protection, he or she shall submit to the department or authorized department, a written report approving same with respect to fire protection before a full license can be issued. The chief of the Washington state patrol, through the director of fire protection, shall make or cause to be made inspections of such homes at least annually.

In cities which have in force a comprehensive building code, the provisions of which are determined by the chief of the Washington state patrol, through the director of fire protection, to be equal to the minimum standards of the code for boarding homes adopted by the chief of the Washington state patrol, through the director of fire protection, the chief

of the fire department, provided the latter is a paid chief of a paid fire department, shall make the inspection with the chief of the Washington state patrol, through the director of fire protection, or his or her deputy and they shall jointly approve the premises before a full license can be issued. [1995 c 369 § 4; 1986 c 266 § 81; 1957 c 253 § 13.]

**Effective date—1995 c 369:** See note following RCW 43.43.930.

**Severability—1986 c 266:** See note following RCW 38.52.005.

*State fire protection: Chapter 48.48 RCW.*

**18.20.190 Department authority to take actions in response to noncompliance or violations.** (1) The department of health is authorized to take one or more of the actions listed in subsection (2) of this section in any case in which the department finds that a boarding home provider has:

(a) Failed or refused to comply with the requirements of this chapter or the rules adopted under this chapter;

(b) Operated a boarding home without a license or under a revoked license;

(c) Knowingly, or with reason to know, made a false statement of material fact on his or her application for license or any data attached thereto, or in any matter under investigation by the department; or

(d) Willfully prevented or interfered with any inspection or investigation by the department.

(2) When authorized by subsection (1) of this section, the department may take one or more of the following actions:

(a) Refuse to issue a license;

(b) Impose reasonable conditions on a license, such as correction within a specified time, training, and limits on the type of clients the provider may admit or serve;

(c) Impose civil penalties of not more than one hundred dollars per day per violation;

(d) Suspend, revoke, or refuse to renew a license; or

(e) Suspend admissions to the boarding home by imposing stop placement.

(3) When the department orders stop placement, the facility shall not admit any new resident until the stop placement order is terminated. The department may approve readmission of a resident to the facility from a hospital or nursing home during the stop placement. The department shall terminate the stop placement when: (a) The violations necessitating the stop placement have been corrected; and (b) the provider exhibits the capacity to maintain adequate care and service.

(4) Chapter 34.05 RCW applies to department actions under this section, except that orders of the department imposing license suspension, stop placement, or conditions for continuation of a license are effective immediately upon notice and shall continue pending any hearing. [1995 1st sp.s. c 18 § 18.]

**Conflict with federal requirements—Severability—Effective date—1995 1st sp.s. c 18:** See notes following RCW 74.39A.008.

## Chapter 18.25 CHIROPRACTIC

### Sections

18.25.030 Examinations—Subjects—Grades.

**18.25.030 Examinations—Subjects—Grades.** Examinations for license to practice chiropractic shall be developed and administered, or approved, or both, by the commission according to the method deemed by it to be the most practicable and expeditious to test the applicant's qualifications. The commission may approve an examination prepared or administered by a private testing agency or association of licensing authorities. The applicant shall be designated by a number instead of his or her name, so that the identity shall not be discovered or disclosed to the members of the commission until after the examination papers are graded.

Examination subjects may include the following: Anatomy, physiology, spinal anatomy, microbiology-public health, general diagnosis, neuromusculoskeletal diagnosis, X-ray, principles of chiropractic and adjusting, as taught by chiropractic schools and colleges, and any other subject areas consistent with chapter 18.25 RCW. The commission shall set the standards for passing the examination. The commission may enact additional requirements for testing administered by the national board of chiropractic examiners. [1995 c 198 § 1; 1994 sp.s. c 9 § 111; 1989 c 258 § 4; 1974 ex.s. c 97 § 10; 1959 c 53 § 4; 1919 c 5 § 6; RRS § 10101.]

**Severability—1974 ex.s. c 97:** See note following RCW 18.25.0192.  
*Hiring assistants for examinations: RCW 18.25.025.*

## Chapter 18.29 DENTAL HYGIENIST

### Sections

18.29.021 Requirements for licensing.

18.29.120 Examinations—Secretary's authority—Consultation with examining authority.

**18.29.021 Requirements for licensing.** (1) The department shall issue a license to any applicant who, as determined by the secretary:

(a) Has successfully completed an educational program approved by the secretary. This educational program shall include course work encompassing the subject areas within the scope of the license to practice dental hygiene in the state of Washington;

(b) Has successfully completed an examination administered or approved by the dental hygiene examining committee; and

(c) Has not engaged in unprofessional conduct or is not unable to practice with reasonable skill and safety as a result of a physical or mental impairment.

(2) Applications for licensure shall be submitted on forms provided by the department. The department may require any information and documentation necessary to determine if the applicant meets the criteria for licensure as provided in this chapter and chapter 18.130 RCW. Each applicant shall pay a fee determined by the secretary as provided in RCW 43.70.250. The fee shall be submitted with the application. [1995 c 198 § 4; 1991 c 3 § 46; 1989 c 202 § 1.]

**18.29.120 Examinations—Secretary's authority—Consultation with examining authority.** The secretary in

consultation with the Washington dental hygiene examining committee shall:

(1) Adopt rules in accordance with chapter 34.05 RCW necessary to prepare and conduct examinations for dental hygiene licensure;

(2) Require an applicant for licensure to pass an examination consisting of written and practical tests upon such subjects and of such scope as the committee determines;

(3) Set the standards for passage of the examination;

(4) Administer at least two examinations each calendar year. Additional examinations may be given as necessary; and

(5) Establish by rule the procedures for an appeal of an examination failure. [1995 c 198 § 5; 1991 c 3 § 52; 1989 c 202 § 4.]

### Chapter 18.30 DENTURISTS

#### Sections

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**18.30.005 Finding, intent.** The state of Washington finds that to realize the state's current statutory policy of regulating health professions at the least restrictive level consistent with the public interest, a program of licensure for denturists should be established. The intent of the legislature is to help assure the public's health, provide a mechanism for consumer protection, and offer cost-effective alternatives for denture care services and products to individual consumers and the state. [1995 c 1 § 1 (Initiative Measure No. 607, approved November 8, 1994).]

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

(1) "Board" means the state board of denture technology.

(2) "Denture" means a removable full or partial upper or lower dental appliance to be worn in the mouth to replace missing natural teeth.

(3) "Denturist" means a person licensed under this chapter to engage in the practice of denturism.

(4) "Department" means the department of health.

(5) "Practice of denturism" means:

(a) Making, placing, constructing, altering, reproducing, or repairing a denture; and

(b) Taking impressions and furnishing or supplying a denture directly to a person or advising the use of a denture, and maintaining a facility for the same.

(6) "Secretary" means the secretary of health or the secretary's designee. [1995 c 1 § 2 (Initiative Measure No. 607, approved November 8, 1994).]

**18.30.020 Examination of patient—Sanctions—Training and licensing examination.** (1) Before making and fitting a denture, a denturist shall examine the patient's oral cavity.

(a) If the examination gives the denturist reasonable cause to believe that there is an abnormality or disease process that requires medical or dental treatment, the denturist shall immediately refer the patient to a dentist or physician. In such cases, the denturist shall take no further action to manufacture or place a denture until the patient has been examined by a dentist or physician and the dentist or physician gives written clearance that the denture will pose no threat to the patient's health.

(b) If the examination reveals the need for tissue or teeth modification in order to assure proper fit of a full or partial denture, the denturist shall refer the patient to a dentist and assure that the modification has been completed before taking an impression for the completion of the denture.

(2) A denturist who makes or places a denture in a manner not consistent with this section is subject to the sanctions provided in chapter 18.130 RCW, the uniform disciplinary act.

(3) A denturist must successfully complete special training in oral pathology prescribed by the secretary, whether as part of an approved associate degree program or equivalent training, and pass an examination prescribed by the secretary, which may be a part of the examination for licensure to become a licensed denturist. [1995 c 198 § 18; 1995 c 1 § 3 (Initiative Measure No. 607, approved November 8, 1994).]

**Effective date—1995 c 198 §§ 18-25:** "Sections 18 through 25 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 1, 1995]." [1995 c 198 § 27.]

**18.30.030 Licensing required.** No person may represent himself or herself as a licensed denturist or use any title or description of services without applying for licensure, meeting the required qualifications, and being licensed as a denturist by the department, unless otherwise exempted by this chapter. [1995 c 1 § 4 (Initiative Measure No. 607, approved November 8, 1994).]

**18.30.040 Exclusions from chapter.** Nothing in this chapter prohibits or restricts:

(1) The practice of a profession by an individual who is licensed, certified, or registered under other laws of this state and who is performing services within the authorized scope of practice;



(2) The practice of denturism by an individual employed by the government of the United States while the individual is engaged in the performance of duties prescribed by the laws and regulations of the United States;

(3) The practice of denturism by students enrolled in a school approved by the department. The performance of services must be pursuant to a course of instruction or an assignment from an instructor and under the supervision of an instructor; or

(4) Work performed by dental labs and dental technicians under the written prescription of a dentist. [1995 c 1 § 5 (Initiative Measure No. 607, approved November 8, 1994).]

**18.30.050 Board of denture technology—Members, terms, travel expenses, removal.** (1) The state board of denture technology is created. The board shall consist of seven members appointed by the secretary as follows:

(a) Four members of the board must be denturists licensed under this chapter, except initial appointees, who must have five years' experience in the field of denturism or a related field.

(b) Two members shall be selected from persons who are not affiliated with any health care profession or facility, at least one of whom must be over sixty-five years of age representing the elderly.

(c) One member must be a dentist licensed in the state of Washington.

(2) The members of the board shall serve for terms of three years. The terms of the initial members shall be staggered, with the members appointed under subsection (1)(a) of this section serving two-year and three-year terms initially and the members appointed under subsection (1)(b) and (c) of this section serving one-year, two-year, and three-year terms initially. Vacancies shall be filled in the same manner as the original appointments are made. Appointments to fill vacancies shall be for the remainder of the unexpired term of the vacant position.

(3) No appointee may serve more than two consecutive terms.

(4) Members of the board shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060.

(5) A member of the board may be removed for just cause by the secretary. [1995 c 1 § 6 (Initiative Measure No. 607, approved November 8, 1994).]

**18.30.060 Board—Officers, quorum.** (1) The board shall elect a chairperson of the board annually. The same person may not hold the office of chairperson for more than three years in succession.

(2) A majority of the board constitutes a quorum for all purposes, and a majority vote of the members voting governs the decisions of the board. [1995 c 1 § 7 (Initiative Measure No. 607, approved November 8, 1994).]

**18.30.070 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**18.30.080 Secretary—Powers and duties.** The secretary shall:

(1) In consultation with the board, determine the qualifications of persons applying for licensure under this chapter;

(2) In consultation with the board, prescribe, administer, and determine the requirements for examinations under this chapter and establish a passing grade for licensure under this chapter;

(3) In consultation with the board, adopt rules under chapter 34.05 RCW to carry out the provisions of this chapter;

(4) In consultation with the board, set all licensure, examination, and renewal fees in accordance with RCW 43.70.250;

(5) Evaluate and designate those schools from which graduation will be accepted as proof of an applicant's completion of course work requirements for licensure;

(6) Act as the disciplining authority under this chapter in accordance with the Uniform Disciplinary Act, chapter 18.130 RCW, which governs unlicensed practice, the issuance and denial of licenses, and the disciplining of license holders under this chapter;

(7) Issue licenses for the practice of denturism under this chapter;

(8) Administer oaths and subpoena witnesses for the purpose of carrying out the activities authorized under this chapter;

(9) Establish forms and procedures necessary to administer this chapter;

(10) Hire clerical, administrative, investigative, and other staff as needed to implement this chapter and act on behalf of the board and the secretary; and

(11) Issue licenses of endorsement for applicants from states with substantially equivalent licensing standards to this state. [1995 c 198 § 19; 1995 c 1 § 9 (Initiative Measure No. 607, approved November 8, 1994).]

**Effective date—1995 c 198 §§ 18-25:** See note following RCW 18.30.020.

**18.30.090 Licensing requirements.** The secretary shall issue a license to practice denturism to an applicant who submits a completed application, pays the appropriate fees, and meets the following requirements:

(1) A person currently licensed to practice denturism under statutory provisions of another state with substantially equivalent licensing standards to this chapter shall be licensed without examination upon providing the department with the following:

(a) Proof of successfully passing a written and clinical examination for denturism in a state that the secretary has determined has substantially equivalent standards as those in this chapter in both the written and clinical examinations; and

(b) An affidavit from the state agency where the person is licensed or certified attesting to the fact of the person's licensure or certification.

(2) A person graduating from a formal denturism program shall be licensed if he or she:

(a) Documents successful completion of formal training with a major course of study in denturism of not less than two years in duration at an educational institution recognized by the secretary; and

(b) Passes a written and clinical examination approved by the secretary.

(3) An applicant who does not otherwise qualify under subsection (1) or (2) of this section shall be licensed within two years of December 8, 1994, if he or she:

(a) Provides to the secretary three affidavits by persons other than family members attesting to the applicant's employment in denture technology for at least five years, or provides documentation of at least four thousand hours of practical work within denture technology;

(b) Provides documentation of successful completion of a training course approved by the secretary or completion of an equivalent course approved by the secretary; and

(c) Passes a written and clinical examination administered by the secretary. [1995 c 198 § 20; 1995 c 1 § 10 (Initiative Measure No. 607, approved November 8, 1994).]

**Effective date—1995 c 198 §§ 18-25:** See note following RCW 18.30.020.

**18.30.100 Licensing examinations.** The secretary shall administer the examinations for licensing under this chapter, subject to the following requirements:

(1) Examinations shall determine the qualifications, fitness, and ability of the applicant to practice denturism. The test shall include a written examination and a practical demonstration of skills.

(2) Examinations shall be held at least annually.

(3) The first examination shall be conducted not later than July 1, 1995.

(4) The written examination shall cover the following subjects: (a) Head and oral anatomy and physiology; (b) oral pathology; (c) partial denture construction and design; (d) microbiology; (e) clinical dental technology; (f) dental laboratory technology; (g) clinical jurisprudence; (h) asepsis; (i) medical emergencies; and (j) cardiopulmonary resuscitation.

(5) Upon payment of the appropriate fee, an applicant who fails either the written or practical examination may have additional opportunities to take the portion of the examination that he or she failed.

The secretary may hire trained persons licensed under this chapter to prepare, administer, and grade the examinations or may contract with regional examiners who meet qualifications adopted by the secretary. [1995 c 198 § 21; 1995 c 1 § 11 (Initiative Measure No. 607, approved November 8, 1994).]

**Effective date—1995 c 198 §§ 18-25:** See note following RCW 18.30.020.

**18.30.110 Fees.** The department shall charge and collect the fees established by the secretary. Fees collected shall be placed in the health professions account under RCW 43.70.320. [1995 c 198 § 22; 1995 c 1 § 12 (Initiative Measure No. 607, approved November 8, 1994).]

**Effective date—1995 c 198 §§ 18-25:** See note following RCW 18.30.020.

**18.30.120 License—Term, contents.** (1) A license issued under RCW 18.30.080 is valid for two years. A license may be renewed by paying the renewal fee.

(2) If a license issued is effective on a date other than July 1, it shall be valid until the following June 30.

(3) The license shall contain, on its face, the address or addresses where the license holder will perform the denturist services. [1995 c 1 § 13 (Initiative Measure No. 607, approved November 8, 1994).]

**18.30.130 License renewal.** The secretary shall establish by rule the administrative requirements for renewal of licenses to practice denturism, but shall not increase the licensure requirements provided in this chapter. The secretary shall establish a renewal and late renewal penalty in accordance with RCW 43.70.250. Failure to renew shall invalidate the license and all privileges granted by the license. The secretary shall determine by rule whether a license shall be canceled for failure to renew and shall establish procedures and prerequisites for relicensure. [1995 c 198 § 23; 1995 c 1 § 14 (Initiative Measure No. 607, approved November 8, 1994).]

**Effective date—1995 c 198 §§ 18-25:** See note following RCW 18.30.020.

**18.30.135 Discipline.** The Uniform Disciplinary Act, chapter 18.130 RCW, shall govern the issuance and denial of licenses, unauthorized practice, and the discipline of persons licensed under this chapter. The secretary shall be the disciplinary authority under this chapter. [1995 c 336 § 3.]

**Effective date—1995 c 336 §§ 2 and 3:** See note following RCW 18.130.040.

**18.30.140 Inactive licenses.** (1) An individual may place his or her license on inactive status. The holder of an inactive license shall not practice denturism in this state without first activating the license.

(2) The inactive renewal fee shall be established by the secretary. Failure to renew an inactive license shall result in cancellation in the same manner as failure to renew an active license results in cancellation.

(3) An inactive license may be placed in an active status upon compliance with rules established by the secretary.

(4) The provisions relating to denial, suspension, and revocation of a license are applicable to an inactive license, except that when proceedings to suspend or revoke an inactive license have been initiated, the license shall remain inactive until the proceedings have been completed. [1995 c 198 § 24; 1995 c 1 § 15 (Initiative Measure No. 607, approved November 8, 1994).]

**Effective date—1995 c 198 §§ 18-25:** See note following RCW 18.30.020.

**18.30.150 Partnerships with dentists.** Notwithstanding any other provision of state law, a licensed denturist may enter into a partnership or other business association with a dentist, provided that such association does not impede the independent professional judgment of either party. [1995 c 1 § 16 (Initiative Measure No. 607, approved November 8, 1994).]

**18.30.900 Short title—1995 c 1 (Initiative Measure No. 607).** This chapter may be known and cited as the

Washington state denturist act. [1995 c 1 § 17 (Initiative Measure No. 607, approved November 8, 1994).]

**18.30.901 Severability—1995 c 1 (Initiative Measure No. 607).** 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. [1995 c 1 § 26 (Initiative Measure No. 607, approved November 8, 1994).]

## Chapter 18.32 DENTISTRY

### Sections

18.32.050 Compensation and reimbursement of commissioners for administering examination.

**18.32.050 Compensation and reimbursement of commissioners for administering examination.** Commission members shall be compensated and reimbursed pursuant to this section for their activities in administering a multi-state licensing examination pursuant to the commission's compact or agreement with another state or states or with organizations formed by several states. [1995 c 198 § 2; 1994 sp.s. c 9 § 212; 1984 c 287 § 30; 1979 c 38 § 3; 1975-'76 2nd ex.s. c 34 § 34; 1967 c 188 § 2; 1957 c 52 § 23; 1953 c 93 § 3. Prior: 1935 c 112 § 11, part; RRS § 10031-11, part.]

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

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

## Chapter 18.34 DISPENSING OPTICIANS

### Sections

18.34.020 Definitions.

18.34.030 Apprentices.

18.34.080 Examination—Issuance and display of license.

**18.34.020 Definitions.** The term "secretary" wherever used in this chapter shall mean the secretary of health of the state of Washington. The term "apprentice" wherever used in this chapter shall mean a person who shall be designated an apprentice in the records of the secretary at the request of a physician, registered optometrist, or licensee hereunder, who shall thereafter be the primary supervisor of the apprentice. The apprentice may thereafter receive from a physician, registered optometrist, or licensee hereunder training and direct supervision in the work of a dispensing optician. [1995 c 178 § 1; 1991 c 3 § 74; 1979 c 158 § 37; 1957 c 43 § 2.]

**18.34.030 Apprentices.** No licensee hereunder may have more than two apprentices in training or under their direct supervision at any one time. However, the primary supervisor shall be responsible for the acts of his or her apprentices in the performance of their work in the apprenticeship program and provide the majority of the training and

direct supervision received by the apprentice. Apprentices shall complete their apprenticeship in six years and shall not work longer as an apprentice unless the secretary determines, after a hearing, that the apprentice was prevented by causes beyond his or her control from completing his or her apprenticeship and becoming a licensee hereunder in six years. [1995 c 178 § 2; 1991 c 3 § 75; 1957 c 43 § 3.]

**18.34.080 Examination—Issuance and display of license.** The examination shall determine whether the applicant has a thorough knowledge of the principles governing the practice of a dispensing optician which is hereby declared necessary for the protection of the public health. The examining committee may approve an examination prepared or administered by a private testing agency or association of licensing authorities. The secretary shall license successful examinees and the license shall be conspicuously displayed in the place of business of the licensee. [1995 c 198 § 3; 1991 c 3 § 77; 1957 c 43 § 8.]

## Chapter 18.39 EMBALMERS—FUNERAL DIRECTORS

### Sections

18.39.250 Prearrangement contracts—Trusts—Refunds.

18.39.255 Prearrangement contracts—Insurance funded—Requirements.

**18.39.250 Prearrangement contracts—Trusts—Refunds.** (1) Any funeral establishment selling funeral merchandise or services by prearrangement funeral service contract and accepting moneys therefore shall establish and maintain one or more prearrangement funeral service trusts under Washington state law with two or more designated trustees, for the benefit of the beneficiary of the prearrangement funeral service contract or may join with one or more other Washington state licensed funeral establishments in a "master trust" provided that each member of the "master trust" shall comply individually with the requirements of this chapter.

(2) Up to ten percent of the cash purchase price of each prearrangement funeral service contract, excluding sales tax, may be retained by the funeral establishment unless otherwise provided in this chapter. If the prearrangement funeral service contract is canceled within thirty calendar days of its signing, then the purchaser shall receive a full refund of all moneys paid under the contract.

(3) At least ninety percent of the cash purchase price of each prearrangement funeral service contract, paid in advance, excluding sales tax, shall be placed in the trust established or utilized by the funeral establishment. Deposits to the prearrangement funeral service trust shall be made not later than the twentieth day of the month following receipt of each payment made on the last ninety percent of each prearrangement funeral service contract, excluding sales tax.

(4) All prearrangement funeral service trust moneys shall be deposited in an insured account in a qualified public depository or shall be invested in instruments issued or insured by any agency of the federal government if these securities are held in a public depository. The account shall be designated as the prearrangement funeral service trust of the funeral establishment for the benefit of the beneficiaries

named in the prearrangement funeral service contracts. The prearrangement funeral service trust shall not be considered as, nor shall it be used as, an asset of the funeral establishment.

(5) After deduction of reasonable fees for the administration of the trust, taxes paid or withheld, or other expenses of the trust, all interest, dividends, increases, or accretions of whatever nature earned by a trust shall be kept unimpaired and shall become a part of the trust. Adequate records shall be maintained to allocate the share of principal and interest to each contract. Fees deducted for the administration of the trust shall not exceed one percent of the face amount of the prearrangement funeral service contract per annum. In no instance shall the administrative charges deducted from the prearrangement funeral service trust reduce, diminish, or in any other way lessen the value of the trust so that the services or merchandise provided for under the contract are reduced, diminished, or in any other way lessened.

(6) Except as otherwise provided in this chapter, the trustees of a prearrangement funeral service trust shall permit withdrawal of all funds deposited under a prearrangement funeral service contract, plus accruals thereon, under the following circumstances and conditions:

(a) If the funeral establishment files a verified statement with the trustees that the prearrangement funeral merchandise and services covered by the contract have been furnished and delivered in accordance therewith; or

(b) If the funeral establishment files a verified statement with the trustees that the prearrangement funeral merchandise and services covered by the contract have been canceled in accordance with its terms.

(7) Subsequent to the thirty calendar day cancellation period provided for in this chapter, any purchaser or beneficiary who has a revocable prearrangement funeral service contract has the right to demand a refund of the amount in trust.

(8) Prearrangement funeral service contracts which have or should have an account in a prearrangement funeral service trust may be terminated by the board if the funeral establishment goes out of business, becomes insolvent or bankrupt, makes an assignment for the benefit of creditors, has its prearrangement funeral service certificate of registration revoked, or for any other reason is unable to fulfill the obligations under the contract. In such event, or upon demand by the purchaser or beneficiary of the prearrangement funeral service contract, the funeral establishment shall refund to the purchaser or beneficiary all moneys deposited in the trust and allocated to the contract unless otherwise ordered by a court of competent jurisdiction. The purchaser or beneficiary may, in lieu of a refund, elect to transfer the prearrangement funeral service contract and all amounts in trust to another funeral establishment licensed under this chapter which will agree, by endorsement to the contract, to be bound by the contract and to provide the funeral merchandise or services. Election of this option shall not relieve the defaulting funeral establishment of its obligation to the purchaser or beneficiary for any amounts required to be, but not placed, in trust.

(9) Prior to the sale or transfer of ownership or control of any funeral establishment which has contracted for prearrangement funeral service contracts, any person, corporation, or other legal entity desiring to acquire such

ownership or control shall apply to the director in accordance with RCW 18.39.145. Persons and business entities selling or relinquishing, and persons and business entities purchasing or acquiring ownership or control of such funeral establishments shall each verify and attest to a report showing the status of the prearrangement funeral service trust or trusts on the date of the sale. This report shall be on a form prescribed by the board and shall be considered part of the application for a funeral establishment license. In the event of failure to comply with this subsection, the funeral establishment shall be deemed to have gone out of business and the provisions of subsection (8) of this section shall apply.

(10) Prearrangement funeral service trust moneys shall not be used, directly or indirectly, for the benefit of the funeral establishment or any director, officer, agent, or employee of the funeral establishment including, but not limited to, any encumbrance, pledge, or other use of prearrangement funeral service trust moneys as collateral or other security.

(11)(a) If, at the time of the signing of the prearrangement funeral service contract, the beneficiary of the trust is a recipient of public assistance as defined in RCW 74.04.005, or reasonably anticipates being so defined, the contract may provide that the trust will be irrevocable. If after the contract is entered into, the beneficiary becomes eligible or seeks to become eligible for public assistance under Title 74 RCW, the contract may provide for an election by the beneficiary, or by the purchaser on behalf of the beneficiary, to make the trust irrevocable thereafter in order to become or remain eligible for such assistance.

(b) The department of social and health services shall notify the trustee of any prearrangement service trust that the department has a claim on the estate of a beneficiary for long-term care services. Such notice shall be renewed at least every three years. The trustees upon becoming aware of the death of a beneficiary shall give notice to the department of social and health services, office of financial recovery, who shall file any claim there may be within thirty days of the notice.

(12) Every prearrangement funeral service contract financed through a prearrangement funeral service trust shall contain language which:

(a) Informs the purchaser of the prearrangement funeral service trust and the amount to be deposited in the trust;

(b) Indicates if the contract is revocable or not in accordance with subsection (11) of this section;

(c) Specifies that a full refund of all moneys paid on the contract will be made if the contract is canceled within thirty calendar days of its signing;

(d) Specifies that, in the case of cancellation by a purchaser or beneficiary eligible to cancel under the contract or under this chapter, up to ten percent of the contract amount may be retained by the seller to cover the necessary expenses of selling and setting up the contract;

(e) Identifies the trust to be used and contains information as to how the trustees may be contacted. [1995 1st sp.s. c 18 § 62; 1989 c 390 § 3; 1982 c 66 § 3.]

**Conflict with federal requirements—Severability—Effective date—1995 1st sp.s. c 18:** See notes following RCW 74.39A.008.

**Effective dates—Transfer of records, files, and pending business—Savings—1982 c 66:** See notes following RCW 18.39.240.

**18.39.255 Prearrangement contracts—Insurance funded—Requirements.** Prearranged funeral service contracts funded through insurance shall contain language which:

- (1) States the amount of insurance;
- (2) Informs the purchaser of the name and address of the insurance company through which the insurance will be provided, the policy number, and the name of the beneficiary;
- (3) Informs the purchaser that amounts paid for insurance may not be refundable;
- (4) Informs that any funds from the policy not used for services may be subject to a claim for reimbursement for long-term care services paid for by the state; and
- (5) States that for purposes of the contract, the procedures in RCW 18.39.250(11)(b) shall control such recoupment. [1995 1st sp.s. c 18 § 63; 1989 c 390 § 4.]

**Conflict with federal requirements—Severability—Effective date—1995 1st sp.s. c 18:** See notes following RCW 74.39A.008.

## Chapter 18.43

### ENGINEERS AND LAND SURVEYORS

#### Sections

- 18.43.020 Definitions. (*Effective July 1, 1996.*)  
 18.43.040 Registration requirements. (*Effective July 1, 1996.*)  
 18.43.050 Application—Registration fees. (*Effective July 1, 1996.*)  
 18.43.070 Certificates and seals. (*Effective July 1, 1996.*)  
 18.43.075 Retired status certificate. (*Effective July 1, 1996.*)

**18.43.020 Definitions. (*Effective July 1, 1996.*)** (1) Engineer: The term "engineer" as used in this chapter shall mean a professional engineer as hereinafter defined.

(2) Professional engineer: The term "professional engineer" within the meaning and intent of this chapter, shall mean a person who, by reason of his or her special knowledge of the mathematical and physical sciences and the principles and methods of engineering analysis and design, acquired by professional education and practical experience, is qualified to practice engineering as hereinafter defined, as attested by his or her legal registration as a professional engineer.

(3) Engineer-in-training: The term "engineer-in-training" as used in this chapter means a candidate who has: (a) Satisfied the experience requirements in RCW 18.43.040 for registration; (b) successfully passed the examination in the fundamental engineering subjects; and (c) is enrolled by the board as an engineer-in-training.

(4) Engineering: The term "engineering" as used in this chapter shall mean the "practice of engineering" as hereinafter defined.

(5) Practice of engineering: The term "practice of engineering" within the meaning and intent of this chapter shall mean any professional service or creative work requiring engineering education, training, and experience and the application of special knowledge of the mathematical, physical, and engineering sciences to such professional services or creative work as consultation, investigation, evaluation, planning, design and supervision of construction for the purpose of assuring compliance with specifications and design, in connection with any public or private utilities,

structures, buildings, machines, equipment, processes, works, or projects.

A person shall be construed to practice or offer to practice engineering, within the meaning and intent of this chapter, who practices any branch of the profession of engineering; or who, by verbal claim, sign, advertisement, letterhead, card, or in any other way represents himself or herself to be a professional engineer, or through the use of some other title implies that he or she is a professional engineer; or who holds himself or herself out as able to perform, or who does perform, any engineering service or work or any other professional service designated by the practitioner or recognized by educational authorities as engineering.

The practice of engineering shall not include the work ordinarily performed by persons who operate or maintain machinery or equipment.

(6) Land surveyor: The term "land surveyor" as used in this chapter shall mean a professional land surveyor.

(7) Professional land surveyor: The term "professional land surveyor" as used in this chapter means a person who, by reason of his or her special knowledge of the mathematical and physical sciences and principles and practices of land surveying, which is acquired by professional education and practical experience, is qualified to practice land surveying and as attested to by his or her legal registration as a professional land surveyor.

(8) Land-surveyor-in-training: The term "land-surveyor-in-training" as used in this chapter means a candidate who: (a) Has satisfied the experience requirements in RCW 18.43.040 for registration; (b) successfully passes the examination in the fundamental land surveying subjects; and (c) is enrolled by the board as a land-surveyor-in-training.

(9) Practice of land surveying: The term "practice of land surveying" within the meaning and intent of this chapter, shall mean assuming responsible charge of the surveying of land for the establishment of corners, lines, boundaries, and monuments, the laying out and subdivision of land, the defining and locating of corners, lines, boundaries and monuments of land after they have been established, the survey of land areas for the purpose of determining the topography thereof, the making of topographical delineations and the preparing of maps and accurate records thereof, when the proper performance of such services requires technical knowledge and skill.

(10) Board: The term "board" as used in this chapter shall mean the state board of registration for professional engineers and land surveyors, provided for by this chapter. [1995 c 356 § 1; 1991 c 19 § 1; 1947 c 283 § 2; Rem. Supp. 1947 § 8306-22. Prior: 1935 c 167 § 1; RRS § 8306-1.]

**Effective date—1995 c 356:** "This act shall take effect July 1, 1996." [1995 c 356 § 6.]

**18.43.040 Registration requirements. (*Effective July 1, 1996.*)** The following will be considered as minimum evidence satisfactory to the board that the applicant is qualified for registration as a professional engineer, engineer-in-training, professional land surveyor, or land-surveyor-in-training, respectively:

As a professional engineer: A specific record of eight years or more of experience in engineering work of a

character satisfactory to the board and indicating that the applicant is competent to practice engineering; and successfully passing a written or oral examination, or both, in engineering as prescribed by the board.

Graduation in an approved engineering curriculum of four years or more from a school or college approved by the board as of satisfactory standing shall be considered equivalent to four years of such required experience. The satisfactory completion of each year of such an approved engineering course without graduation shall be considered as equivalent to a year of such required experience. Graduation in a curriculum other than engineering from a school or college approved by the board shall be considered as equivalent to two years of such required experience: PROVIDED, That no applicant shall receive credit for more than four years of experience because of undergraduate educational qualifications. The board may, at its discretion, give credit as experience not in excess of one year, for satisfactory postgraduate study in engineering.

As an engineer-in-training: An applicant for registration as a professional engineer shall take the prescribed examination in two stages. The first stage of the examination may be taken upon submission of his or her application for registration as an engineer-in-training and payment of the application fee prescribed in RCW 18.43.050 at any time after the applicant has completed four years of the required engineering experience, as defined in this section, or has achieved senior standing in a school or college approved by the board. The first stage of the examination shall test the applicant's knowledge of appropriate fundamentals of engineering subjects, including mathematics and the basic sciences.

At any time after the completion of the required eight years of engineering experience, as defined in this section, the applicant may take the second stage of the examination upon submission of an application for registration and payment of the application fee prescribed in RCW 18.43.050. This stage of the examination shall test the applicant's ability, upon the basis of his or her greater experience, to apply his or her knowledge and experience in the field of his or her specific training and qualifications.

As a professional land surveyor: A specific record of eight years or more of experience in land surveying work of a character satisfactory to the board and indicating that the applicant is competent to practice land surveying, and successfully passing a written or oral examination, or both, in surveying as prescribed by the board.

Graduation from a school or college approved by the board as of satisfactory standing, including the completion of an approved course in surveying, shall be considered equivalent to four years of the required experience. Postgraduate college courses approved by the board shall be considered for up to one additional year of the required experience.

As a land-surveyor-in-training: An applicant for registration as a professional land surveyor shall take the prescribed examination in two stages. The first stage of the examination may be taken upon submission of his or her application for registration as a land-surveyor-in-training and payment of the application fee prescribed in RCW 18.43.050 at any time after the applicant has completed four years of the required land surveying experience, as defined in this

section, or has achieved senior standing in a school or college approved by the board. The first stage of the examination shall test the applicant's knowledge of appropriate fundamentals of land surveying subjects, including mathematics and the basic sciences.

At any time after the completion of the required eight years of land surveying experience, as defined in this section, the applicant may take the second stage of the examination upon submission of an application for registration and payment of the application fee prescribed in RCW 18.43.050. This stage of the examination shall test the applicant's ability, upon the basis of greater experience, to apply knowledge and experience in the field of land surveying.

The first stage shall be successfully completed before the second stage may be attempted. Applicants who have been approved by the board to take the examination based on the requirement for six years of experience under this section before July 1, 1996, are eligible to sit for the examination.

No person shall be eligible for registration as a professional engineer, engineer-in-training, professional land surveyor, or land-surveyor-in-training, who is not of good character and reputation.

Teaching, of a character satisfactory to the board shall be considered as experience not in excess of two years for the appropriate profession.

The mere execution, as a contractor, of work designed by a professional engineer, or the supervision of the construction of such work as a foreman or superintendent shall not be deemed to be practice of engineering.

Any person having the necessary qualifications prescribed in this chapter to entitle him or her to registration shall be eligible for such registration although the person may not be practicing his or her profession at the time of making his or her application. [1995 c 356 § 2; 1991 c 19 § 2; 1947 c 283 § 7; Rem. Supp. 1947 § 8306-24. Prior: 1935 c 167 § 2; RRS § 8306-2.]

**Effective date—1995 c 356:** See note following RCW 18.43.020.

**18.43.050 Application—Registration fees. (Effective July 1, 1996.)** Application for registration shall be on forms prescribed by the board and furnished by the director, shall contain statements made under oath, showing the applicant's education and detail summary of his or her technical work and shall contain not less than five references, of whom three or more shall be engineers having personal knowledge of the applicant's engineering experience.

The registration fee for professional engineers shall be determined by the director as provided in RCW 43.24.086, which shall accompany the application and shall include the cost of examination and issuance of certificate. The fee for engineer-in-training shall be determined by the director as provided in RCW 43.24.086, which shall accompany the application and shall include the cost of examination and issuance of certificate.

The registration fee for professional land surveyors shall be determined by the director as provided in RCW 43.24.086, which shall accompany the application and shall include the cost of examination and issuance of certificate. The fee for land-surveyor-in-training shall be determined by

the director as provided in RCW 43.24.086, which shall accompany the application and shall include the cost of examination and issuance of certificate.

Should the board find an applicant ineligible for registration, the registration fee shall be retained as an application fee. [1995 c 356 § 3; 1991 c 19 § 3; 1985 c 7 § 42; 1975 1st ex.s. c 30 § 46; 1947 c 283 § 8; Rem. Supp. 1947 § 8306-25. Prior: 1935 c 167 § 6; RRS § 8306-6.]

**Effective date—1995 c 356:** See note following RCW 18.43.020.

**18.43.070 Certificates and seals. (Effective July 1, 1996.)** The director of licensing shall issue a certificate of registration upon payment of a registration fee as provided for in this chapter, to any applicant who, in the opinion of the board, has satisfactorily met all the requirements of this chapter. In case of a registered engineer, the certificate shall authorize the practice of "professional engineering" and specify the branch or branches in which specialized, and in case of a registered land surveyor, the certificate shall authorize the practice of "land surveying".

In case of engineer-in-training, the certificate shall state that the applicant has successfully passed the examination in fundamental engineering subjects required by the board and has been enrolled as an "engineer-in-training". In case of land-surveyor-in-training, the certificate shall state that the applicant has successfully passed the examination in fundamental surveying subjects required by the board and has been enrolled as a "land-surveyor-in-training." All certificates of registration shall show the full name of the registrant, shall have a serial number, and shall be signed by the chairman and the secretary of the board and by the director of licensing.

The issuance of a certificate of registration by the director of licensing shall be prima facie evidence that the person named therein is entitled to all the rights and privileges of a registered professional engineer or a registered land surveyor, while the said certificate remains unrevoked and unexpired.

Each registrant hereunder shall upon registration obtain a seal of the design authorized by the board, bearing the registrant's name and the legend "registered professional engineer" or "registered land surveyor". Plans, specifications, plats and reports prepared by the registrant shall be signed, dated, and stamped with said seal or facsimile thereof. Such signature and stamping shall constitute a certification by the registrant that the same was prepared by or under his or her direct supervision and that to his or her knowledge and belief the same was prepared in accordance with the requirements of the statute. It shall be unlawful for anyone to stamp or seal any document with said seal or facsimile thereof after the certificate of registrant named thereon has expired or been revoked, unless said certificate shall have been renewed or reissued. [1995 c 356 § 4; 1991 c 19 § 5; 1959 c 297 § 4; 1947 c 283 § 10; Rem. Supp. 1947 § 8306-27. Prior: 1935 c 167 §§ 8, 13; RRS § 8306-8, 13.]

**Effective date—1995 c 356:** See note following RCW 18.43.020.

**18.43.075 Retired status certificate. (Effective July 1, 1996.)** The board may adopt rules under this section authorizing a retired status certificate. An individual

certificated under this chapter who has reached the age of sixty-five years and has retired from the active practice of engineering and land surveying may, upon application and at the discretion of the board, be exempted from payment of annual renewal fees thereafter. [1995 c 356 § 5.]

**Effective date—1995 c 356:** See note following RCW 18.43.020.

## Chapter 18.44

### ESCROW AGENT REGISTRATION ACT

#### Sections

18.44.010	Definitions.
18.44.080	Fees.
18.44.208	Escrow commission—Members—Terms—Compensation and travel expenses.
18.44.290	Escrow officer's license—Application—Form—Timely filing—Proof of moral character, etc.
18.44.380	Waiver of errors and omissions policy requirement—Affidavit.

**18.44.010 Definitions.** Unless the context otherwise requires terms used in this chapter shall have the following meanings:

(1) "Department" means the department of financial institutions.

(2) "Director" means the director of financial institutions, or his or her duly authorized representative.

(3) "Escrow" means any transaction wherein any person or persons, for the purpose of effecting and closing the sale, purchase, exchange, transfer, encumbrance, or lease of real or personal property to another person or persons, delivers any written instrument, money, evidence of title to real or personal property, or other thing of value to a third person to be held by such third person until the happening of a specified event or the performance of a prescribed condition or conditions, when it is then to be delivered by such third person, in compliance with instructions under which he is to act, to a grantee, grantor, promisee, promisor, obligee, obligor, lessee, lessor, bailee, bailor, or any agent or employee thereof.

(4) "Escrow agent" means any sole proprietorship, firm, association, partnership, or corporation engaged in the business of performing for compensation the duties of the third person referred to in RCW 18.44.010(3) above.

(5) "Certificated escrow agent" means any sole proprietorship, firm, association, partnership, or corporation holding a certificate of registration as an escrow agent under the provisions of this chapter.

(6) "Person" unless a different meaning appears from the context, includes an individual, a firm, association, partnership or corporation, or the plural thereof, whether resident, nonresident, citizen or not.

(7) "Escrow officer" means any natural person handling escrow transactions and licensed as such by the director.

(8) "Escrow commission" means the escrow commission of the state of Washington created by RCW 18.44.208.

(9) "Controlling person" is any person who owns or controls ten percent or more of the beneficial ownership of any escrow agent, regardless of the form of business organization employed and regardless of whether such interest stands in such person's true name or in the name of a

nominee. [1995 c 238 § 1; 1985 c 7 § 47; 1979 c 158 § 42; 1977 ex.s. c 156 § 1; 1971 ex.s. c 245 § 1; 1965 c 153 § 1.]

**Effective date—1995 c 238:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995." [1995 c 238 § 10.]

**18.44.080 Fees.** The director shall charge and collect the following fees:

(1) For filing an original or a renewal application for registration as an escrow agent, annual fees for the first office or location and for each additional office or location.

(2) For filing an application for a change of address, for each certificate of registration and for each escrow officer license being so changed.

(3) For filing an application for a duplicate of a certificate of registration or of an escrow officer license lost, stolen, destroyed, or for replacement.

(4) For providing administrative support to the escrow commission.

All fees under this chapter shall be set by rule by the director. In fixing these fees, the director shall set the fees at a sufficient level to defray the costs of administering this chapter.

All fees received by the director under this chapter shall be paid into the state treasury to the credit of the banking examination fund. [1995 c 238 § 2; 1985 c 340 § 1; 1977 ex.s. c 156 § 7; 1971 ex.s. c 245 § 5; 1965 c 153 § 8.]

**Effective date—1995 c 238:** See note following RCW 18.44.010.

**18.44.208 Escrow commission—Members—Terms—Compensation and travel expenses.** There is established an escrow commission of the state of Washington, to consist of the director of financial institutions or his or her designee as chairman, and five other members who shall act as advisors to the director as to the needs of the escrow profession, including but not limited to the design and conduct of tests to be administered to applicants for escrow licenses, the schedule of license fees to be applied to the escrow licensees, educational programs, audits and investigations of the escrow profession designed to protect the consumer, and such other matters determined appropriate. The director is hereby empowered to and shall appoint the other members, each of whom shall have been a resident of this state for at least five years and shall have at least five years experience in the practice of escrow as an escrow agent or as a person in responsible charge of escrow transactions.

The members of the first commission shall serve for the following terms: One member for one year, one member for two years, one member for three years, one member for four years, and one member for five years, from the date of their appointment, or until their successors are duly appointed and qualified. Every member of the commission shall receive a certificate of appointment from the director and before beginning the member's term of office shall file with the secretary of state a written oath or affirmation for the faithful discharge of the member's official duties. On the expiration of the term of each member, the director shall appoint a successor to serve for a term of five years or until the member's successor has been appointed and qualified.

The director may remove any member of the commission for cause. Vacancies in the commission for any reason shall be filled by appointment for the unexpired term.

Members shall be compensated in accordance with RCW 43.03.240, and shall be reimbursed for their travel expenses incurred in carrying out the provisions of this chapter in accordance with RCW 43.03.050 and 43.03.060. [1995 c 238 § 3; 1985 c 340 § 3; 1984 c 287 § 36.]

**Effective date—1995 c 238:** See note following RCW 18.44.010.

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

**18.44.290 Escrow officer's license—Application—Form—Timely filing—Proof of moral character, etc.** Any person desiring to be an escrow officer shall meet the requirements of RCW 18.44.220 as provided in this chapter. The applicant shall make application endorsed by a certificated escrow agent to the director on a form to be prescribed and furnished by the director. Such application must be received by the director within one year of passing the escrow officer examination. With this application the applicant shall:

(1) Pay a license fee as set forth by rule; and

(2) Furnish such proof as the director may require concerning his or her honesty, truthfulness, good reputation, and identity, including but not limited to fingerprints. [1995 c 238 § 4; 1977 ex.s. c 156 § 22.]

**Effective date—1995 c 238:** See note following RCW 18.44.010.

**18.44.380 Waiver of errors and omissions policy requirement—Affidavit.** A request for a waiver of the required errors and omissions policy may be accomplished under the statute by submitting to the director an affidavit that substantially addresses the following:

#### REQUEST FOR WAIVER OF ERRORS AND OMISSIONS POLICY

I, . . . . ., residing at . . . . ., City of . . . . ., County of . . . . ., State of Washington, declare the following:

(1) The state escrow commission has determined that an errors and omissions policy is not reasonably available to a substantial number of licensed escrow officers; and

(2) Purchasing an errors and omissions policy is cost-prohibitive at this time; and

(3) I have not engaged in any conduct that resulted in the termination of my escrow certificate; and

(4) I have not paid, directly or through an errors and omissions policy, claims in excess of ten thousand dollars, exclusive of costs and attorneys' fees, during the calendar year preceding submission of this affidavit; and

(5) I have not paid, directly or through an errors and omissions policy, claims, exclusive of costs and attorneys' fees, totaling in excess of twenty thousand dollars in the three calendar years immediately preceding submission of this affidavit; and

(6) I have not been convicted of a crime involving honesty or moral turpitude during the calendar year preceding submission of this application.

THEREFORE, in consideration of the above, I, . . . . ., respectfully request that the director of financial institutions grant this request for a waiver of the requirement that I



purchase and maintain an errors and omissions policy covering my activities as an escrow agent licensed by the state of Washington for the period from . . . . ., 19. . . , to . . . . ., 19. . .

Submitted this day of . . . . day of . . . . ., 19. . .

. . . . . (signature)

State of Washington, }
County of . . . . . } ss.

I certify that I know or have satisfactory evidence that . . . . ., signed this instrument and acknowledged it to be . . . . . free and voluntary act for the uses and purposes mentioned in the instrument.

Dated . . . . .
Signature of
Notary Public . . . . .
Title . . . . .
My appointment expires . . . . .

(Seal or stamp)

[1995 c 238 § 5; 1987 c 471 § 10.]

Effective date—1995 c 238: See note following RCW 18.44.010.

Effective date—Severability—1987 c 471: See notes following RCW 18.44.370.

Chapter 18.46
MATERNITY HOMES

Sections

18.46.110 Fire protection—Duties of chief of the Washington state patrol.

18.46.110 Fire protection—Duties of chief of the Washington state patrol. Fire protection with respect to all maternity homes to be licensed hereunder, shall be the responsibility of the chief of the Washington state patrol, through the director of fire protection, who shall adopt by reference, such recognized standards as may be applicable to nursing homes, places of refuge, and maternity homes for the protection of life against the cause and spread of fire and fire hazards. The department upon receipt of an application for a license, shall submit to the chief of the Washington state patrol, through the director of fire protection, in writing, a request for an inspection, giving the applicant's name and the location of the premises to be licensed. Upon receipt of such a request, the chief of the Washington state patrol, through the director of fire protection, or his or her deputy, shall make an inspection of the maternity home to be licensed, and if it is found that the premises do not comply with the required safety standards and fire regulations as promulgated by the chief of the Washington state patrol, through the director of fire protection, he or she shall promptly make a written report to the department as to the manner in which the premises may qualify for a license and set forth the conditions to be remedied with respect to fire regulations. The department, applicant or licensee shall notify the chief of the Washington state patrol, through the director of fire protection, upon completion of any requirements made by him or her, and the chief of the Washington state patrol, through the director of fire protection, or his or

her deputy, shall make a reinspection of such premises. Whenever the maternity home to be licensed meets with the approval of the chief of the Washington state patrol, through the director of fire protection, he or she shall submit to the department, a written report approving same with respect to fire protection before a license can be issued. The chief of the Washington state patrol, through the director of fire protection, shall make or cause to be made such inspection of such maternity homes as he or she deems necessary.

In cities which have in force a comprehensive building code, the regulation of which is equal to the minimum standards of the code for maternity homes adopted by the chief of the Washington state patrol, through the director of fire protection, the building inspector and the chief of the fire department, provided the latter is a paid chief of a paid fire department, shall make the inspection and shall approve the premises before a license can be issued.

In cities where such building codes are in force, the chief of the Washington state patrol, through the director of fire protection, may, upon request by the chief fire official, or the local governing body, or of a taxpayer of such city, assist in the enforcement of any such code pertaining to maternity homes. [1995 c 369 § 5; 1986 c 266 § 82; 1951 c 168 § 12.]

Effective date—1995 c 369: See note following RCW 43.43.930.

Severability—1986 c 266: See note following RCW 38.52.005.

State fire protection: Chapter 48.48 RCW.

Chapter 18.48
ADULT FAMILY HOMES

Sections

18.48.010 Definitions. (Effective July 1, 1996.)
18.48.020 Registration. (Effective July 1, 1996.)
18.48.030 Application of uniform disciplinary act. (Effective July 1, 1996.)

18.48.010 Definitions. (Effective July 1, 1996.)

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

(1) "Secretary" means the secretary of the department of health.

(2) "Adult family home" means a regular family abode of a person or persons who provide personal care, special care, room, and board to more than one but not more than six adults who are not related by blood or marriage to the person or persons providing the services.

(3) "Operator" means a provider who is licensed under chapter 70.128 RCW to operate an adult family home.

(4) "Person" includes an individual, firm, corporation, partnership, or association. [1995 c 260 § 7.]

Effective date—1995 c 260 §§ 7-11: "Sections 7 through 11 of this act shall take effect July 1, 1996." [1995 1st sp.s. c 18 § 116; 1995 c 260 § 12.]

18.48.020 Registration. (Effective July 1, 1996.) A person who operates an adult family home shall register the home with the secretary. Each separate location of the business of an adult family home shall have a separate registration.

The secretary, by rule, shall establish forms and procedures for the processing of operator registration applications, including the payment of registration fees pursuant to RCW 43.70.250. An application for an adult family home operator registration shall include at least the following information:

(1) The names and addresses of the operator of the adult family home; and

(2) If the operator is a corporation, copies of its articles of incorporation and current bylaws, together with the names and addresses of its officers and directors.

A registration issued by the secretary in accordance with this section shall remain effective for a period of one year from the date of its issuance unless the registration is revoked or suspended pursuant to RCW 18.48.030, or unless the adult family home is sold or ownership or management is transferred, in which case the registration of the home shall be voided and the operator shall apply for a new registration. [1995 c 260 § 8.]

**Effective date—1995 c 260 §§ 7-11:** See note following RCW 18.48.010.

**18.48.030 Application of uniform disciplinary act.** (*Effective July 1, 1996.*) The uniform disciplinary act, chapter 18.130 RCW, shall govern the issuance and denial of registration and the discipline of persons registered under this chapter. The secretary shall be the disciplinary authority under this chapter. [1995 c 260 § 9.]

**Effective date—1995 c 260 §§ 7-11:** See note following RCW 18.48.010.

## Chapter 18.51 NURSING HOMES

### Sections

- 18.51.140 Fire protection—Duties of chief of the Washington state patrol.
- 18.51.145 Building inspections—Authority of chief of the Washington state patrol.
- 18.51.300 Retention and preservation of records of patients.

**18.51.140 Fire protection—Duties of chief of the Washington state patrol.** Standards for fire protection and the enforcement thereof, with respect to all nursing homes to be licensed hereunder, shall be the responsibility of the chief of the Washington state patrol, through the director of fire protection, who shall adopt such recognized standards as may be applicable to nursing homes for the protection of life against the cause and spread of fire and fire hazards. The department upon receipt of an application for a license, shall submit to the chief of the Washington state patrol, through the director of fire protection, in writing, a request for an inspection, giving the applicant's name and the location of the premises to be licensed. Upon receipt of such a request, the chief of the Washington state patrol, through the director of fire protection, or his or her deputy, shall make an inspection of the nursing home to be licensed, and if it is found that the premises do not comply with the required safety standards and fire regulations as promulgated by the chief of the Washington state patrol, through the director of fire protection, he or she shall promptly make a written report to the nursing home and the department as to the manner and time allowed in which the premises must qualify

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for a license and set forth the conditions to be remedied with respect to fire regulations. The department, applicant or licensee shall notify the chief of the Washington state patrol, through the director of fire protection, upon completion of any requirements made by him or her, and the chief of the Washington state patrol, through the director of fire protection, or his or her deputy, shall make a reinspection of such premises. Whenever the nursing home to be licensed meets with the approval of the chief of the Washington state patrol, through the director of fire protection, he or she shall submit to the department, a written report approving same with respect to fire protection before a full license can be issued. The chief of the Washington state patrol, through the director of fire protection, shall make or cause to be made inspections of such nursing homes at least every eighteen months.

In cities which have in force a comprehensive building code, the provisions of which are determined by the chief of the Washington state patrol, through the director of fire protection, to be equal to the minimum standards of the code for nursing homes adopted by the chief of the Washington state patrol, through the director of fire protection, the chief of the fire department, provided the latter is a paid chief of a paid fire department, shall make the inspection with the chief of the Washington state patrol, through the director of fire protection, or his or her deputy and they shall jointly approve the premises before a full license can be issued. [1995 1st sp.s. c 18 § 43; 1995 c 369 § 6; 1986 c 266 § 83; 1953 c 160 § 9; 1951 c 117 § 15.]

**Conflict with federal requirements—Severability—Effective date—1995 1st sp.s. c 18:** See notes following RCW 74.39A.008.

**Effective date—1995 c 369:** See note following RCW 43.43.930.

**Severability—1986 c 266:** See note following RCW 38.52.005.

*State fire protection: Chapter 48.48 RCW.*

**18.51.145 Building inspections—Authority of chief of the Washington state patrol.** Inspections of nursing homes by local authorities shall be consistent with the requirements of chapter 19.27 RCW, the state building code. Findings of a serious nature shall be coordinated with the department and the chief of the Washington state patrol, through the director of fire protection, for determination of appropriate actions to ensure a safe environment for nursing home residents. The chief of the Washington state patrol, through the director of fire protection, shall have exclusive authority to determine appropriate corrective action under this section. [1995 c 369 § 7; 1986 c 266 § 84; 1983 1st ex.s. c 67 § 45; 1981 1st ex.s. c 2 § 16.]

**Effective date—1995 c 369:** See note following RCW 43.43.930.

**Severability—1986 c 266:** See note following RCW 38.52.005.

**Severability—1983 1st ex.s. c 67:** See RCW 74.46.905.

**Effective dates—1983 1st ex.s. c 67:** See note following RCW 74.46.901.

**Severability—Effective dates—1981 1st ex.s. c 2:** See notes following RCW 18.51.010.

*Conflict with federal requirements and this section: RCW 74.46.840.*

**18.51.300 Retention and preservation of records of patients.** Unless specified otherwise by the department, a nursing home shall retain and preserve all records which relate directly to the care and treatment of a patient for a period of no less than eight years following the most recent

discharge of the patient; except the records of minors, which shall be retained and preserved for a period of no less than three years following attainment of the age of eighteen years, or ten years following such discharge, whichever is longer.

If a nursing home ceases operations, it shall make immediate arrangements, as approved by the department, for preservation of its records.

The department shall by regulation define the type of records and the information required to be included in the records to be retained and preserved under this section; which records may be retained in photographic form pursuant to chapter 5.46 RCW. [1995 1st sp.s. c 18 § 44; 1981 1st ex.s. c 2 § 24; 1975 1st ex.s. c 175 § 2.]

**Conflict with federal requirements—Severability—Effective date—1995 1st sp.s. c 18:** See notes following RCW 74.39A.008.

**Severability—Effective dates—1981 1st ex.s. c 2:** See notes following RCW 18.51.010.

## Chapter 18.53 OPTOMETRY

### Sections

18.53.060 License applicants—Eligibility—Qualifications—Examinations—Exception.

**18.53.060 License applicants—Eligibility—Qualifications—Examinations—Exception.** From and after January 1, 1940, in order to be eligible for examination for registration, a person shall be a citizen of the United States of America, who shall have a preliminary education of or equal to four years in a state accredited high school and has completed a full attendance course in a regularly chartered school of optometry maintaining a standard which is deemed sufficient and satisfactory by the optometry board, who is a person of good moral character, who has a visual acuity in at least one eye, of a standard known as 20/40 under correction: PROVIDED, That from and after January 1, 1975, in order to be eligible for examination for a license, a person shall have the following qualifications:

(1) Be a graduate of a state accredited high school or its equivalent;

(2) Have a diploma or other certificate of completion from an accredited college of optometry or school of optometry, maintaining a standard which is deemed sufficient and satisfactory by the optometry board, conferring its degree of doctor of optometry or its equivalent, maintaining a course of four scholastic years in addition to preprofessional college level studies, and teaching substantially all of the following subjects: General anatomy, anatomy of the eyes, physiology, physics, chemistry, pharmacology, biology, bacteriology, general pathology, ocular pathology, ocular neurology, ocular myology, psychology, physiological optics, optometrical mechanics, clinical optometry, visual field charting and orthoptics, general laws of optics and refraction and use of the ophthalmoscope, retinoscope and other clinical instruments necessary in the practice of optometry; and

(3) Be of good moral character.

Such person shall file an application for an examination and license with said board at any time thirty days prior to the time fixed for such examination, or at a later date if

approved by the board, and such application must be on forms approved by the board, and properly attested, and if found to be in accordance with the provisions of this chapter shall entitle the applicant upon payment of the proper fee, to take the examination prescribed by the board. Such examination shall not be out of keeping with the established teachings and adopted textbooks of the recognized schools of optometry, and shall be confined to such subjects and practices as are recognized as essential to the practice of optometry. All candidates without discrimination, who shall successfully pass the prescribed examination, shall be registered by the board and shall, upon payment of the proper fee, be issued a license. Any license to practice optometry in this state issued by the secretary, and which shall be in full force and effect at the time of passage of \*this 1975 amendatory act, shall be continued. [1995 c 198 § 6; 1991 c 3 § 135; 1975 1st ex.s. c 69 § 4; 1937 c 155 § 1; 1919 c 144 § 5; Rem. Supp. 1937 § 10150. Prior: 1909 c 235 § 7. Formerly RCW 18.53.060 and 18.53.080.]

**\*Reviser's note:** "This 1975 amendatory act," see note following RCW 18.53.040.

## Chapter 18.54 OPTOMETRY BOARD

### Sections

18.54.070 Powers and duties—Examinations—Rules.

**18.54.070 Powers and duties—Examinations—Rules.** The board has the following powers and duties:

(1) To develop and administer, or approve, or both, a licensure examination. The board may approve an examination prepared or administered by a private testing agency or association of licensing authorities.

(2) The board shall adopt rules and regulations to promote safety, protection and the welfare of the public, to carry out the purposes of this chapter, to aid the board in the performance of its powers and duties, and to govern the practice of optometry. [1995 c 198 § 7; 1991 c 3 § 140; 1986 c 259 § 84; 1979 c 158 § 49; 1975 1st ex.s. c 69 § 10; 1963 c 25 § 7.]

**Severability—1986 c 259:** See note following RCW 18.130.010.

**Severability—1975 1st ex.s. c 69:** See RCW 18.53.911.

## Chapter 18.64 PHARMACISTS

### Sections

18.64.011 Definitions.  
18.64.165 Refusal, suspension, and revocation of other licenses.  
18.64.255 Authorized practices.  
18.64.450 Health care entity—License requirements for legend drugs and controlled substances—Exception.  
18.64.460 Health care entity—License fee—Requirements—Penalty.  
18.64.470 Health care entity—Records.

**18.64.011 Definitions.** Unless the context clearly requires otherwise, definitions of terms shall be as indicated when used in this chapter.

(1) "Person" means an individual, corporation, government, governmental subdivision or agency, business trust,

estate, trust, partnership or association, or any other legal entity.

(2) "Board" means the Washington state board of pharmacy.

(3) "Drugs" means:

(a) Articles recognized in the official United States pharmacopoeia or the official homeopathic pharmacopoeia of the United States;

(b) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;

(c) Substances (other than food) intended to affect the structure or any function of the body of man or other animals; or

(d) Substances intended for use as a component of any substances specified in (a), (b), or (c) of this subsection, but not including devices or their component parts or accessories.

(4) "Device" means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended (a) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals, or (b) to affect the structure or any function of the body of man or other animals.

(5) "Nonlegend" or "nonprescription" drugs means any drugs which may be lawfully sold without a prescription.

(6) "Legend drugs" means any drugs which are required by any applicable federal or state law or regulation to be dispensed on prescription only or are restricted to use by practitioners only.

(7) "Controlled substance" means a drug or substance, or an immediate precursor of such drug or substance, so designated under or pursuant to the provisions of chapter 69.50 RCW.

(8) "Prescription" means an order for drugs or devices issued by a practitioner duly authorized by law or rule in the state of Washington to prescribe drugs or devices in the course of his or her professional practice for a legitimate medical purpose.

(9) "Practitioner" means a physician, dentist, veterinarian, nurse, or other person duly authorized by law or rule in the state of Washington to prescribe drugs.

(10) "Pharmacist" means a person duly licensed by the Washington state board of pharmacy to engage in the practice of pharmacy.

(11) "Practice of pharmacy" includes the practice of and responsibility for: Interpreting prescription orders; the compounding, dispensing, labeling, administering, and distributing of drugs and devices; the monitoring of drug therapy and use; the initiating or modifying of drug therapy in accordance with written guidelines or protocols previously established and approved for his or her practice by a practitioner authorized to prescribe drugs; the participating in drug utilization reviews and drug product selection; the proper and safe storing and distributing of drugs and devices and maintenance of proper records thereof; the providing of information on legend drugs which may include, but is not limited to, the advising of therapeutic values, hazards, and the uses of drugs and devices.

(12) "Pharmacy" means every place properly licensed by the board of pharmacy where the practice of pharmacy is conducted.

(13) The words "drug" and "devices" shall not include surgical or dental instruments or laboratory materials, gas and oxygen, therapy equipment, X-ray apparatus or therapeutic equipment, their component parts or accessories, or equipment, instruments, apparatus, or contrivances used to render such articles effective in medical, surgical, or dental treatment, or for use or consumption in or for mechanical, industrial, manufacturing, or scientific applications or purposes, nor shall the word "drug" include any article or mixture covered by the Washington pesticide control act (chapter 15.58 RCW), as enacted or hereafter amended, nor medicated feed intended for and used exclusively as a feed for animals other than man.

(14) The word "poison" shall not include any article or mixture covered by the Washington pesticide control act (chapter 15.58 RCW), as enacted or hereafter amended.

(15) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a drug or device, whether or not there is an agency relationship.

(16) "Dispense" means the interpretation of a prescription or order for a drug, biological, or device and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

(17) "Distribute" means the delivery of a drug or device other than by administering or dispensing.

(18) "Compounding" shall be the act of combining two or more ingredients in the preparation of a prescription.

(19) "Wholesaler" shall mean a corporation, individual, or other entity which buys drugs or devices for resale and distribution to corporations, individuals, or entities other than consumers.

(20) "Manufacture" means the production, preparation, propagation, compounding, or processing of a drug or other substance or device or the packaging or repackaging of such substance or device, or the labeling or relabeling of the commercial container of such substance or device, but does not include the activities of a practitioner who, as an incident to his or her administration or dispensing such substance or device in the course of his or her professional practice, prepares, compounds, packages, or labels such substance or device.

(21) "Manufacturer" shall mean a person, corporation, or other entity engaged in the manufacture of drugs or devices.

(22) "Labeling" shall mean the process of preparing and affixing a label to any drug or device container. The label must include all information required by current federal and state law and pharmacy rules.

(23) "Administer" means the direct application of a drug or device, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject.

(24) "Master license system" means the mechanism established by chapter 19.02 RCW by which master licenses, endorsed for individual state-issued licenses, are issued and renewed utilizing a master application and a master license expiration date common to each renewable license endorsement.

(25) "Department" means the department of health.

(26) "Secretary" means the secretary of health or the secretary's designee.

(27) "Health care entity" means an organization that provides health care services in a setting that is not otherwise licensed by the state. Health care entity includes a free-standing outpatient surgery center, a free-standing cardiac care center, or a kidney dialysis center. It does not include an individual practitioner's office or a multipractitioner clinic. [1995 c 319 § 2; 1989 1st ex.s. c 9 § 412; 1984 c 153 § 3; 1982 c 182 § 29; 1979 c 90 § 5; 1963 c 38 § 1.]

**Effective date—Severability—1989 1st ex.s. c 9:** See RCW 43.70.910 and 43.70.920.

**Severability—1982 c 182:** See RCW 19.02.901.

**18.64.165 Refusal, suspension, and revocation of other licenses.** The board shall have the power to refuse, suspend, or revoke the license of any manufacturer, wholesaler, pharmacy, shopkeeper, itinerant vendor, peddler, poison distributor, health care entity, or precursor chemical distributor upon proof that:

(1) The license was procured through fraud, misrepresentation, or deceit;

(2) The licensee has violated or has permitted any employee to violate any of the laws of this state or the United States relating to drugs, controlled substances, cosmetics, or nonprescription drugs, or has violated any of the rules and regulations of the board of pharmacy or has been convicted of a felony. [1995 c 319 § 5. Prior: 1989 1st ex.s. c 9 § 404; 1989 c 352 § 4; 1979 c 90 § 14; 1963 c 38 § 15.]

**Effective date—Severability—1989 1st ex.s. c 9:** See RCW 43.70.910 and 43.70.920.

*Violation of chapter 69.50 RCW, the Uniform Controlled Substances Act—Suspension of license: RCW 69.50.413.*

**18.64.255 Authorized practices.** Nothing in this chapter shall operate in any manner:

(1) To restrict the scope of authorized practice of any practitioner other than a pharmacist, duly licensed as such under the laws of this state. However, a health care entity shall comply with all state and federal laws and rules relating to the dispensing of drugs and the practice of pharmacy; or

(2) In the absence of the pharmacist from the hospital pharmacy, to prohibit a registered nurse designated by the hospital and the responsible pharmacist from obtaining from the hospital pharmacy such drugs as are needed in an emergency: PROVIDED, That proper record is kept of such emergency, including the date, time, name of prescriber, the name of the nurse obtaining the drugs, and a list of what drugs and quantities of same were obtained; or

(3) To prevent shopkeepers, itinerant vendors, peddlers, or salesmen from dealing in and selling nonprescription drugs, if such drugs are sold in the original packages of the manufacturer, or in packages put up by a licensed pharmacist in the manner provided by the state board of pharmacy, if such shopkeeper, itinerant vendor, salesman, or peddler shall have obtained a registration. [1995 c 319 § 7; 1984 c 153 § 14; 1981 c 147 § 3; 1979 c 90 § 19.]

**18.64.450 Health care entity—License requirements for legend drugs and controlled substances—Exception.**

(1) In order for a health care entity to purchase, administer, dispense, and deliver legend drugs, the health care entity must be licensed by the department.

(2) In order for a health care entity to purchase, administer, dispense, and deliver controlled substances, the health care entity must annually obtain a license from the department in accordance with the board's rules.

(3) The receipt, administration, dispensing, and delivery of legend drugs or controlled substances by a health care entity must be performed under the supervision or at the direction of a pharmacist.

(4) A health care entity may only administer, dispense, or deliver legend drugs and controlled substances to patients who receive care within the health care entity and in compliance with rules of the board. Nothing in this subsection shall prohibit a practitioner, in carrying out his or her licensed responsibilities within a health care entity, from dispensing or delivering to a patient of the health care entity drugs for that patient's personal use in an amount not to exceed seventy-two hours of usage. [1995 c 319 § 3.]

**18.64.460 Health care entity—License fee—Requirements—Penalty.** (1) The owner of a health care entity shall pay an original license fee to be determined by the secretary, and annually thereafter, on or before a date to be determined by the secretary, a fee to be determined by the secretary, for which he or she shall receive a license of location, which shall entitle the owner to purchase legend drugs or controlled substances at the location specified for the period ending on a date to be determined by the secretary. A declaration of ownership and location filed with the department under this section shall be deemed presumptive evidence of ownership of the health care entity.

(2) The owner shall immediately notify the department of any change of location or ownership in which case a new application and fee shall be submitted.

(3) It shall be the duty of the owner to keep the license of location or the renewal license properly exhibited in the health care entity.

(4) Failure to comply with this section is a misdemeanor and each day that the failure continues is a separate offense.

(5) In the event that a license fee remains unpaid after the date due, no renewal or new license may be issued except upon payment of the license renewal fee and a penalty fee equal to the original license fee. [1995 c 319 § 4.]

**18.64.470 Health care entity—Records.** Every proprietor or manager of a health care entity shall keep readily available a suitable record of drugs, which shall preserve for a period of not less than two years the record of every drug used at such health care entity. The record shall be maintained either separately from all other records of the health care entity or in such form that the information required is readily retrievable from ordinary business records of the health care entity. All recordkeeping requirements for controlled substances must be complied with. Such record of drugs shall be for confidential use in the health care entity, only. The record of drugs shall be open for inspection by the board of pharmacy, who is authorized to enforce chapter 18.64, 69.41, or 69.50 RCW. [1995 c 319 § 6.]

## Chapter 18.64A PHARMACY ASSISTANTS

### Sections

18.64A.020 Rules—Classification and qualifications of assistants and training programs.

**18.64A.020 Rules—Classification and qualifications of assistants and training programs.** (1) The board shall adopt, in accordance with chapter 34.05 RCW, rules fixing the classification and qualifications and the educational and training requirements for persons who may be employed as pharmacy assistants or who may be enrolled in any pharmacy assistant training program. Such rules shall provide that:

(a) Licensed pharmacists shall supervise the training of pharmacy assistants; and

(b) Training programs shall assure the competence of pharmacy assistants to aid and assist pharmacy operations. Training programs shall consist of instruction and/or practical training.

Such rules may include successful completion of examinations for applicants for pharmacy assistant certificates. If such examination rules are adopted, the board shall prepare or determine the nature of, and supervise the grading of the examinations. The board may approve an examination prepared or administered by a private testing agency or association of licensing authorities.

(2) The board may disapprove or revoke approval of any training program for failure to conform to board rules. In the case of the disapproval or revocation of approval of a training program by the board, a hearing shall be conducted in accordance with RCW 18.64.160, and appeal may be taken in accordance with the Administrative Procedure Act, chapter 34.05 RCW. [1995 c 198 § 8; 1977 ex.s. c 101 § 2.]

## Chapter 18.71 PHYSICIANS

### Sections

18.71.030 Exemptions.  
18.71.200 Emergency medical service personnel—Definitions.  
18.71.205 Emergency medical service personnel—Certification.  
18.71.210 Emergency medical service personnel—Liability (*as amended by 1995 c 65*).  
18.71.210 Emergency medical service personnel—Liability (*as amended by 1995 c 103*).  
18.71.215 Medical program directors—Liability for acts or omissions of others.

**18.71.030 Exemptions.** Nothing in this chapter shall be construed to apply to or interfere in any way with the practice of religion or any kind of treatment by prayer; nor shall anything in this chapter be construed to prohibit:

(1) The furnishing of medical assistance in cases of emergency requiring immediate attention;

(2) The domestic administration of family remedies;

(3) The administration of oral medication of any nature to students by public school district employees or private elementary or secondary school employees as provided for in chapter 28A.210 RCW;

(4) The practice of dentistry, osteopathy, osteopathy and surgery, nursing, chiropractic, podiatric medicine and surgery, optometry, naturopathy, or any other healing art licensed under the methods or means permitted by such license;

(5) The practice of medicine in this state by any commissioned medical officer serving in the armed forces of the United States or public health service or any medical officer on duty with the United States veterans administration while such medical officer is engaged in the performance of the duties prescribed for him or her by the laws and regulations of the United States;

(6) The practice of medicine by any practitioner licensed by another state or territory in which he or she resides, provided that such practitioner shall not open an office or appoint a place of meeting patients or receiving calls within this state;

(7) The practice of medicine by a person who is a regular student in a school of medicine approved and accredited by the commission, however, the performance of such services be only pursuant to a regular course of instruction or assignments from his or her instructor, or that such services are performed only under the supervision and control of a person licensed pursuant to this chapter;

(8) The practice of medicine by a person serving a period of postgraduate medical training in a program of clinical medical training sponsored by a college or university in this state or by a hospital accredited in this state, however, the performance of such services shall be only pursuant to his or her duties as a trainee;

(9) The practice of medicine by a person who is regularly enrolled in a physician assistant program approved by the commission, however, the performance of such services shall be only pursuant to a regular course of instruction in said program and such services are performed only under the supervision and control of a person licensed pursuant to this chapter;

(10) The practice of medicine by a licensed physician assistant which practice is performed under the supervision and control of a physician licensed pursuant to this chapter;

(11) The practice of medicine, in any part of this state which shares a common border with Canada and which is surrounded on three sides by water, by a physician licensed to practice medicine and surgery in Canada or any province or territory thereof;

(12) The administration of nondental anesthesia by a dentist who has completed a residency in anesthesiology at a school of medicine approved by the commission, however, a dentist allowed to administer nondental anesthesia shall do so only under authorization of the patient's attending surgeon, obstetrician, or psychiatrist, and the commission has jurisdiction to discipline a dentist practicing under this exemption and enjoin or suspend such dentist from the practice of nondental anesthesia according to this chapter and chapter 18.130 RCW;

(13) Emergency lifesaving service rendered by a physician's trained emergency medical service intermediate life support technician and paramedic, as defined in RCW 18.71.200, if the emergency lifesaving service is rendered under the responsible supervision and control of a licensed physician;

(14) The provision of clean, intermittent bladder catheterization for students by public school district employees or private school employees as provided for in RCW 18.79.290 and 28A.210.280. [1995 c 65 § 1; 1994 sp.s. c 9 § 306. Prior: 1990 c 196 § 12; 1990 c 33 § 552; 1988 c 48 § 4; 1986 c 259 § 108; 1983 c 2 § 1; prior: 1982 c 195 § 3; 1982 c 51 § 1; 1975 1st ex.s. c 171 § 5; 1973 1st ex.s. c 110 § 1; 1961 c 284 § 4; 1919 c 134 § 12; 1909 c 192 § 19; RRS § 10024.]

**Severability—Headings and captions not law—Effective date—**1994 sp.s. c 9: See RCW 18.79.900 through 18.79.902.

**Purpose—Statutory references—Severability—1990 c 33:** See RCW 28A.900.100 through 28A.900.102.

**Severability—1986 c 259:** See note following RCW 18.130.010.

**Severability—1983 c 2:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1983 c 2 § 21.]

**Severability—1982 c 195:** See note following RCW 28A.210.260.

### 18.71.200 Emergency medical service personnel—

**Definitions.** As used in this chapter, a "physician's trained emergency medical service intermediate life support technician and paramedic" means a person who:

(1) Has successfully completed an emergency medical technician course as described in chapter 18.73 RCW;

(2) Is trained under the supervision of an approved medical program director according to training standards prescribed in rule to perform specific phases of advanced cardiac and trauma life support under written or oral authorization of an approved licensed physician; and

(3) Has been examined and certified as a physician's trained emergency medical service intermediate life support technician and paramedic, by level, by the University of Washington's school of medicine or the department of health. [1995 c 65 § 2; 1991 c 3 § 165; 1986 c 259 § 111; 1983 c 112 § 1; 1977 c 55 § 2; 1973 1st ex.s. c 52 § 1; 1971 ex.s. c 305 § 2.]

**Severability—1986 c 259:** See note following RCW 18.130.010.

**Effective date—1973 1st ex.s. c 52:** See note following RCW 43.22.010.

### 18.71.205 Emergency medical service personnel—

**Certification.** (1) The secretary of the department of health, in conjunction with the advice and assistance of the emergency medical services licensing and certification advisory committee as prescribed in RCW 18.73.050, and the commission, shall prescribe:

(a) Practice parameters, training standards for, and levels of, physician trained emergency medical service intermediate life support technicians and paramedics;

(b) Minimum standards and performance requirements for the certification and recertification of physician's trained emergency medical service intermediate life support technicians and paramedics; and

(c) Procedures for certification, recertification, and decertification of physician's trained emergency medical service intermediate life support technicians and paramedics.

(2) Initial certification shall be for a period of three years.

(3) Recertification shall be granted upon proof of continuing satisfactory performance and education, and shall be for a period of three years.

(4) As used in chapters 18.71 and 18.73 RCW, "approved medical program director" means a person who:

(a) Is licensed to practice medicine and surgery pursuant to chapter 18.71 RCW or osteopathy and surgery pursuant to chapter 18.57 RCW; and

(b) Is qualified and knowledgeable in the administration and management of emergency care and services; and

(c) Is so certified by the department of health for a county, group of counties, or cities with populations over four hundred thousand in coordination with the recommendations of the local medical community and local emergency medical services and trauma care council.

(5) The Uniform Disciplinary Act, chapter 18.130 RCW, governs uncertified practice, the issuance and denial of certificates, and the disciplining of certificate holders under this section. The secretary shall be the disciplining authority under this section. Disciplinary action shall be initiated against a person credentialed under this chapter in a manner consistent with the responsibilities and duties of the medical program director under whom such person is responsible.

(6) Such activities of physician[']s trained emergency medical service intermediate life support technicians and paramedics shall be limited to actions taken under the express written or oral order of medical program directors and shall not be construed at any time to include free standing or nondirected actions, for actions not presenting an emergency or life-threatening condition. [1995 c 65 § 3; 1994 sp.s. c 9 § 316; 1992 c 128 § 1; 1990 c 269 § 18; 1986 c 68 § 1; 1983 c 112 § 2; 1977 c 55 § 3.]

**Severability—Headings and captions not law—Effective date—**1994 sp.s. c 9: See RCW 18.79.900 through 18.79.902.

**Severability—1990 c 269:** See RCW 70.168.901.

**18.71.210 Emergency medical service personnel—Liability (as amended by 1995 c 65).** No act or omission of any physician's trained (~~mobile intensive care paramedic, intravenous therapy~~) emergency medical service intermediate life support technician and paramedic, ((~~or airway management technician,~~)) as defined in RCW 18.71.200 (~~as now or hereafter amended~~), any emergency medical technician or first responder as defined in RCW 18.73.030, done or omitted in good faith while rendering emergency medical service under the responsible supervision and control of a licensed physician or an approved medical program director or delegate(s) to a person who has suffered illness or bodily injury shall impose any liability upon:

(1) The ~~physician's trained ((mobile intensive care paramedic, intravenous therapy technician, airway management technician,))~~ emergency medical service intermediate life support technician and paramedic, emergency medical technician, or first responder;

(2) The medical program director;

(3) The supervising physician(s);

(4) Any hospital, the officers, members of the staff, nurses, or other employees of a hospital;

(5) Any training agency or training physician(s);

(6) Any licensed ambulance service; or

(7) Any federal, state, county, city or other local governmental unit or employees of such a governmental unit.

This section shall apply to an act or omission committed or omitted in the performance of the actual emergency medical procedures and not in the commission or omission of an act which is not within the field of medical expertise of the physician's trained (~~mobile intensive care paramedic, intravenous therapy technician, airway management~~) emergency medical service intermediate life support technician and paramedic, emergency medical technician, or first responder, as the case may be.

This section shall not relieve a physician or a hospital of any duty otherwise imposed by law upon such physician or hospital for the designation or training of a physician's trained (~~mobile intensive care paramedic, intravenous therapy technician, airway management~~) emergency medical service intermediate life support technician and paramedic, emergency medical technician, or first responder, nor shall this section relieve any individual or other entity listed in this section of any duty otherwise imposed by law for the provision or maintenance of equipment to be used by the physician's trained (~~mobile intensive care paramedics, intravenous therapy technicians, airway management~~) emergency medical service intermediate life support technicians and paramedics, emergency medical technicians, or first responders.

This section shall not apply to any act or omission which constitutes either gross negligence or willful or wanton misconduct. [1995 c 65 § 4; 1989 c 260 § 4; 1987 c 212 § 502; 1986 c 68 § 4; 1983 c 112 § 3; 1977 c 55 § 4; 1971 ex.s. c 305 § 3.]

**18.71.210 Emergency medical service personnel—Liability (as amended by 1995 c 103).** No act or omission of any physician's trained mobile intensive care paramedic, intravenous therapy technician, or airway management technician, as defined in RCW 18.71.200 as now or hereafter amended, any emergency medical technician or first responder as defined in RCW 18.73.030, done or omitted in good faith while rendering emergency medical service under the responsible supervision and control of a licensed physician or an approved medical program director or delegate(s) to a person who has suffered illness or bodily injury shall impose any liability upon:

(1) The trained mobile intensive care paramedic, intravenous therapy technician, airway management technician, emergency medical technician, or first responder;

(2) The medical program director;

(3) The supervising physician(s);

(4) Any hospital, the officers, members of the staff, nurses, or other employees of a hospital;

(5) Any training agency or training physician(s);

(6) Any licensed ambulance service; or

(7) Any federal, state, county, city or other local governmental unit or employees of such a governmental unit.

This section shall apply to an act or omission committed or omitted in the performance of the actual emergency medical procedures and not in the commission or omission of an act which is not within the field of medical expertise of the physician's trained mobile intensive care paramedic, intravenous therapy technician, airway management technician, emergency medical technician, or first responder, as the case may be.

~~This section shall (not relieve a physician or a hospital of any duty otherwise imposed by law upon such physician or hospital for the designation or training of a physician's trained mobile intensive care paramedic, intravenous therapy technician, airway management technician, emergency medical technician, or first responder, nor shall this section relieve any individual or other entity listed in this section of any duty otherwise imposed by law for the provision or maintenance of equipment to be used by the physician's trained mobile intensive care paramedics, intravenous therapy technicians, airway management technicians, emergency medical technicians, or first responders) apply also, as to the entities and personnel described in subsections (1) through (7) of this section, to any act or omission committed or omitted in good faith by such entities or personnel in rendering services at the request of an approved medical program director in the training of emergency service medical personnel for certification or recertification pursuant to this chapter.~~

This section shall not apply to any act or omission which constitutes either gross negligence or willful or wanton misconduct. [1995 c 103 § 1; 1989 c 260 § 4; 1987 c 212 § 502; 1986 c 68 § 4; 1983 c 112 § 3; 1977 c 55 § 4; 1971 ex.s. c 305 § 3.]

**Reviser's note:** RCW 18.71.210 was amended twice during the 1995 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

**Effective date—1995 c 103:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [April 19, 1995]." [1995 c 103 § 3.]

**18.71.215 Medical program directors—Liability for acts or omissions of others.** The department of health shall

defend and hold harmless approved medical program directors, delegates, or agents, including but not limited to hospitals and hospital personnel in their capacity of training emergency service medical personnel for certification or recertification pursuant to this chapter at the request of such directors, for any act or omission committed or omitted in good faith in the performance of their duties. [1995 c 103 § 2; 1990 c 269 § 20; 1986 c 68 § 5; 1983 c 112 § 4.]

**Effective date—1995 c 103:** See note following RCW 18.71.210.

**Severability—1990 c 269:** See RCW 70.168.901.

## Chapter 18.74

### PHYSICAL THERAPY

#### Sections

18.74.023 Board—Powers and duties.

18.74.035 Examinations—Scope—Time and place.

**18.74.023 Board—Powers and duties.** The board has the following powers and duties:

(1) To develop and administer, or approve, or both, examinations to applicants for a license under this chapter.

(2) To pass upon the qualifications of applicants for a license and to certify to the secretary duly qualified applicants.

(3) To make such rules not inconsistent with the laws of this state as may be deemed necessary or proper to carry out the purposes of this chapter.

(4) To establish and administer requirements for continuing competency, which shall be a prerequisite to renewing a license under this chapter.

(5) To keep an official record of all its proceedings, which record shall be evidence of all proceedings of the board which are set forth therein.

(6) To adopt rules not inconsistent with the laws of this state, when it deems appropriate, in response to questions put to it by professional health associations, physical therapists, and consumers in this state concerning the authority of physical therapists to perform particular acts.

(7) To adopt rules to define and specify the education and training requirements for physical therapist assistants and physical therapy aides. [1995 c 299 § 1; 1995 c 198 § 9. Prior: 1991 c 12 § 3; 1991 c 3 § 175; 1986 c 259 § 124; 1983 c 116 § 4.]

**Reviser's note:** This section was amended by 1995 c 198 § 9 and by 1995 c 299 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Effective dates—1991 c 12 §§ 1, 2, 3, 6:** See note following RCW 18.74.010.

**Severability—1986 c 259:** See note following RCW 18.130.010.

**18.74.035 Examinations—Scope—Time and place.** All qualified applicants for a license as a physical therapist shall be examined by the board at such time and place as the board may determine. The board may approve an examination prepared or administered by a private testing agency or association of licensing authorities. The examination shall embrace the following subjects: The applied sciences of anatomy, neuroanatomy, kinesiology, physiology, pathology, psychology, physics; physical therapy, as defined in this



chapter, applied to medicine, neurology, orthopedics, pediatrics, psychiatry, surgery; medical ethics; technical procedures in the practice of physical therapy as defined in this chapter; and such other subjects as the board may deem useful to test the applicant's fitness to practice physical therapy, but not including the adjustment or manipulation of the spine or use of a thrusting force as mobilization. Examinations shall be held within the state at least once a year, at such time and place as the board shall determine. An applicant who fails an examination may apply for reexamination upon payment of a reexamination fee determined by the secretary. [1995 c 198 § 10; 1991 c 3 § 176; 1983 c 116 § 7; 1961 c 64 § 3.]

## Chapter 18.79 NURSING CARE

### Sections

- 18.79.040 "Registered nursing practice" defined—Exceptions.  
 18.79.260 Registered nurse—Activities allowed.  
 18.79.270 Licensed practical nurse—Activities allowed. (*Effective August 1, 1996.*)

**18.79.040 "Registered nursing practice" defined—Exceptions.** (1) "Registered nursing practice" means the performance of acts requiring substantial specialized knowledge, judgment, and skill based on the principles of the biological, physiological, behavioral, and sociological sciences in either:

(a) The observation, assessment, diagnosis, care or counsel, and health teaching of the ill, injured, or infirm, or in the maintenance of health or prevention of illness of others;

(b) The performance of such additional acts requiring education and training and that are recognized by the medical and nursing professions as proper and recognized by the commission to be performed by registered nurses licensed under this chapter and that are authorized by the commission through its rules;

(c) The administration, supervision, delegation, and evaluation of nursing practice. However, nothing in this subsection affects the authority of a hospital, hospital district, medical clinic, or office, concerning its administration and supervision;

(d) The teaching of nursing;

(e) The executing of medical regimen as prescribed by a licensed physician and surgeon, dentist, osteopathic physician and surgeon, podiatric physician and surgeon, physician assistant, osteopathic physician assistant, or advanced registered nurse practitioner.

(2) Nothing in this section prohibits a person from practicing a profession for which a license has been issued under the laws of this state or specifically authorized by any other law of the state of Washington.

(3) This section does not prohibit (a) the nursing care of the sick, without compensation, by an unlicensed person who does not hold himself or herself out to be a registered nurse, (b) the practice of licensed practical nursing by a licensed practical nurse, or (c) the practice of a nursing assistant, providing delegated nursing tasks under chapter 18.88A RCW. [1995 1st sp.s. c 18 § 50; 1994 sp.s. c 9 § 404.]

**Conflict with federal requirements—Severability—Effective date—1995 1st sp.s. c 18:** See notes following RCW 74.39A.008.

**18.79.260 Registered nurse—Activities allowed.** A registered nurse under his or her license may perform for compensation nursing care, as that term is usually understood, of the ill, injured, or infirm, and in the course thereof, she or he may do the following things that shall not be done by a person not so licensed, except as provided in RCW 18.79.270 and 18.88A.210:

(1) At or under the general direction of a licensed physician and surgeon, dentist, osteopathic physician and surgeon, naturopathic physician, podiatric physician and surgeon, physician assistant, osteopathic physician assistant, or advanced registered nurse practitioner acting within the scope of his or her license, administer medications, treatments, tests, and inoculations, whether or not the severing or penetrating of tissues is involved and whether or not a degree of independent judgment and skill is required. Such direction must be for acts which are within the scope of registered nursing practice;

(2) Delegate to other persons the functions outlined in subsection (1) of this section in accordance with chapter 18.88A RCW;

(3) Instruct nurses in technical subjects pertaining to nursing;

(4) Hold herself or himself out to the public or designate herself or himself as a registered nurse. [1995 1st sp.s. c 18 § 51; 1995 c 295 § 1; 1994 sp.s. c 9 § 426.]

**Reviser's note:** 1995 1st sp.s. c 18 § 51, effective July 1, 1995, amended 1995 c 295 § 1 which takes effect August 1, 1996.

**Conflict with federal requirements—Severability—Effective date—1995 1st sp.s. c 18:** See notes following RCW 74.39A.008.

**Effective date—1995 c 295:** "This act shall take effect August 1, 1996." [1995 c 295 § 4.]

**18.79.270 Licensed practical nurse—Activities allowed.** (*Effective August 1, 1996.*) A licensed practical nurse under his or her license may perform nursing care, as that term is usually understood, of the ill, injured, or infirm, and in the course thereof may, under the direction of a licensed physician and surgeon, osteopathic physician and surgeon, dentist, naturopathic physician, podiatric physician and surgeon, physician assistant, osteopathic physician assistant, advanced registered nurse practitioner acting under the scope of his or her license, or at the direction and under the supervision of a registered nurse, administer drugs, medications, treatments, tests, injections, and inoculations, whether or not the piercing of tissues is involved and whether or not a degree of independent judgment and skill is required, when selected to do so by one of the licensed practitioners designated in this section, or by a registered nurse who need not be physically present; if the order given is reduced to writing within a reasonable time and made a part of the patient's record. Such direction must be for acts within the scope of licensed practical nurse practice. [1995 c 295 § 2; 1994 sp.s. c 9 § 427.]

**Effective date—1995 c 295:** See note following RCW 18.79.260.

**Chapter 18.83**  
**PSYCHOLOGISTS**

## Sections

- 18.83.070 Applicants—Qualifications—Examination.  
18.83.072 Examinations—Where held—Applicant-board conference—  
Reexamination.

**18.83.070 Applicants—Qualifications—Examination.**

An applicant for a license as "psychologist" must submit proof to the board that:

- (1) The applicant is of good moral character.
- (2) The applicant holds a doctoral degree from a regionally accredited institution, obtained from an integrated program of graduate study in psychology as defined by rules of the board.
- (3) The applicant has had no fewer than two years of supervised experience, at least one of which shall have been obtained subsequent to the granting of the doctoral degree. The board shall adopt rules defining the circumstances under which supervised experience shall qualify the candidate for licensure.

(4) The applicant has passed the written or oral examinations, or both, as prescribed by the board.

Any person holding a valid license to practice psychology in the state of Washington on June 7, 1984, shall be considered licensed under this chapter. [1995 c 198 § 11; 1984 c 279 § 80; 1965 c 70 § 7; 1955 c 305 § 7.]

**Severability—1984 c 279:** See RCW 18.130.901.

**18.83.072 Examinations—Where held—Applicant-board conference—Reexamination.** (1) Examination of applicants shall be held in Olympia, Washington, or at such other place as designated by the secretary, at least annually at such times as the board may determine.

(2) Any applicant shall have the right to discuss with the board his or her performance on the examination.

(3) Any applicant who fails to make a passing grade on the examination may be allowed to retake the examination. Any applicant who fails the examination a second time must obtain special permission from the board to take the examination again.

(4) The reexamination fee shall be the same as the application fee set forth in RCW 18.83.060.

(5) The board may approve an examination prepared or administered by a private testing agency or association of licensing authorities. [1995 c 198 § 12; 1991 c 3 § 198; 1984 c 279 § 81; 1971 ex.s. c 266 § 15; 1965 c 70 § 20.]

**Severability—1984 c 279:** See RCW 18.130.901.

**Chapter 18.85**

**REAL ESTATE BROKERS AND SALESPERSONS**

## Sections

- 18.85.310 Broker's records—Separate accounts—Interest-bearing trust accounts—Disposition of interest.

**18.85.310 Broker's records—Separate accounts—Interest-bearing trust accounts—Disposition of interest.**

(1) Every licensed real estate broker shall keep adequate records of all real estate transactions handled by or through

the broker. The records shall include, but are not limited to, a copy of the earnest money receipt, and an itemization of the broker's receipts and disbursements with each transaction. These records and all other records hereinafter specified shall be open to inspection by the director or the director's authorized representatives.

(2) Every real estate broker shall also deliver or cause to be delivered to all parties signing the same, at the time of signing, conformed copies of all earnest money receipts, listing agreements and all other like or similar instruments signed by the parties, including the closing statement.

(3) Every real estate broker shall also keep separate real estate fund accounts in a recognized Washington state depository authorized to receive funds in which shall be kept separate and apart and physically segregated from licensee broker's own funds, all funds or moneys of clients which are being held by such licensee broker pending the closing of a real estate sale or transaction, or which have been collected for said client and are being held for disbursement for or to said client and such funds shall be deposited not later than the first banking day following receipt thereof.

(4) Separate accounts comprised of clients' funds required to be maintained under this section, with the exception of property management trust accounts, shall be interest-bearing accounts from which withdrawals or transfers can be made without delay, subject only to the notice period which the depository institution is required to reserve by law or regulation.

(5) Every real estate broker shall maintain a pooled interest-bearing escrow account for deposit of client funds, with the exception of property management trust accounts, which are nominal. As used in this section, a "nominal" deposit is a deposit of not more than five thousand dollars.

The interest accruing on this account, net of any reasonable and appropriate financial institution service charges or fees, shall be paid to the state treasurer for deposit in the Washington housing trust fund created in RCW 43.185.030 and the real estate education account created in RCW 18.85.317. Appropriate service charges or fees are those charges made by financial institutions on other demand deposit or "now" accounts. An agent may, but shall not be required to, notify the client of the intended use of such funds.

(6) All client funds not required to be deposited in the account specified in subsection (5) of this section shall be deposited in:

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

(b) The pooled interest-bearing trust account specified in subsection (5) of this section if the parties to the transaction agree.

The department of licensing shall promulgate regulations which will serve as guidelines in the choice of an account specified in subsection (5) of this section or an account specified in this subsection.

(7) For an account created under subsection (5) of this section, an agent shall direct the depository institution to:

(a) Remit interest or dividends, net of any reasonable and appropriate service charges or fees, on the average monthly balance in the account, or as otherwise computed in accordance with an institution's standard accounting practice,

at least quarterly, to the state treasurer for deposit in the housing trust fund created by RCW 43.185.030 and the real estate education account created in RCW 18.85.317; and

(b) Transmit to the director of community, trade, and economic development a statement showing the name of the person or entity for whom the remittance is spent, the rate of interest applied, and the amount of service charges deducted, if any, and the account balance(s) of the period in which the report is made, with a copy of such statement to be transmitted to the depositing person or firm.

(8) The director shall forward a copy of the reports required by subsection (7) of this section to the department of licensing to aid in the enforcement of the requirements of this section consistent with the normal enforcement and auditing practices of the department of licensing.

(9) This section does not relieve any real estate broker from any obligation with respect to the safekeeping of clients' funds.

(10) Any violation by a real estate broker of any of the provisions of this section, or RCW 18.85.230, shall be grounds for revocation of the licenses issued to the broker. [1995 c 399 § 7; 1993 c 50 § 2; 1988 c 286 § 2; 1987 c 513 § 1; 1957 c 52 § 44; 1953 c 235 § 13; 1951 c 222 § 19. Prior: 1947 c 203 § 4, part; 1945 c 111 § 7, part; 1943 c 118 § 4, part; 1941 c 252 § 18, part; Rem. Supp. 1947 § 8340-41, part; prior: 1925 ex.s. c 129 § 12, part.]

**Effective date—1993 c 50:** See note following RCW 18.85.220.

**Effective date—1987 c 513:** "This act shall take effect January 1, 1988." [1987 c 513 § 15.]

**Severability—1987 c 513:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1987 c 513 § 13.]

## Chapter 18.88A

### NURSING ASSISTANTS

#### Sections

18.88A.030	Scope of practice—Voluntary certification—Rules.
18.88A.200	Delegation of nursing care tasks—Legislative finding.
18.88A.210	Delegation of nursing care tasks—Generally—Rules.
18.88A.220	Delegation of nursing care tasks—Program and reimbursement policies.
18.88A.230	Delegation of nursing care tasks—Liability—Reprisal or disciplinary action—Penalty.
18.88A.240	Delegation of nursing care tasks—Complaints.

**18.88A.030 Scope of practice—Voluntary certification—Rules.** (1) A nursing assistant may assist in the care of individuals as delegated by and under the direction and supervision of a licensed (registered) nurse or licensed practical nurse.

(2) A health care facility shall not assign a nursing assistant-registered to provide care until the nursing assistant-registered has demonstrated skills necessary to perform competently all assigned duties and responsibilities.

(3) Nothing in this chapter shall be construed to confer on a nursing assistant the authority to administer medication unless delegated as a specific nursing task pursuant to this chapter or to practice as a licensed (registered) nurse or licensed practical nurse as defined in chapter 18.79 RCW.

(4) Certification is voluntary for nursing assistants working in health care facilities other than nursing homes unless otherwise required by state or federal law or regulation.

(5) The commission may adopt rules to implement the provisions of this chapter. [1995 1st sp.s. c 18 § 52; 1994 sp.s. c 9 § 709; 1991 c 16 § 3; 1989 c 300 § 5; 1988 c 267 § 3. Formerly RCW 18.52B.030.]

**Conflict with federal requirements—Severability—Effective date—1995 1st sp.s. c 18:** See notes following RCW 74.39A.008.

**Severability—Headings and captions not law—Effective date—1994 sp.s. c 9:** See RCW 18.79.900 through 18.79.902.

**18.88A.200 Delegation of nursing care tasks—Legislative finding.** The legislature recognizes that nurses have been successfully delegating nursing care tasks to family members and auxiliary staff for many years. The opportunity for a nurse to delegate to nursing assistants qualifying under RCW 18.88A.210 may enhance the viability and quality of care in community health settings for long-term care services and to allow citizens to live as independently as possible with maximum safeguards. [1995 1st sp.s. c 18 § 45.]

**Conflict with federal requirements—Severability—Effective date—1995 1st sp.s. c 18:** See notes following RCW 74.39A.008.

**18.88A.210 Delegation of nursing care tasks—Generally—Rules.** (1) A nurse may delegate specific care tasks to nursing assistants meeting the requirements of this section and who provide care to individuals in community residential programs for the developmentally disabled certified by the department of social and health services under chapter 71A.12 RCW, to individuals residing in adult family homes licensed under chapter 70.128 RCW, and to individuals residing in boarding homes licensed under chapter 18.20 RCW contracting with the department of social and health services to provide assisted living services pursuant to RCW 74.39A.010.

(2) For the purposes of this section, "nursing assistant" means a nursing assistant-registered or a nursing assistant-certified. Nothing in this section may be construed to affect the authority of nurses to delegate nursing tasks to other persons, including licensed practical nurses, as authorized by law.

(3) Before commencing any specific nursing care tasks authorized under this chapter, the nursing assistant must (a) provide to the delegating nurse a certificate of completion issued by the department of social and health services indicating the completion of basic core training as provided in this section, (b) be regulated by the department of health pursuant to this chapter, subject to the uniform disciplinary act under chapter 18.130 RCW, and (c) meet any additional training requirements identified by the nursing care quality assurance commission and authorized by this section.

(4) A nurse may delegate the following care tasks:

- Oral and topical medications and ointments;
- Nose, ear, eye drops, and ointments;
- Dressing changes and catheterization using clean techniques as defined by the nursing care quality assurance commission;

(d) Suppositories, enemas, ostomy care;

(e) Blood glucose monitoring;  
 (f) Gastrostomy feedings in established and healed condition.

(5) On or before September 1, 1995, the nursing care quality assurance commission, in conjunction with the professional nursing organizations, shall develop rules for nurse delegation protocols and by December 5, 1995, identify training beyond the core training that is deemed necessary for the delegation of complex tasks and patient care.

(6) Nursing task delegation protocols are not intended to regulate the settings in which delegation may occur but are intended to ensure that nursing care services have a consistent standard of practice upon which the public and profession may rely and to safeguard the authority of the nurse to make independent professional decisions regarding the delegation of a task. Protocols shall include at least the following:

(a) Ensure that determination of the appropriateness of delegation of a nursing task is at the discretion of the nurse;

(b) Allow delegation of a nursing care task only for patients who have a stable and predictable condition. "Stable and predictable condition" means a situation, as defined by rule by the nursing care quality assurance commission, in which the patient's clinical and behavioral status is known and does not require frequent presence and evaluation of a registered nurse;

(c) Assure that the delegations of nursing tasks pursuant to this chapter have the written informed consent of the patient consistent with the provisions for informed consent under chapter 7.70 RCW, as well as with the consent of the delegating nurse and nursing assistant. The delegating nurse shall inform patients of the level of training of all care providers in the setting;

(d) Verify that the nursing assistant has completed the core training;

(e) Require assessment by the nurse of the ability and willingness of the nursing assistant to perform the delegated nursing task in the absence of direct nurse supervision and to refrain from delegation if the nursing assistant is not able or willing to perform the task;

(f) Require the nurse to analyze the complexity of the nursing task that is considered for delegation and determine the appropriate level of training and any need of additional training for the nursing assistant;

(g) Require the teaching of the nursing care task to the nursing assistant including return demonstration under observation while performing the task;

(h) Require a plan of nursing supervision and reevaluation of the delegated nursing task. "Nursing supervision" means that the registered nurse monitors by direct observation the skill and ability of the nursing assistant to perform delegated nursing tasks. Frequency of supervision is at the discretion of the registered nurse but shall occur at least every sixty days;

(i) Require instruction to the nursing assistant that the delegated nursing task is specific to a patient and is not transferable;

(j) Require documentation and written instruction related to the delegated nursing task be provided to the nursing assistant and a copy maintained in the patient record;

(k) Ensure that the nursing assistant is prepared to effectively deal with the predictable outcomes of performing the nursing task;

(l) Include in the delegation of tasks an awareness of the nature of the condition requiring treatment, risks of the treatment, side effects, and interaction of prescribed medications;

(m) Require documentation in the patient's record of the rationale for delegating or not delegating nursing tasks.

(7) A basic core training curriculum on providing care for individuals in community residential programs for the developmentally disabled certified by the department of social and health services under chapter 71A.12 RCW shall be in addition to the training requirements specified in subsection (5) of this section. Basic core training shall be developed and adopted by rule by the secretary of the department of social and health services. The department of social and health services shall appoint an advisory panel to assist in the development of core training comprised of representatives of the following:

(a) The division of developmental disabilities;

(b) The nursing care quality assurance commission;

(c) Professional nursing organizations;

(d) A state-wide organization of community residential service providers whose members are programs certified by the department under chapter 71A.12 RCW.

(8) A basic core training curriculum on providing care to residents in residential settings licensed under chapter 70.128 RCW, or in assisted living pursuant to RCW 74.39A.010 shall be mandatory for nursing assistants prior to assessment by a nurse regarding the ability and willingness to perform a delegated nursing task. Core training shall be developed and adopted by rule by the secretary of the department of social and health services, in conjunction with an advisory panel. The advisory panel shall be comprised of representatives from, at a minimum, the following:

(a) The nursing care quality assurance commission;

(b) Professional nurse organizations;

(c) A state-wide association of community residential service providers whose members are programs certified by the department under chapter 71A.12 RCW;

(d) Aging consumer groups;

(e) Associations representing homes licensed under chapters 70.128 and 18.20 RCW; and

(f) Associations representing home health, hospice, and home care agencies licensed under chapter 70.127 RCW. [1995 1st sp.s. c 18 § 46.]

**Conflict with federal requirements—Severability—Effective date—**  
 1995 1st sp.s. c 18: See notes following RCW 74.39A.008.

**18.88A.220 Delegation of nursing care tasks—Program and reimbursement policies.** On or before December 1, 1995, the department of health and the department of social and health services, in consultation with the nursing care quality assurance commission, shall develop and clarify program and reimbursement policies, as well as clarify barriers to current delegation, relating to the ability and authority of a nurse to delegate care tasks in the programs and services operating under their authority.

The nursing care quality assurance commission shall develop model forms that will assist in standardizing the practice of delegation. [1995 1st sp.s. c 18 § 47.]

**Conflict with federal requirements—Severability—Effective date—**  
**1995 1st sp.s. c 18:** See notes following RCW 74.39A.008.

18.92.060 Licensing exemptions.  
 18.92.100 Examinations—Time of—Subjects—Manner.

**18.88A.230 Delegation of nursing care tasks—Liability—Reprisal or disciplinary action—Penalty.** (1) The nurse and nursing assistant shall be accountable for their own individual actions in the delegation process. Nurses acting within the protocols of their delegation authority shall be immune from liability for any action performed in the course of their delegation duties. Nursing assistants following written delegation instructions from registered nurses performed in the course of their accurately written, delegated duties shall be immune from liability.

(2) No person may coerce a nurse into compromising patient safety by requiring the nurse to delegate if the nurse determines it is inappropriate to do so. Nurses shall not be subject to any employer reprisal or disciplinary action by the Washington nursing care quality assurance commission for refusing to delegate tasks or refusing to provide the required training for delegation if the nurse determines delegation may compromise patient safety. Nursing assistants shall not be subject to any employer reprisal or disciplinary action by the nursing care quality assurance commission for refusing to accept delegation of a nursing task. No community residential program, adult family home, or boarding home contracting to provide assisted-living services may discriminate or retaliate in any manner against a person because the person made a complaint or cooperated in the investigation of a complaint.

(3) The department of social and health services shall impose a civil fine of not less than two hundred fifty dollars nor more than one thousand dollars on a community residential program, adult family home, or boarding home under chapter 18, Laws of 1995 1st sp. sess. that knowingly permits an employee to perform a nursing task except as delegated by a nurse pursuant to chapter 18, Laws of 1995 1st sp. sess. [1995 1st sp.s. c 18 § 48.]

**Conflict with federal requirements—Severability—Effective date—**  
**1995 1st sp.s. c 18:** See notes following RCW 74.39A.008.

**18.88A.240 Delegation of nursing care tasks—Complaints.** The aging and adult services administration of the department of social and health services shall establish a toll-free telephone number for receiving complaints regarding delegation of specific nursing tasks to nursing assistants, in conjunction with any other such system maintained for long-term care services. Complaints specifically related to nurse-delegation shall be referred to the nursing care quality assurance commission for appropriate disposition in accordance with established procedures. [1995 1st sp.s. c 18 § 49.]

**Conflict with federal requirements—Severability—Effective date—**  
**1995 1st sp.s. c 18:** See notes following RCW 74.39A.008.

## Chapter 18.92

### VETERINARY MEDICINE, SURGERY, AND DENTISTRY

#### Sections

18.92.010 Veterinary practice defined.  
 18.92.030 General duties of board.

**18.92.010 Veterinary practice defined.** Any person shall be regarded as practicing veterinary medicine, surgery and dentistry within the meaning of this chapter who shall, within this state, (1) by advertisement, or by any notice, sign, or other indication, or by a statement written, printed or oral, in public or private, made, done, or procured by himself or herself, or any other, at his or her request, for him or her, represent, claim, announce, make known or pretend his or her ability or willingness to diagnose or prognose or treat diseases, deformities, defects, wounds, or injuries of animals; (2) or who shall so advertise, make known, represent or claim his or her ability and willingness to prescribe or administer any drug, medicine, treatment, method or practice, or to perform any operation, manipulation, or apply any apparatus or appliance for cure, amelioration, correction or reduction or modification of any animal disease, deformity, defect, wound or injury, for hire, fee, compensation, or reward, promised, offered, expected, received, or accepted directly or indirectly; (3) or who shall within this state diagnose or prognose any animal diseases, deformities, defects, wounds or injuries, for hire, fee, reward, or compensation promised, offered, expected, received, or accepted directly or indirectly; (4) or who shall within this state prescribe or administer any drug, medicine, treatment, method or practice, or perform any operation, or manipulation, or apply any apparatus or appliance for the cure, amelioration, alleviation, correction, or modification of any animal disease, deformity, defect, wound, or injury, for hire, fee, compensation, or reward, promised, offered, expected, received or accepted directly or indirectly; (5) or who performs any manual procedure for the diagnosis of pregnancy, sterility, or infertility upon livestock; (6) or who implants any electronic device for the purpose of establishing or maintaining positive identification of animals.

The opening of an office or place of business for the practice of veterinary medicine, the use of a sign, card, device or advertisement as a practitioner of veterinary medicine or as a person skilled in such practice shall be prima facie evidence of engaging in the practice of veterinary medicine, surgery and dentistry. [1995 c 317 § 1; 1959 c 92 § 1; 1941 c 71 § 1; Rem. Supp. 1941 § 10040-1. Prior: 1907 c 124 § 1. FORMER PART OF SECTION: 1941 c 71 § 21; Rem. Supp. 1941 § 10040-21, now codified as RCW 18.92.015.]

**18.92.030 General duties of board.** The board shall develop and administer, or approve, or both, a licensure examination in the subjects determined by the board to be essential to the practice of veterinary medicine, surgery, and dentistry. The board may approve an examination prepared or administered by a private testing agency or association of licensing authorities. The board, under chapter 34.05 RCW, may adopt rules necessary to carry out the purposes of this chapter, including the performance of the duties and responsibilities of animal technicians and veterinary medication clerks. The rules shall be adopted in the interest of good veterinary health care delivery to the consuming public and shall not prevent animal technicians from inoculating an

animal. The board also has the power to adopt by rule standards prescribing requirements for veterinary medical facilities and fixing minimum standards of continuing veterinary medical education.

The department is the official office of record. [1995 c 198 § 13; 1993 c 78 § 3; 1986 c 259 § 140; 1983 c 102 § 2; 1982 c 134 § 2; 1981 c 67 § 23; 1974 ex.s. c 44 § 2; 1967 ex.s. c 50 § 3; 1961 c 157 § 2; 1959 c 92 § 4; 1941 c 71 § 4; Rem. Supp. 1941 § 10040-4. FORMER PART OF SECTION: 1941 c 71 § 9; Rem. Supp. 1941 § 10040-9 now codified as RCW 18.92.035.]

**Severability—1986 c 259:** See note following RCW 18.130.010.

**Effective dates—Severability—1981 c 67:** See notes following RCW 34.12.010.

**18.92.060 Licensing exemptions.** Nothing in this chapter applies to:

(1) Commissioned veterinarians in the United States military services or veterinarians employed by Washington state and federal agencies while performing official duties;

(2) A person practicing veterinary medicine upon his or her own animal;

(3) A person advising with respect to or performing the castrating and dehorning of cattle, castrating and docking of sheep, castrating of swine, caponizing of poultry, or artificial insemination of animals;

(4)(a) A person who is a regularly enrolled student in a veterinary school or training course approved under RCW 18.92.015 and performing duties or actions assigned by his or her instructors or working under the direct supervision of a licensed veterinarian during a school vacation period or (b) a person performing assigned duties under the supervision of a veterinarian within the established framework of an internship program recognized by the board;

(5) A veterinarian regularly licensed in another state consulting with a licensed veterinarian in this state;

(6) An animal technician or veterinary medication clerk acting under the supervision and control of a licensed veterinarian. The practice of an animal technician or veterinary medication clerk is limited to the performance of services which are authorized by the board;

(7) An owner being assisted in practice by his or her employees when employed in the conduct of the owner's business;

(8) An owner being assisted in practice by some other person gratuitously;

(9) The implanting in their own animals of any electronic device for identifying animals by established humane societies and animal control organizations that provide appropriate training, as determined by the veterinary board of governors, and/or direct or indirect supervision by a licensed veterinarian;

(10) The implanting of any electronic device by a public fish and wildlife agency for the identification of fish or wildlife. [1995 c 317 § 2; 1993 c 78 § 4; 1974 ex.s. c 44 § 4; 1967 ex.s. c 50 § 5; 1959 c 92 § 13; 1941 c 71 § 20; Rem. Supp. 1941 § 10040-20. Prior: 1907 c 124 § 15.]

**18.92.100 Examinations—Time of—Subjects—Manner.** Examinations for license to practice veterinary medicine, surgery and dentistry shall be held at least once

each year at such times and places as the secretary may authorize and direct. The examination shall be on subjects that are ordinarily included in the curricula of veterinary colleges. All examinees shall be tested by written examination, supplemented by such oral interviews and practical demonstrations as the board deems necessary. [1995 c 198 § 14; 1991 c 3 § 243; 1967 ex.s. c 50 § 6; 1959 c 92 § 7; 1941 c 71 § 7; Rem. Supp. 1941 § 10040-7.]

## Chapter 18.100

### PROFESSIONAL SERVICE CORPORATIONS

#### Sections

18.100.145 Doctor of osteopathic medicine and surgery—  
Discrimination prohibited.

**18.100.145 Doctor of osteopathic medicine and surgery—Discrimination prohibited.** A professional service corporation that provides health care services to the general public may not discriminate against a qualified doctor of osteopathic medicine and surgery licensed under chapter 18.57 RCW, who has applied to practice with the professional service corporation, solely because that practitioner was board certified or eligible under an approved osteopathic certifying board instead of board certified or eligible respectively under an approved medical certifying board. [1995 c 64 § 2.]

## Chapter 18.104

### WATER WELL CONSTRUCTION

#### Sections

18.104.155 Civil penalties—Amount and disposition.

**18.104.155 Civil penalties—Amount and disposition.** (1) Except as provided in RCW 43.05.060 through 43.05.080 and 43.03.150, the department of ecology may assess a civil penalty for a violation of this chapter or rules or orders of the department adopted or issued pursuant to it.

(2) There shall be three categories of violations: Minor, serious, and major.

(a) A minor violation is a violation that does not seriously threaten public health, safety, and the environment. Minor violations include, but are not limited to:

(i) Failure to submit completed start cards and well reports within the required time;

(ii) Failure to submit variance requests before construction;

(iii) Failure to submit well construction fees;

(iv) Failure to place a well identification tag on a new well; and

(v) Minor or repairable construction problems.

(b) A serious violation is a violation that poses a critical or serious threat to public health, safety, and the environment. Serious violations include, but are not limited to:

(i) Improper well construction;

(ii) Intentional and improper location or siting of a well;

(iii) Construction of a well without a required permit;

(iv) Violation of decommissioning requirements;

(v) Repeated minor violations; or

(vi) Construction of a well by a person whose license has expired or has been suspended for not more than ninety days.

(c) A major violation is the construction of a well by a person:

(i) Without a license; or

(ii) After the person's license has been suspended for more than ninety days or revoked.

(3)(a) The penalty for a minor violation shall be not less than one hundred dollars and not more than five hundred dollars. Before the imposition of a penalty for a minor violation, the department may issue an order of noncompliance to provide an opportunity for mitigation or compliance.

(b) The penalty for a serious violation shall be not less than five hundred dollars and not more than five thousand dollars.

(c) The penalty for a major violation shall be not less than five thousand dollars and not more than ten thousand dollars.

(4) In determining the appropriate penalty under subsection (3) of this section the department shall consider whether the person:

(a) Has demonstrated a general disregard for public health and safety through the number and magnitude of the violations;

(b) Has demonstrated a disregard for the well construction laws or rules in repeated or continuous violations; or

(c) Knew or reasonably should have known of circumstances that resulted in the violation.

(5) Penalties provided for in this section shall be imposed pursuant to RCW 43.21B.300. The department shall provide thirty days written notice of a violation as provided in RCW 43.21B.300(3).

(6) For informational purposes, a copy of the notice of violation, resulting from the improper construction of a well, that is sent to a water well contractor or water well construction operator, shall also be sent by the department to the well owner.

(7) Penalties collected by the department pursuant to this section shall be deposited in the reclamation account established by chapter 89.16 RCW. Subject to legislative appropriation, the penalties may be spent only for purposes related to the restoration and enhancement of ground water resources in the state. [1995 c 403 § 628; 1993 c 387 § 21; 1987 c 394 § 1.]

**Findings—Short title—Intent—1995 c 403:** See note following RCW 34.05.328.

**Part headings not law—Severability—1995 c 403:** See RCW 43.05.903 and 43.05.904.

## Chapter 18.106 PLUMBERS

### Sections

18.106.010	Definitions.
18.106.110	Advisory board of plumbers.
18.106.280	Pilot project—Enforcement of chapter— Reimbursement fee.

**18.106.010 Definitions.** Unless a different meaning is plainly required by the context, the following words and

phrases as hereinafter used in this chapter shall have the following meaning:

(1) "Advisory board" means the state advisory board of plumbers;

(2) "Department" means the department of labor and industries;

(3) "Director" means the director of department of labor and industries;

(4) "Journeyman plumber" means any person who has been issued a certificate of competency by the department of labor and industries as provided in this chapter;

(5) "Medical gas piping" means oxygen, nitrous oxide, high pressure nitrogen, medical compressed air, and medical vacuum systems;

(6) "Specialty plumber" means anyone who has been issued a specialty certificate of competency limited to installation, maintenance, and repair of the plumbing of single family dwellings, duplexes, and apartment buildings which do not exceed three stories;

(7) "Plumbing" means that craft involved in installing, altering, repairing and renovating potable water systems, liquid waste systems, and medical gas piping systems within a building: PROVIDED, That installation in a water system of water softening or water treatment equipment shall not be within the meaning of plumbing as used in this chapter. [1995 c 282 § 2; 1983 c 124 § 1; 1977 ex.s. c 149 § 1; 1975 1st ex.s. c 71 § 1; 1973 1st ex.s. c 175 § 1.]

**18.106.110 Advisory board of plumbers.** (1) There is created a state advisory board of plumbers, to be composed of three members appointed by the governor. One member shall be a journeyman plumber, one member shall be a person conducting a plumbing business, and one member from the general public who is familiar with the business and trade of plumbing.

(2) The term of the journeyman plumber shall expire July 1, 1995; the term of the person conducting a plumbing business shall expire July 1, 1996; and the term of the public member shall expire July 1, 1997. Thereafter, upon the expiration of said terms, the governor shall appoint a new member to serve for a period of three years. However, to ensure that the board can continue to act, a member whose term expires shall continue to serve until his or her replacement is appointed. In the case of any vacancy on the board for any reason, the governor shall appoint a new member to serve out the term of the person whose position has become vacant.

(3) The advisory board shall carry out all the functions and duties enumerated in this chapter, as well as generally advise the department on all matters relative to this chapter.

(4) Each member of the advisory board shall receive travel expenses in accordance with the provisions of RCW 43.03.050 and 43.03.060 as now existing or hereafter amended for each day in which such member is actually engaged in attendance upon the meetings of the advisory board. [1995 c 95 § 1; 1975-'76 2nd ex.s. c 34 § 56; 1973 1st ex.s. c 175 § 11.]

**Effective date—1995 c 95:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [April 18, 1995]." [1995 c 95 § 2.]

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

**18.106.280 Pilot project—Enforcement of chapter—Reimbursement fee.** The department of labor and industries may establish one pilot project in which the department will enter into an agreement with a city and the county within which the city is located regarding compliance inspections by the city or county to enforce this chapter. Under the terms of the agreement, the city and county shall be permitted to submit declarations of noncompliance to the department for the department's enforcement under RCW 18.106.180, with reimbursement to the city or county at an established fee. The pilot project shall be located in eastern Washington. [1995 c 294 § 1; 1994 c 174 § 1.]

**Effective date—1994 c 174:** See note following RCW 18.106.020.

**Chapter 18.108  
 MASSAGE PRACTITIONERS**

Sections

18.108.030	License required.
18.108.040	Advertising massage by unlicensed person unlawful.
18.108.050	Exemptions.
18.108.073	Examination.
18.108.085	Powers and duties of secretary—Uniform Disciplinary Act—License revocation, reinstatement for convicted prostitutes.

**18.108.030 License required.** (1) No person may practice or represent himself or herself as a massage practitioner without first applying for and receiving from the department a license to practice.

(2) A person represents himself or herself as a massage practitioner when the person adopts or uses any title or any description of services that incorporates one or more of the following terms or designations: Massage, massage practitioner, massage therapist, massage therapy, therapeutic massage, massage technician, massage technology, massagist, masseur, masseuse, myotherapist or myotherapy, touch therapist, reflexologist, acupressurist, body therapy or body therapist, or any derivation of those terms that implies a massage technique or method. [1995 c 198 § 15; 1987 c 443 § 3; 1975 1st ex.s. c 280 § 3.]

**18.108.040 Advertising massage by unlicensed person unlawful.** It shall be unlawful to advertise the practice of massage using the term massage or any other term that implies a massage technique or method in any public or private publication or communication by a person not licensed by the secretary as a massage practitioner or without printing in display advertisement the license number of the massage practitioner. Any person who holds a license to practice as a massage practitioner in this state may use the title "licensed massage practitioner" and the abbreviation "L.M.P.". No other persons may assume such title or use such abbreviation or any other word, letters, signs, or figures to indicate that the person using the title is a licensed massage practitioner. [1995 c 353 § 1; 1991 c 3 § 255; 1987 c 443 § 4; 1975 1st ex.s. c 280 § 4.]

**18.108.050 Exemptions.** This chapter does not apply to:

- (1) An individual giving massage to members of his or her immediate family;
- (2) The practice of a profession by individuals who are licensed, certified, or registered under other laws of this state and who are performing services within their authorized scope of practice;
- (3) Massage practiced at the athletic department of any institution maintained by the public funds of the state, or any of its political subdivisions;
- (4) Massage practiced at the athletic department of any school or college approved by the department by rule using recognized national professional standards;
- (5) Students enrolled in an approved massage school, approved program, or approved apprenticeship program, practicing massage techniques, incidental to the massage school or program and supervised by the approved school or program. Students must identify themselves as a student when performing massage services on members of the public. Students may not be compensated for the massage services they provide. [1995 c 198 § 16; 1987 c 443 § 5; 1975 1st ex.s. c 280 § 5.]

*Exemptions: RCW 18.108.130.*

**18.108.073 Examination.** (1) The date and location of the examination shall be established by the secretary. Applicants who demonstrate to the secretary's satisfaction that the following requirements have been met shall be scheduled for the next examination following the filing of the application:

- (a) Effective June 1, 1988, successful completion of a course of study in an approved massage program; or
- (b) Effective June 1, 1988, successful completion of an apprenticeship program established by the board; and
- (c) Be eighteen years of age or older.

In addition, the secretary shall establish a deadline for receipt of completed and approved applications.

(2) The board or its designee shall examine each applicant in a written examination determined most effective on subjects appropriate to the massage scope of practice. The subjects may include anatomy, kinesiology, physiology, pathology, principles of human behavior, massage theory and practice, hydrotherapy, hygiene, first aid, Washington law pertaining to the practice of massage, and such other subjects as the board may deem useful to test applicant's fitness to practice massage therapy. Such examinations shall be limited in purpose to determining whether the applicant possesses the minimum skill and knowledge necessary to practice competently.

(3) All records of a candidate's performance shall be preserved for a period of not less than one year after the board has made and published decisions thereupon. All examinations shall be conducted by the board under fair and impartial methods as determined by the secretary.

(4) An applicant who fails to make the required grade in the first examination is entitled to take up to two additional examinations upon the payment of a fee for each subsequent examination determined by the secretary as provided in RCW 43.70.250. Upon failure of three examinations, the secretary may invalidate the original application and require



such remedial education as is required by the board before admission to future examinations.

(5) The board may approve an examination prepared or administered, or both, by a private testing agency or association of licensing boards for use by an applicant in meeting the licensing requirement. [1995 c 198 § 17; 1991 c 3 § 258; 1987 c 443 § 8.]

**18.108.085 Powers and duties of secretary—Uniform Disciplinary Act—License revocation, reinstatement for convicted prostitutes.** (1) In addition to any other authority provided by law, the secretary may:

- (a) Adopt rules, in accordance with chapter 34.05 RCW necessary to implement this chapter;
- (b) Set all license, examination, and renewal fees in accordance with RCW 43.70.250;
- (c) Establish forms and procedures necessary to administer this chapter;
- (d) Issue a license to any applicant who has met the education, training, and examination requirements for licensure; and
- (e) Hire clerical, administrative, and investigative staff as necessary to implement this chapter, and hire individuals licensed under this chapter to serve as examiners for any practical examinations.

(2) The Uniform Disciplinary Act, chapter 18.130 RCW, governs the issuance and denial of licenses and the disciplining of persons under this chapter. The secretary shall be the disciplining authority under this chapter.

(3) Any license issued under this chapter to a person who is or has been convicted of violating RCW 9A.88.030, 9A.88.070, 9A.88.080, or 9A.88.090 or equivalent local ordinances shall automatically be revoked by the secretary upon receipt of a certified copy of the court documents reflecting such conviction. No further hearing or procedure is required, and the secretary has no discretion with regard to the revocation of the license. The revocation shall be effective even though such conviction may be under appeal, or the time period for such appeal has not elapsed. However, upon presentation of a final appellate decision overturning such conviction or upon completion of a prostitution prevention and intervention program under RCW 43.63A.720 through 43.63A.740, 9.68A.105, and 9A.88.120, the license shall be reinstated, unless grounds for disciplinary action have been found pursuant to chapter 18.130 RCW. Unless an applicant demonstrates that he or she has completed a prostitution prevention and intervention program under RCW 43.63A.720 through 43.63A.740, 9.68A.105, and 9A.88.120, no license may be granted under this chapter to any person who has been convicted of violating RCW 9A.88.030, 9A.88.070, 9A.88.080, or 9A.88.090 or equivalent local ordinances within the eight years immediately preceding the date of application. For purposes of this subsection, "convicted" does not include a conviction that has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence, but does include convictions for offenses for which the defendant received a deferred or suspended sentence, unless the record has been expunged according to law.

(4) The secretary shall keep an official record of all proceedings under this chapter, a part of which record shall

consist of a register of all applicants for licensure under this chapter, with the result of each application. [1995 c 353 § 2; 1991 c 3 § 259; 1987 c 443 § 11.]

**Chapter 18.120**

**REGULATION OF HEALTH PROFESSIONS—CRITERIA**

Sections

18.120.020

Definitions.

**18.120.020 Definitions.** The definitions contained in this section shall apply throughout this chapter unless the context clearly requires otherwise.

(1) "Applicant group" includes any health professional group or organization, any individual, or any other interested party which proposes that any health professional group not presently regulated be regulated or which proposes to substantially increase the scope of practice of the profession.

(2) "Certificate" and "certification" mean a voluntary process by which a statutory regulatory entity grants recognition to an individual who (a) has met certain prerequisite qualifications specified by that regulatory entity, and (b) may assume or use "certified" in the title or designation to perform prescribed health professional tasks.

(3) "Grandfather clause" means a provision in a regulatory statute applicable to practitioners actively engaged in the regulated health profession prior to the effective date of the regulatory statute which exempts the practitioners from meeting the prerequisite qualifications set forth in the regulatory statute to perform prescribed occupational tasks.

(4) "Health professions" means and includes the following health and health-related licensed or regulated professions and occupations: Podiatric medicine and surgery under chapter 18.22 RCW; chiropractic under chapter 18.25 RCW; dental hygiene under chapter 18.29 RCW; dentistry under chapter 18.32 RCW; denturism under chapter 18.30 RCW; dispensing opticians under chapter 18.34 RCW; hearing aids under chapter 18.35 RCW; naturopaths under chapter 18.36A RCW; embalming and funeral directing under chapter 18.39 RCW; midwifery under chapter 18.50 RCW; nursing home administration under chapter 18.52 RCW; optometry under chapters 18.53 and 18.54 RCW; ocularists under chapter 18.55 RCW; osteopathy and osteopathic medicine and surgery under chapters 18.57 and 18.57A RCW; pharmacy under chapters 18.64 and 18.64A RCW; medicine under chapters 18.71 and 18.71A RCW; emergency medicine under chapter 18.73 RCW; physical therapy under chapter 18.74 RCW; practical nurses under chapter 18.79 RCW; psychologists under chapter 18.83 RCW; registered nurses under chapter 18.79 RCW; occupational therapists licensed under chapter 18.59 RCW; respiratory care practitioners certified under chapter 18.89 RCW; veterinarians and animal technicians under chapter 18.92 RCW; health care assistants under chapter 18.135 RCW; massage practitioners under chapter 18.108 RCW; acupuncturists licensed under chapter 18.06 RCW; persons registered or certified under chapter 18.19 RCW; dietitians and nutritionists certified by chapter 18.138 RCW; radiologic technicians under chapter 18.84 RCW; and nursing assistants registered or certified under chapter 18.88A RCW.

(5) "Inspection" means the periodic examination of practitioners by a state agency in order to ascertain whether the practitioners' occupation is being carried out in a fashion consistent with the public health, safety, and welfare.

(6) "Legislative committees of reference" means the standing legislative committees designated by the respective rules committees of the senate and house of representatives to consider proposed legislation to regulate health professions not previously regulated.

(7) "License," "licensing," and "licensure" mean permission to engage in a health profession which would otherwise be unlawful in the state in the absence of the permission. A license is granted to those individuals who meet prerequisite qualifications to perform prescribed health professional tasks and for the use of a particular title.

(8) "Professional license" means an individual, nontransferable authorization to carry on a health activity based on qualifications which include: (a) Graduation from an accredited or approved program, and (b) acceptable performance on a qualifying examination or series of examinations.

(9) "Practitioner" means an individual who (a) has achieved knowledge and skill by practice, and (b) is actively engaged in a specified health profession.

(10) "Public member" means an individual who is not, and never was, a member of the health profession being regulated or the spouse of a member, or an individual who does not have and never has had a material financial interest in either the rendering of the health professional service being regulated or an activity directly related to the profession being regulated.

(11) "Registration" means the formal notification which, prior to rendering services, a practitioner shall submit to a state agency setting forth the name and address of the practitioner; the location, nature and operation of the health activity to be practiced; and, if required by the regulatory entity, a description of the service to be provided.

(12) "Regulatory entity" means any board, commission, agency, division, or other unit or subunit of state government which regulates one or more professions, occupations, industries, businesses, or other endeavors in this state.

(13) "State agency" includes every state office, department, board, commission, regulatory entity, and agency of the state, and, where provided by law, programs and activities involving less than the full responsibility of a state agency. [1995 c 323 § 15; 1995 c 1 § 18 (Initiative Measure No. 607, approved November 8, 1994); 1994 sp.s. c 9 § 718; 1989 c 300 § 14. Prior: 1988 c 277 § 12; 1988 c 267 § 21; prior: 1987 c 512 § 21; 1987 c 447 § 17; 1987 c 415 § 16; 1987 c 412 § 14; prior: 1985 c 326 § 28; 1985 c 117 § 3; prior: 1984 c 279 § 57; 1984 c 9 § 18; 1983 c 168 § 2.]

**Reviser's note:** This section was amended by 1995 c 323 § 15 without cognizance of its amendment by 1995 c 1 § 18 (Initiative Measure No. 607). All amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Short title—Severability—1995 c 1 (Initiative Measure No. 607):** See RCW 18.30.900 and 18.30.901.

**Severability—Headings and captions not law—Effective date—1994 sp.s. c 9:** See RCW 18.79.900 through 18.79.902.

**Severability—1987 c 512:** See RCW 18.19.901.

**Severability—1987 c 447:** See RCW 18.36A.901.

**Severability—1987 c 415:** See RCW 18.89.901.

**Effective date—Severability—1987 c 412:** See RCW 18.84.901 and 18.84.902.

**Severability—1984 c 279:** See RCW 18.130.901.

**Severability—1984 c 9:** See RCW 18.59.905.

## Chapter 18.130

### REGULATION OF HEALTH PROFESSIONS— UNIFORM DISCIPLINARY ACT

Sections	
18.130.020	Definitions.
18.130.040	Application of chapter to certain professions— Authority of secretary—Grant or denial of licenses—Procedural rules. ( <i>Effective until July 1, 1996.</i> )
18.130.040	Application of chapter to certain professions— Authority of secretary—Grant or denial of licenses—Procedural rules. ( <i>Effective July 1, 1996.</i> )
18.130.045	Massage practitioners—Procedures governing convicted prostitutes.
18.130.050	Authority of disciplining authority.
18.130.060	Additional authority of secretary.
18.130.065	Rules, policies, and orders—Secretary's role.
18.130.095	Uniform procedural rules.
18.130.098	Settlement—Disclosure—Conference.
18.130.170	Capacity of license holder to practice—Hearing— Mental or physical examination—Implied consent.
18.130.180	Unprofessional conduct.
18.130.190	Practice without license—Investigation of complaints—Cease and desist orders—Injunctions— Penalties.
18.130.320	Repealed.
18.130.330	Repealed.
18.130.340	Opiate therapy guidelines.

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

(1) "Disciplining authority" means the agency, board, or commission having the authority to take disciplinary action against a holder of, or applicant for, a professional or business license upon a finding of a violation of this chapter or a chapter specified under RCW 18.130.040.

(2) "Department" means the department of health.

(3) "Secretary" means the secretary of health or the secretary's designee.

(4) "Board" means any of those boards specified in RCW 18.130.040.

(5) "Commission" means any of the commissions specified in RCW 18.130.040.

(6) "Unlicensed practice" means:

(a) Practicing a profession or operating a business identified in RCW 18.130.040 without holding a valid, unexpired, unrevoked, and unsuspended license to do so; or

(b) Representing to a consumer, through offerings, advertisements, or use of a professional title or designation, that the individual is qualified to practice a profession or operate a business identified in RCW 18.130.040, without holding a valid, unexpired, unrevoked, and unsuspended license to do so.

(7) "Disciplinary action" means sanctions identified in RCW 18.130.160.

(8) "Practice review" means an investigative audit of records related to the complaint, without prior identification of specific patient or consumer names, or an assessment of the conditions, circumstances, and methods of the professional's practice related to the complaint, to determine whether unprofessional conduct may have been committed.

(9) "Health agency" means city and county health departments and the department of health.

(10) "License," "licensing," and "licensure" shall be deemed equivalent to the terms "license," "licensing," "licensure," "certificate," "certification," and "registration" as those terms are defined in RCW 18.120.020. [1995 c 336 § 1; 1994 sp.s. c 9 § 602; 1989 1st ex.s. c 9 § 312; 1986 c 259 § 2; 1984 c 279 § 2.]

**Severability—Headings and captions not law—Effective date—1994 sp.s. c 9:** See RCW 18.79.900 through 18.79.902.

**Effective date—Severability—1989 1st ex.s. c 9:** See RCW 43.70.910 and 43.70.920.

**Severability—1986 c 259:** See note following RCW 18.130.010.

**18.130.040 Application of chapter to certain professions—Authority of secretary—Grant or denial of licenses—Procedural rules. (Effective until July 1, 1996.)**

(1) This chapter applies only to the secretary and the boards and commissions having jurisdiction in relation to the professions licensed under the chapters specified in this section. This chapter does not apply to any business or profession not licensed under the chapters specified in this section.

(2)(a) The secretary has authority under this chapter in relation to the following professions:

(i) Dispensing opticians licensed under chapter 18.34 RCW;

(ii) Naturopaths licensed under chapter 18.36A RCW;

(iii) Midwives licensed under chapter 18.50 RCW;

(iv) Ocularists licensed under chapter 18.55 RCW;

(v) Massage operators and businesses licensed under chapter 18.108 RCW;

(vi) Dental hygienists licensed under chapter 18.29 RCW;

(vii) Acupuncturists licensed under chapter 18.06 RCW;

(viii) Radiologic technologists certified and X-ray technicians registered under chapter 18.84 RCW;

(ix) Respiratory care practitioners certified under chapter 18.89 RCW;

(x) Persons registered or certified under chapter 18.19 RCW;

(xi) Persons registered as nursing pool operators under chapter 18.52C RCW;

(xii) Nursing assistants registered or certified under chapter 18.79 RCW;

(xiii) Health care assistants certified under chapter 18.135 RCW;

(xiv) Dietitians and nutritionists certified under chapter 18.138 RCW;

(xv) Sex offender treatment providers certified under chapter 18.155 RCW;

(xvi) Persons licensed and certified under chapter 18.73 RCW or RCW 18.71.205; and

(xvii) Denturists licensed under chapter 18.30 RCW.

(b) The boards and commissions having authority under this chapter are as follows:

(i) The podiatric medical board as established in chapter 18.22 RCW;

(ii) The chiropractic quality assurance commission as established in chapter 18.25 RCW;

(iii) The dental quality assurance commission as established in chapter 18.32 RCW;

(iv) The board on fitting and dispensing of hearing aids as established in chapter 18.35 RCW;

(v) The board of examiners for nursing home administrators as established in chapter 18.52 RCW;

(vi) The optometry board as established in chapter 18.54 RCW governing licenses issued under chapter 18.53 RCW;

(vii) The board of osteopathic medicine and surgery as established in chapter 18.57 RCW governing licenses issued under chapters 18.57 and 18.57A RCW;

(viii) The board of pharmacy as established in chapter 18.64 RCW governing licenses issued under chapters 18.64 and 18.64A RCW;

(ix) The medical quality assurance commission as established in chapter 18.71 RCW governing licenses and registrations issued under chapters 18.71 and 18.71A RCW;

(x) The board of physical therapy as established in chapter 18.74 RCW;

(xi) The board of occupational therapy practice as established in chapter 18.59 RCW;

(xii) The nursing care quality assurance commission as established in chapter 18.79 RCW governing licenses issued under that chapter;

(xiii) The examining board of psychology and its disciplinary committee as established in chapter 18.83 RCW; and

(xiv) The veterinary board of governors as established in chapter 18.92 RCW.

(3) In addition to the authority to discipline license holders, the disciplining authority has the authority to grant or deny licenses based on the conditions and criteria established in this chapter and the chapters specified in subsection (2) of this section. This chapter also governs any investigation, hearing, or proceeding relating to denial of licensure or issuance of a license conditioned on the applicant's compliance with an order entered pursuant to RCW 18.130.160 by the disciplining authority.

(4) All disciplining authorities shall adopt procedures to ensure substantially consistent application of this chapter, the Uniform Disciplinary Act, among the disciplining authorities listed in subsection (2) of this section. [1995 c 336 § 2; 1995 c 323 § 16; 1995 c 1 § 19 (Initiative Measure No. 607, approved November 8, 1994). Prior: 1994 sp.s. c 9 § 603; 1994 c 17 § 19; 1993 c 367 § 4; 1992 c 128 § 6; 1990 c 3 § 810; prior: 1988 c 277 § 13; 1988 c 267 § 22; 1988 c 243 § 7; prior: 1987 c 512 § 22; 1987 c 447 § 18; 1987 c 415 § 17; 1987 c 412 § 15; 1987 c 150 § 1; prior: 1986 c 259 § 3; 1985 c 326 § 29; 1984 c 279 § 4.]

**Reviser's note:** This section was amended by 1995 c 323 § 16 and by 1995 c 336 § 2, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Effective date—1995 c 336 §§ 2 and 3:** "Sections 2 and 3 of this act are necessary for the immediate preservation of the public peace, health, or

safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 11, 1995]." [1995 c 336 § 11.]

**Short title—Severability—1995 c 1 (Initiative Measure No. 607):** See RCW 18.30.900 and 18.30.901.

**Severability—Headings and captions not law—Effective date—1994 sp.s. c 9:** See RCW 18.79.900 through 18.79.902.

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3:** See RCW 18.155.900 through 18.155.902.

**Severability—1987 c 512:** See RCW 18.19.901.

**Severability—1987 c 447:** See RCW 18.36A.901.

**Severability—1987 c 415:** See RCW 18.89.901.

**Effective date—Severability—1987 c 412:** See RCW 18.84.901 and 18.84.902.

**Severability—1987 c 150:** See RCW 18.122.901.

**Severability—1986 c 259:** See note following RCW 18.130.010.

**18.130.040 Application of chapter to certain professions—Authority of secretary—Grant or denial of licenses—Procedural rules. (Effective July 1, 1996.)** (1) This chapter applies only to the secretary and the boards and commissions having jurisdiction in relation to the professions licensed under the chapters specified in this section. This chapter does not apply to any business or profession not licensed under the chapters specified in this section.

(2)(a) The secretary has authority under this chapter in relation to the following professions:

(i) Dispensing opticians licensed under chapter 18.34 RCW;

(ii) Naturopaths licensed under chapter 18.36A RCW;

(iii) Midwives licensed under chapter 18.50 RCW;

(iv) Ocularists licensed under chapter 18.55 RCW;

(v) Massage operators and businesses licensed under chapter 18.108 RCW;

(vi) Dental hygienists licensed under chapter 18.29 RCW;

(vii) Acupuncturists licensed under chapter 18.06 RCW;

(viii) Radiologic technologists certified and X-ray technicians registered under chapter 18.84 RCW;

(ix) Respiratory care practitioners certified under chapter 18.89 RCW;

(x) Persons registered or certified under chapter 18.19 RCW;

(xi) Persons registered as nursing pool operators under chapter 18.52C RCW;

(xii) Nursing assistants registered or certified under chapter 18.79 RCW;

(xiii) Health care assistants certified under chapter 18.135 RCW;

(xiv) Dietitians and nutritionists certified under chapter 18.138 RCW;

(xv) Sex offender treatment providers certified under chapter 18.155 RCW;

(xvi) Persons licensed and certified under chapter 18.73 RCW or RCW 18.71.205;

(xvii) Persons registered as adult family home operators under RCW 18.48.020; and

(xviii) Denturists licensed under chapter 18.30 RCW.

(b) The boards and commissions having authority under this chapter are as follows:

(i) The podiatric medical board as established in chapter 18.22 RCW;

(ii) The chiropractic quality assurance commission as established in chapter 18.25 RCW;

(iii) The dental quality assurance commission as established in chapter 18.32 RCW;

(iv) The board on fitting and dispensing of hearing aids as established in chapter 18.35 RCW;

(v) The board of examiners for nursing home administrators as established in chapter 18.52 RCW;

(vi) The optometry board as established in chapter 18.54 RCW governing licenses issued under chapter 18.53 RCW;

(vii) The board of osteopathic medicine and surgery as established in chapter 18.57 RCW governing licenses issued under chapters 18.57 and 18.57A RCW;

(viii) The board of pharmacy as established in chapter 18.64 RCW governing licenses issued under chapters 18.64 and 18.64A RCW;

(ix) The medical quality assurance commission as established in chapter 18.71 RCW governing licenses and registrations issued under chapters 18.71 and 18.71A RCW;

(x) The board of physical therapy as established in chapter 18.74 RCW;

(xi) The board of occupational therapy practice as established in chapter 18.59 RCW;

(xii) The nursing care quality assurance commission as established in chapter 18.79 RCW governing licenses issued under that chapter;

(xiii) The examining board of psychology and its disciplinary committee as established in chapter 18.83 RCW; and

(xiv) The veterinary board of governors as established in chapter 18.92 RCW.

(3) In addition to the authority to discipline license holders, the disciplining authority has the authority to grant or deny licenses based on the conditions and criteria established in this chapter and the chapters specified in subsection (2) of this section. This chapter also governs any investigation, hearing, or proceeding relating to denial of licensure or issuance of a license conditioned on the applicant's compliance with an order entered pursuant to RCW 18.130.160 by the disciplining authority.

(4) All disciplining authorities shall adopt procedures to ensure substantially consistent application of this chapter, the Uniform Disciplinary Act, among the disciplining authorities listed in subsection (2) of this section. [1995 c 336 § 2; 1995 c 323 § 16; 1995 c 260 § 11; 1995 c 1 § 19 (Initiative Measure No. 607, approved November 8, 1994). Prior: 1994 sp.s. c 9 § 603; 1994 c 17 § 19; 1993 c 367 § 4; 1992 c 128 § 6; 1990 c 3 § 810; prior: 1988 c 277 § 13; 1988 c 267 § 22; 1988 c 243 § 7; prior: 1987 c 512 § 22; 1987 c 447 § 18; 1987 c 415 § 17; 1987 c 412 § 15; 1987 c 150 § 1; prior: 1986 c 259 § 3; 1985 c 326 § 29; 1984 c 279 § 4.]

**Reviser's note:** This section was amended by 1995 c 1 § 19 (Initiative Measure No. 607), 1995 c 260 § 11, 1995 c 323 § 16, and by 1995 c 336 § 2, each without reference to the other. All amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Effective date—1995 c 336 §§ 2 and 3:** "Sections 2 and 3 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 11, 1995]." [1995 c 336 § 11.]

**Effective date—1995 c 260 §§ 7-11:** See note following RCW 18.48.010.

**Short title—Severability—1995 c 1 (Initiative Measure No. 607):** See RCW 18.30.900 and 18.30.901.

**Severability—Headings and captions not law—Effective date—1994 sp.s. c 9:** See RCW 18.79.900 through 18.79.902.

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3:** See RCW 18.155.900 through 18.155.902.

**Severability—1987 c 512:** See RCW 18.19.901.

**Severability—1987 c 447:** See RCW 18.36A.901.

**Severability—1987 c 415:** See RCW 18.89.901.

**Effective date—Severability—1987 c 412:** See RCW 18.84.901 and 18.84.902.

**Severability—1987 c 150:** See RCW 18.122.901.

**Severability—1986 c 259:** See note following RCW 18.130.010.

**18.130.045 Massage practitioners—Procedures governing convicted prostitutes.** RCW 18.108.085 shall govern the issuance and revocation of licenses issued or applied for under chapter 18.108 RCW to or by persons convicted of violating RCW 9A.88.030, 9A.88.070, 9A.88.080, or 9A.88.090 or equivalent local ordinances. [1995 c 353 § 3.]

**18.130.050 Authority of disciplining authority.** The disciplining authority has the following authority:

(1) To adopt, amend, and rescind such rules as are deemed necessary to carry out this chapter;

(2) To investigate all complaints or reports of unprofessional conduct as defined in this chapter and to hold hearings as provided in this chapter;

(3) To issue subpoenas and administer oaths in connection with any investigation, hearing, or proceeding held under this chapter;

(4) To take or cause depositions to be taken and use other discovery procedures as needed in any investigation, hearing, or proceeding held under this chapter;

(5) To compel attendance of witnesses at hearings;

(6) In the course of investigating a complaint or report of unprofessional conduct, to conduct practice reviews;

(7) To take emergency action ordering summary suspension of a license, or restriction or limitation of the licensee's practice pending proceedings by the disciplining authority;

(8) To use a presiding officer as authorized in RCW 18.130.095(3) or the office of administrative hearings as authorized in chapter 34.12 RCW to conduct hearings. The disciplining authority shall make the final decision regarding disposition of the license unless the disciplining authority elects to delegate in writing the final decision to the presiding officer;

(9) To use individual members of the boards to direct investigations. However, the member of the board shall not subsequently participate in the hearing of the case;

(10) To enter into contracts for professional services determined to be necessary for adequate enforcement of this chapter;

(11) To contract with licensees or other persons or organizations to provide services necessary for the monitoring and supervision of licensees who are placed on probation, whose professional activities are restricted, or who are for any authorized purpose subject to monitoring by the disciplining authority;

(12) To adopt standards of professional conduct or practice;

(13) To grant or deny license applications, and in the event of a finding of unprofessional conduct by an applicant or license holder, to impose any sanction against a license applicant or license holder provided by this chapter;

(14) To designate individuals authorized to sign subpoenas and statements of charges;

(15) To establish panels consisting of three or more members of the board to perform any duty or authority within the board's jurisdiction under this chapter;

(16) To review and audit the records of licensed health facilities' or services' quality assurance committee decisions in which a licensee's practice privilege or employment is terminated or restricted. Each health facility or service shall produce and make accessible to the disciplining authority the appropriate records and otherwise facilitate the review and audit. Information so gained shall not be subject to discovery or introduction into evidence in any civil action pursuant to RCW 70.41.200(3). [1995 c 336 § 4. Prior: 1993 c 367 § 21; 1993 c 367 § 5; 1987 c 150 § 2; 1984 c 279 § 5.]

**Severability—1987 c 150:** See RCW 18.122.901.

**18.130.060 Additional authority of secretary.** In addition to the authority specified in RCW 18.130.050, the secretary has the following additional authority:

(1) To employ such investigative, administrative, and clerical staff as necessary for the enforcement of this chapter;

(2) Upon the request of a board, to appoint not more than three pro tem members for the purpose of participating as members of one or more committees of the board in connection with proceedings specifically identified in the request. Individuals so appointed must meet the same minimum qualifications as regular members of the board. While serving as board members pro tem, persons so appointed have all the powers, duties, and immunities, and are entitled to the emoluments, including travel expenses in accordance with RCW 43.03.050 and 43.03.060, of regular members of the board. The chairperson of a committee shall be a regular member of the board appointed by the board chairperson. Committees have authority to act as directed by the board with respect to all matters concerning the review, investigation, and adjudication of all complaints, allegations, charges, and matters subject to the jurisdiction of the board. The authority to act through committees does not restrict the authority of the board to act as a single body at any phase of proceedings within the board's jurisdiction. Board committees may make interim orders and issue final decisions with respect to matters and cases delegated to the committee by the board. Final decisions may be appealed as provided in chapter 34.05 RCW, the Administrative Procedure Act;

(3) To establish fees to be paid for witnesses, expert witnesses, and consultants used in any investigation and to establish fees to witnesses in any agency adjudicative proceeding as authorized by RCW 34.05.446;

(4) To conduct investigations and practice reviews at the direction of the disciplining authority and to issue subpoenas, administer oaths, and take depositions in the course of conducting those investigations and practice reviews at the direction of the disciplining authority;

(5) To have the health professions regulatory program establish a system to recruit potential public members, to review the qualifications of such potential members, and to provide orientation to those public members appointed pursuant to law by the governor or the secretary to the boards and commissions specified in RCW 18.130.040(2)(b), and to the advisory committees and councils for professions specified in RCW 18.130.040(2)(a). [1995 c 336 § 5; 1991 c 3 § 269; 1989 c 175 § 68; 1987 c 150 § 3; 1984 c 279 § 6.]

**Effective date—1989 c 175:** See note following RCW 34.05.010.

**Severability—1987 c 150:** See RCW 18.122.901.

**18.130.065 Rules, policies, and orders—Secretary's role.** The secretary of health shall review and coordinate all proposed rules, interpretive statements, policy statements, and declaratory orders, as defined in chapter 34.05 RCW, that are proposed for adoption or issuance by any health profession board or commission vested with rule-making authority identified under RCW 18.130.040(2)(b). The secretary shall review the proposed policy statements and declaratory orders against criteria that include the effect of the proposed rule, statement, or order upon existing health care policies and practice of health professionals. Within thirty days of the receipt of a proposed rule, interpretive statement, policy statement, or declaratory order from the originating board or commission, the secretary shall inform the board or commission of the results of the review, and shall provide any comments or suggestions that the secretary deems appropriate. Emergency rule making is not subject to this review process. The secretary is authorized to adopt rules and procedures for the coordination and review under this section. [1995 c 198 § 26.]

**18.130.095 Uniform procedural rules.** (1) The secretary, in consultation with the disciplining authorities, shall develop uniform procedural rules to respond to public inquiries concerning complaints and their disposition, active investigations, statement of charges, findings of fact, and final orders involving a licensee, applicant, or unlicensed person. The uniform procedural rules adopted under this subsection apply to all adjudicative proceedings conducted under this chapter and shall include provisions for the establishing time periods for assessment, investigation, charging, discovery, settlement, and adjudication of complaints, and shall include enforcement provisions for violations of the specific time periods by the department, the disciplining authority, and the respondent.

(2) The uniform procedures for conducting investigations shall provide that prior to taking a written statement:

(a) For violation of this chapter, the investigator shall inform such person, in writing of: (i) The nature of the complaint; (ii) that the person may consult with legal counsel at his or her expense prior to making a statement; and (iii) that any statement that the person makes may be used in an adjudicative proceeding conducted under this chapter; and

(b) From a witness or potential witness in an investigation under this chapter, the investigator shall inform the person, in writing, that the statement may be released to the licensee, applicant, or unlicensed person under investigation if a statement of charges is issued.

(3) Only upon the authorization of a disciplining authority identified in RCW 18.130.040(2)(b), the secretary, or his or her designee, may serve as the presiding officer for any disciplinary proceedings of the disciplining authority authorized under this chapter. Except as provided in RCW 18.130.050(8), the presiding officer shall not vote on or make any final decision. All functions performed by the presiding officer shall be subject to chapter 34.05 RCW. The secretary, in consultation with the disciplining authorities, shall adopt procedures for implementing this subsection.

(4) The uniform procedural rules shall be adopted by all disciplining authorities listed in RCW 18.130.040(2), and shall be used for all adjudicative proceedings conducted under this chapter, as defined by chapter 34.05 RCW. The uniform procedural rules shall address the use of a presiding officer authorized in subsection (3) of this section to determine and issue decisions on all legal issues and motions arising during adjudicative proceedings. [1995 c 336 § 6; 1993 c 367 § 2.]

**18.130.098 Settlement—Disclosure—Conference.**

(1) The settlement process must be substantially uniform for licensees governed by disciplining authorities under this chapter. The disciplinary authorities may also use alternative dispute resolution to resolve complaints during adjudicative proceedings.

(2) Disclosure of the identity of reviewing disciplining authority members who participate in the settlement process is available to the respondent or his or her representative upon request.

(3) The settlement conference will occur only if a settlement is not achieved through written documents. The respondent will have the opportunity to conference either by phone or in person with the reviewing disciplining authority member if the respondent chooses. The respondent may also have his or her attorney conference either by phone or in person with the reviewing disciplining authority member without the respondent being present personally.

(4) If the respondent wants to meet in person with the reviewing disciplining authority member, he or she will travel to the reviewing disciplining authority member and have such a conference with a department representative in attendance either by phone or in person. [1995 c 336 § 7; 1994 sp.s. c 9 § 604.]

**Severability—Headings and captions not law—Effective date—1994 sp.s. c 9:** See RCW 18.79.900 through 18.79.902.

**18.130.170 Capacity of license holder to practice—Hearing—Mental or physical examination—Implied consent.**

(1) If the disciplining authority believes a license holder or applicant may be unable to practice with reasonable skill and safety to consumers by reason of any mental or physical condition, a statement of charges in the name of the disciplining authority shall be served on the license holder or applicant and notice shall also be issued providing an opportunity for a hearing. The hearing shall be limited to the sole issue of the capacity of the license holder or applicant to practice with reasonable skill and safety. If the disciplining authority determines that the license holder or applicant is unable to practice with reasonable skill and safety for one of the reasons stated in this subsection, the

disciplining authority shall impose such sanctions under RCW 18.130.160 as is deemed necessary to protect the public.

(2)(a) In investigating or adjudicating a complaint or report that a license holder or applicant may be unable to practice with reasonable skill or safety by reason of any mental or physical condition, the disciplining authority may require a license holder or applicant to submit to a mental or physical examination by one or more licensed or certified health professionals designated by the disciplining authority. The license holder or applicant shall be provided written notice of the disciplining authority's intent to order a mental or physical examination, which notice shall include: (i) A statement of the specific conduct, event, or circumstances justifying an examination; (ii) a summary of the evidence supporting the disciplining authority's concern that the license holder or applicant may be unable to practice with reasonable skill and safety by reason of a mental or physical condition, and the grounds for believing such evidence to be credible and reliable; (iii) a statement of the nature, purpose, scope, and content of the intended examination; (iv) a statement that the license holder or applicant has the right to respond in writing within twenty days to challenge the disciplining authority's grounds for ordering an examination or to challenge the manner or form of the examination; and (v) a statement that if the license holder or applicant timely responds to the notice of intent, then the license holder or applicant will not be required to submit to the examination while the response is under consideration.

(b) Upon submission of a timely response to the notice of intent to order a mental or physical examination, the license holder or applicant shall have an opportunity to respond to or refute such an order by submission of evidence or written argument or both. The evidence and written argument supporting and opposing the mental or physical examination shall be reviewed by either a panel of the disciplining authority members who have not been involved with the allegations against the license holder or applicant or a neutral decision maker approved by the disciplining authority. The reviewing panel of the disciplining authority or the approved neutral decision maker may, in its discretion, ask for oral argument from the parties. The reviewing panel of the disciplining authority or the approved neutral decision maker shall prepare a written decision as to whether: There is reasonable cause to believe that the license holder or applicant may be unable to practice with reasonable skill and safety by reason of a mental or physical condition, or the manner or form of the mental or physical examination is appropriate, or both.

(c) Upon receipt by the disciplining authority of the written decision, or upon the failure of the license holder or applicant to timely respond to the notice of intent, the disciplining authority may issue an order requiring the license holder or applicant to undergo a mental or physical examination. All such mental or physical examinations shall be narrowly tailored to address only the alleged mental or physical condition and the ability of the license holder or applicant to practice with reasonable skill and safety. An order of the disciplining authority requiring the license holder or applicant to undergo a mental or physical examination is not a final order for purposes of appeal. The cost of

the examinations ordered by the disciplining authority shall be paid out of the health professions account. In addition to any examinations ordered by the disciplining authority, the licensee may submit physical or mental examination reports from licensed or certified health professionals of the license holder's or applicant's choosing and expense.

(d) If the disciplining authority finds that a license holder or applicant has failed to submit to a properly ordered mental or physical examination, then the disciplining authority may order appropriate action or discipline under RCW 18.130.180(9), unless the failure was due to circumstances beyond the person's control. However, no such action or discipline may be imposed unless the license holder or applicant has had the notice and opportunity to challenge the disciplining authority's grounds for ordering the examination, to challenge the manner and form, to assert any other defenses, and to have such challenges or defenses considered by either a panel of the disciplining authority members who have not been involved with the allegations against the license holder or applicant or a neutral decision maker approved by the disciplining authority, as previously set forth in this section. Further, the action or discipline ordered by the disciplining authority shall not be more severe than a suspension of the license, certification, registration or application until such time as the license holder or applicant complies with the properly ordered mental or physical examination.

(e) Nothing in this section shall restrict the power of a disciplining authority to act in an emergency under RCW 34.05.422(4), 34.05.479, and 18.130.050(7).

(f) A determination by a court of competent jurisdiction that a license holder or applicant is mentally incompetent or mentally ill is presumptive evidence of the license holder's or applicant's inability to practice with reasonable skill and safety. An individual affected under this section shall at reasonable intervals be afforded an opportunity, at his or her expense, to demonstrate that the individual can resume competent practice with reasonable skill and safety to the consumer.

(3) For the purpose of subsection (2) of this section, an applicant or license holder governed by this chapter, by making application, practicing, or filing a license renewal, is deemed to have given consent to submit to a mental, physical, or psychological examination when directed in writing by the disciplining authority and further to have waived all objections to the admissibility or use of the examining health professional's testimony or examination reports by the disciplining authority on the ground that the testimony or reports constitute privileged communications. [1995 c 336 § 8; 1987 c 150 § 6; 1986 c 259 § 9; 1984 c 279 § 17.]

**Severability—1987 c 150:** See RCW 18.122.901.

**Severability—1986 c 259:** See note following RCW 18.130.010.

**18.130.180 Unprofessional conduct.** The following conduct, acts, or conditions constitute unprofessional conduct for any license holder or applicant under the jurisdiction of this chapter:

(1) The commission of any act involving moral turpitude, dishonesty, or corruption relating to the practice of the person's profession, whether the act constitutes a crime or

not. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon such a conviction, however, the judgment and sentence is conclusive evidence at the ensuing disciplinary hearing of the guilt of the license holder or applicant of the crime described in the indictment or information, and of the person's violation of the statute on which it is based. For the purposes of this section, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for the conviction and all proceedings in which the sentence has been deferred or suspended. Nothing in this section abrogates rights guaranteed under chapter 9.96A RCW;

(2) Misrepresentation or concealment of a material fact in obtaining a license or in reinstatement thereof;

(3) All advertising which is false, fraudulent, or misleading;

(4) Incompetence, negligence, or malpractice which results in injury to a patient or which creates an unreasonable risk that a patient may be harmed. The use of a nontraditional treatment by itself shall not constitute unprofessional conduct, provided that it does not result in injury to a patient or create an unreasonable risk that a patient may be harmed;

(5) Suspension, revocation, or restriction of the individual's license to practice any health care profession by competent authority in any state, federal, or foreign jurisdiction, a certified copy of the order, stipulation, or agreement being conclusive evidence of the revocation, suspension, or restriction;

(6) The possession, use, prescription for use, or distribution of controlled substances or legend drugs in any way other than for legitimate or therapeutic purposes, diversion of controlled substances or legend drugs, the violation of any drug law, or prescribing controlled substances for oneself;

(7) Violation of any state or federal statute or administrative rule regulating the profession in question, including any statute or rule defining or establishing standards of patient care or professional conduct or practice;

(8) Failure to cooperate with the disciplining authority by:

(a) Not furnishing any papers or documents;

(b) Not furnishing in writing a full and complete explanation covering the matter contained in the complaint filed with the disciplining authority;

(c) Not responding to subpoenas issued by the disciplining authority, whether or not the recipient of the subpoena is the accused in the proceeding; or

(d) Not providing reasonable and timely access for authorized representatives of the disciplining authority seeking to perform practice reviews at facilities utilized by the license holder;

(9) Failure to comply with an order issued by the disciplining authority or a stipulation for informal disposition entered into with the disciplining authority;

(10) Aiding or abetting an unlicensed person to practice when a license is required;

(11) Violations of rules established by any health agency;

(12) Practice beyond the scope of practice as defined by law or rule;

(13) Misrepresentation or fraud in any aspect of the conduct of the business or profession;

(14) Failure to adequately supervise auxiliary staff to the extent that the consumer's health or safety is at risk;

(15) Engaging in a profession involving contact with the public while suffering from a contagious or infectious disease involving serious risk to public health;

(16) Promotion for personal gain of any unnecessary or inefficacious drug, device, treatment, procedure, or service;

(17) Conviction of any gross misdemeanor or felony relating to the practice of the person's profession. For the purposes of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for conviction and all proceedings in which the sentence has been deferred or suspended. Nothing in this section abrogates rights guaranteed under chapter 9.96A RCW;

(18) The procuring, or aiding or abetting in procuring, a criminal abortion;

(19) The offering, undertaking, or agreeing to cure or treat disease by a secret method, procedure, treatment, or medicine, or the treating, operating, or prescribing for any health condition by a method, means, or procedure which the licensee refuses to divulge upon demand of the disciplining authority;

(20) The willful betrayal of a practitioner-patient privilege as recognized by law;

(21) Violation of chapter 19.68 RCW;

(22) Interference with an investigation or disciplinary proceeding by willful misrepresentation of facts before the disciplining authority or its authorized representative, or by the use of threats or harassment against any patient or witness to prevent them from providing evidence in a disciplinary proceeding or any other legal action, or by the use of financial inducements to any patient or witness to prevent or attempt to prevent him or her from providing evidence in a disciplinary proceeding;

(23) Current misuse of:

(a) Alcohol;

(b) Controlled substances; or

(c) Legend drugs;

(24) Abuse of a client or patient or sexual contact with a client or patient;

(25) Acceptance of more than a nominal gratuity, hospitality, or subsidy offered by a representative or vendor of medical or health-related products or services intended for patients, in contemplation of a sale or for use in research publishable in professional journals, where a conflict of interest is presented, as defined by rules of the disciplining authority, in consultation with the department, based on recognized professional ethical standards. [1995 c 336 § 9; 1993 c 367 § 22. Prior: 1991 c 332 § 34; 1991 c 215 § 3; 1989 c 270 § 33; 1986 c 259 § 10; 1984 c 279 § 18.]

**Application to scope of practice—Captions not law—1991 c 332:** See notes following RCW 18.130.010.

**Severability—1986 c 259:** See note following RCW 18.130.010.

**18.130.190 Practice without license—Investigation of complaints—Cease and desist orders—Injunctions—Penalties.** (1) The secretary shall investigate complaints concerning practice by unlicensed persons of a profession or business for which a license is required by the chapters specified in RCW 18.130.040. In the investigation of the



complaints, the secretary shall have the same authority as provided the secretary under RCW 18.130.050.

(2) The secretary may issue a notice of intention to issue a cease and desist order to any person whom the secretary has reason to believe is engaged in the unlicensed practice of a profession or business for which a license is required by the chapters specified in RCW 18.130.040. The person to whom such notice is issued may request an adjudicative proceeding to contest the charges. The request for hearing must be filed within twenty days after service of the notice of intention to issue a cease and desist order. The failure to request a hearing constitutes a default, whereupon the secretary may enter a permanent cease and desist order, which may include a civil fine. All proceedings shall be conducted in accordance with chapter 34.05 RCW.

(3) If the secretary makes a final determination that a person has engaged or is engaging in unlicensed practice, the secretary may issue a cease and desist order. In addition, the secretary may impose a civil fine in an amount not exceeding one thousand dollars for each day upon which the person engaged in unlicensed practice of a business or profession for which a license is required by one or more of the chapters specified in RCW 18.130.040. The proceeds of such fines shall be deposited to the health professions account.

(4) If the secretary makes a written finding of fact that the public interest will be irreparably harmed by delay in issuing an order, the secretary may issue a temporary cease and desist order. The person receiving a temporary cease and desist order shall be provided an opportunity for a prompt hearing. The temporary cease and desist order shall remain in effect until further order of the secretary. The failure to request a prompt or regularly scheduled hearing constitutes a default, whereupon the secretary may enter a permanent cease and desist order, which may include a civil fine.

(5) Neither the issuance of a cease and desist order nor payment of a civil fine shall relieve the person so practicing or operating a business without a license from criminal prosecution therefor, but the remedy of a cease and desist order or civil fine shall be in addition to any criminal liability. The cease and desist order is conclusive proof of unlicensed practice and may be enforced under RCW 7.21.060. This method of enforcement of the cease and desist order or civil fine may be used in addition to, or as an alternative to, any provisions for enforcement of agency orders set out in chapter 34.05 RCW.

(6) The attorney general, a county prosecuting attorney, the secretary, a board, or any person may in accordance with the laws of this state governing injunctions, maintain an action in the name of this state to enjoin any person practicing a profession or business for which a license is required by the chapters specified in RCW 18.130.040 without a license from engaging in such practice or operating such business until the required license is secured. However, the injunction shall not relieve the person so practicing or operating a business without a license from criminal prosecution therefor, but the remedy by injunction shall be in addition to any criminal liability.

(7) Unlicensed practice of a profession or operating a business for which a license is required by the chapters

specified in RCW 18.130.040, unless otherwise exempted by law, constitutes a gross misdemeanor for a single violation. Each subsequent violation, whether alleged in the same or in subsequent prosecutions, is a class C felony. All fees, fines, forfeitures, and penalties collected or assessed by a court because of a violation of this section shall be remitted to the health professions account. [1995 c 285 § 35; 1993 c 367 § 19; 1991 c 3 § 271. Prior: 1989 c 373 § 20; 1989 c 175 § 71; 1987 c 150 § 7; 1986 c 259 § 11; 1984 c 279 § 19.]

**Effective date—1995 c 285:** See RCW 48.30A.900.

**Severability—1989 c 373:** See RCW 7.21.900.

**Effective date—1989 c 175:** See note following RCW 34.05.010.

**Severability—1987 c 150:** See RCW 18.122.901.

**Severability—1986 c 259:** See note following RCW 18.130.010.

**18.130.320 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**18.130.330 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**18.130.340 Opiate therapy guidelines.** The secretary of health shall coordinate and assist the regulatory boards and commissions of the health professions with prescriptive authority in the development of uniform guidelines for addressing opiate therapy for acute pain, and chronic pain associated with cancer and other terminal diseases, or other chronic or intractable pain conditions. The purpose of the guidelines is to assure the provision of effective medical treatment in accordance with recognized national standards and consistent with requirements of the public health and safety. [1995 c 336 § 10.]

## Chapter 18.145

### COURT REPORTING PRACTICE ACT

(Formerly: Shorthand reporting practice act)

#### Sections

18.145.005	Findings.
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18.145.030	Definitions.
18.145.040	Exemptions.
18.145.050	Powers of director.
18.145.060	Repealed.
18.145.070	Liability of director.
18.145.080	Certification requirements.
18.145.090	Certification applications—Fee.
18.145.110	Persons with stenomask reporting experience.
18.145.120	Suspension, revocation, or sanctions of certificate— Director's powers—Costs.
18.145.130	Unprofessional conduct.
18.145.900	Short title.

**18.145.005 Findings.** The legislature finds it necessary to regulate the practice of court reporting at the level of certification to protect the public safety and well-being. The legislature intends that only individuals who meet and maintain minimum standards of competence may represent themselves as court reporters. [1995 c 27 § 1; 1989 c 382 § 1.]

**18.145.020 Practice of court reporting defined.** The "practice of court reporting" means the making by means of written symbols or abbreviations in shorthand or machine writing or oral recording by a stenomask reporter of a verbatim record of any oral court proceeding, deposition, or proceeding before a jury, referee, court commissioner, special master, governmental entity, or administrative agency and the producing of a transcript from the proceeding. [1995 c 27 § 3; 1989 c 382 § 3.]

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

(1) "Department" means the department of licensing.

(2) "Director" means the director of licensing.

(3) "Court reporter" means an individual certified under this chapter. [1995 c 269 § 501; 1995 c 27 § 4; 1989 c 382 § 4.]

**Reviser's note:** This section was amended by 1995 c 27 § 4 and by 1995 c 269 § 501, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Effective date—1995 c 269:** See note following RCW 13.40.025.

**Part headings not law—Severability—1995 c 269:** See notes following RCW 13.40.005.

**18.145.040 Exemptions.** Nothing in this chapter prohibits or restricts:

(1) The practice of court reporting by individuals who are licensed, certified, or registered as court reporters under other laws of this state and who are performing services within their authorized scope of practice;

(2) The practice of court reporting by an individual employed by the government of the United States while the individual is performing duties prescribed by the laws and regulations of the United States; or

(3) The introduction of alternate technology in court reporting practice. [1995 c 27 § 5; 1989 c 382 § 5.]

**18.145.050 Powers of director.** In addition to any other authority provided by law, the director may:

(1) Adopt rules in accordance with chapter 34.05 RCW that are necessary to implement this chapter;

(2) Set all renewal, late renewal, duplicate, and verification fees in accordance with RCW 43.24.086;

(3) Establish the forms and procedures necessary to administer this chapter;

(4) Issue a certificate to any applicant who has met the requirements for certification;

(5) Hire clerical, administrative, and investigative staff as needed to implement and administer this chapter;

(6) Investigate complaints or reports of unprofessional conduct as defined in this chapter and hold hearings under chapter 34.05 RCW;

(7) Issue subpoenas for records and attendance of witnesses, statements of charges, statements of intent to deny certificates, and orders; administer oaths; take or cause depositions to be taken; and use other discovery procedures as needed in any investigation, hearing, or proceeding held under this chapter;

(8) Maintain the official departmental record of all applicants and certificate holders;

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(9) Delegate, in writing to a designee, the authority to issue subpoenas, statements of charges, and statements of intent to deny certification;

(10) Approve the preparation and administration of examinations for certification;

(11) Establish by rule the procedures for an appeal of a failure of an examination;

(12) Conduct a hearing under chapter 34.05 RCW on an appeal of a denial of a certificate based on the applicant's failure to meet minimum qualifications for certification;

(13) Set the criteria for meeting the standard required for certification;

(14) Establish advisory committees whose membership shall include representatives of professional court reporting and stenomasking associations and representatives from accredited schools offering degrees in court reporting or stenomasking to advise the director on testing procedures, professional standards, disciplinary activities, or any other matters deemed necessary;

(15) Establish ad hoc advisory committees whose membership shall include representatives of professional court reporting and stenomasking associations and representatives from accredited schools offering degrees in court reporting or stenomasking to advise the director on testing procedures, professional standards, disciplinary activities, or any other matters deemed necessary. [1995 c 269 § 502; 1995 c 27 § 6; 1989 c 382 § 6.]

**Reviser's note:** This section was amended by 1995 c 27 § 6 and by 1995 c 269 § 502, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Effective date—1995 c 269:** See note following RCW 13.40.025.

**Part headings not law—Severability—1995 c 269:** See notes following RCW 13.40.005.

**18.145.060 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**18.145.070 Liability of director.** The director and individuals acting on the director's behalf shall not be civilly liable for any act performed in good faith in the course of their duties. [1995 c 269 § 503; 1995 c 27 § 7; 1989 c 382 § 8.]

**Reviser's note:** This section was amended by 1995 c 27 § 7 and by 1995 c 269 § 503, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Effective date—1995 c 269:** See note following RCW 13.40.025.

**Part headings not law—Severability—1995 c 269:** See notes following RCW 13.40.005.

**18.145.080 Certification requirements.** The department shall issue a certificate to any applicant who meets the standards established under this chapter and who:

(1) Is holding one of the following:

(a) Certificate of proficiency, registered professional reporter, registered merit reporter, or registered diplomate reporter from [the] national court reporters association;

(b) Certificate of proficiency or certificate of merit from [the] national stenomask verbatim reporters association; or

(c) A current Washington state court reporter certification; or

(2) Has passed an examination approved by the director or an examination that meets or exceeds the standards established by the director. [1995 c 269 § 504; 1995 c 27 § 8; 1989 c 382 § 9.]

**Reviser's note:** This section was amended by 1995 c 27 § 8 and by 1995 c 269 § 504, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Effective date—1995 c 269:** See note following RCW 13.40.025.

**Part headings not law—Severability—1995 c 269:** See notes following RCW 13.40.005.

**18.145.090 Certification applications—Fee.** Applications for certification shall be submitted on forms provided by the department. The department may require information and documentation to determine whether the applicant meets the standard for certification as provided in this chapter. Each applicant shall pay a fee determined by the director as provided in RCW 43.24.086 which shall accompany the application. [1995 c 27 § 9; 1989 c 382 § 10.]

**18.145.110 Persons with stenomask reporting experience.** Persons with two or more years' experience in stenomask reporting in Washington state as of January 1, 1996, shall be granted a court reporter certificate without examination, if application is made before January 1, 1996. [1995 c 27 § 10; 1989 c 382 § 12.]

**18.145.120 Suspension, revocation, or sanctions of certificate—Director's powers—Costs.** (1) Upon receipt of complaints against court reporters, the director shall investigate and evaluate the complaint to determine if disciplinary action is appropriate. The director shall hold disciplinary hearings pursuant to chapter 34.05 RCW.

(2) After a hearing conducted under chapter 34.05 RCW and upon a finding that a certificate holder or applicant has committed unprofessional conduct or is unable to practice with reasonable skill and safety due to a physical or mental condition, the director may issue an order providing for one or any combination of the following:

- (a) Revocation of the certification;
- (b) Suspension of the certificate for a fixed or indefinite term;
- (c) Restriction or limitation of the practice;
- (d) Requiring the satisfactory completion of a specific program or remedial education;
- (e) The monitoring of the practice by a supervisor approved by the director;
- (f) Censure or reprimand;
- (g) Compliance with conditions of probation for a designated period of time;
- (h) Denial of the certification request;
- (i) Corrective action;
- (j) Refund of fees billed to or collected from the consumer.

Any of the actions under this section may be totally or partly stayed by the director. In determining what action is appropriate, the director shall consider sanctions necessary to protect the public, after which the director may consider and include in the order requirements designed to rehabilitate the certificate holder or applicant. All costs associated with

compliance to orders issued under this section are the obligation of the certificate holder or applicant. [1995 c 27 § 11; 1989 c 382 § 13.]

**18.145.130 Unprofessional conduct.** The following conduct, acts, or conditions constitute unprofessional conduct for any certificate holder or applicant under the jurisdiction of this chapter:

(1) The commission of any act involving moral turpitude, dishonesty, or corruption relating to the practice of court reporting, whether or not the act constitutes a crime. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action;

(2) Misrepresentation or concealment of a material fact in obtaining or in seeking reinstatement of a certificate;

(3) Advertising in a false, fraudulent, or misleading manner;

(4) Incompetence or negligence;

(5) Suspension, revocation, or restriction of the individual's certificate, registration, or license to practice court reporting by a regulatory authority in any state, federal, or foreign jurisdiction;

(6) Violation of any state or federal statute or administrative rule regulating the profession;

(7) Failure to cooperate in an inquiry, investigation, or disciplinary action by:

(a) Not furnishing papers or documents;

(b) Not furnishing in writing a full and complete explanation of the matter contained in the complaint filed with the director;

(c) Not responding to subpoenas issued by the director, regardless of whether the recipient of the subpoena is the accused in the proceeding;

(8) Failure to comply with an order issued by the director or an assurance of discontinuance entered into with the director;

(9) Misrepresentation or fraud in any aspect of the conduct of the business or profession;

(10) Conviction of any gross misdemeanor or felony relating to the practice of the profession. For the purpose of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for conviction and all proceedings in which the sentence has been deferred or suspended. Nothing in this section abrogates rights guaranteed under chapter 9.96A RCW. [1995 c 27 § 12; 1989 c 382 § 14.]

**18.145.900 Short title.** This chapter may be known and cited as the court reporting practice act. [1995 c 27 § 13; 1989 c 382 § 15.]

## Chapter 18.165

### PRIVATE DETECTIVES

#### Sections

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18.165.901	Severability—Effective date—1995 c 277.

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

(1) "Armed private investigator" means a private investigator who has a current firearms certificate issued by the commission and is licensed as an armed private investigator under this chapter.

(2) "Chief law enforcement officer" means the elected or appointed police administrator of a municipal, county, or state police or sheriff's department that has full law enforcement powers in its jurisdiction.

(3) "Commission" means the criminal justice training commission established in chapter 43.101 RCW.

(4) "Department" means the department of licensing.

(5) "Director" means the director of the department of licensing.

(6) "Employer" includes any individual, firm, corporation, partnership, association, company, society, manager, contractor, subcontractor, bureau, agency, service, office, or an agent of any of the foregoing that employs or seeks to enter into an arrangement to employ any person as a private investigator.

(7) "Firearms certificate" means a certificate issued by the commission.

(8) "Forensic scientist" or "accident reconstructionist" means a person engaged exclusively in collecting and analyzing physical evidence and data relating to an accident or other matter and compiling such evidence or data to render an opinion of likely cause, fault, or circumstance of the accident or matter.

(9) "Person" includes any individual, firm, corporation, partnership, association, company, society, manager, contractor, subcontractor, bureau, agency, service, office, or an agent or employee of any of the foregoing.

(10) "Principal" of a private investigator agency means the owner or manager appointed by a corporation.

(11) "Private investigator" means a person who is licensed under this chapter and is employed by a private investigator agency for the purpose of investigation, escort or body guard services, or property loss prevention activities.

(12) "Private investigator agency" means a person or entity licensed under this chapter and engaged in the business of detecting, discovering, or revealing one or more of the following:

(a) Crime, criminals, or related information;

(b) The identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation, or character of any person or thing;

(c) The location, disposition, or recovery of lost or stolen property;

(d) The cause or responsibility for fires, libels, losses, accidents, or damage or injury to persons or to property;

(e) Evidence to be used before a court, board, officer, or investigative committee;

(f) Detecting the presence of electronic eavesdropping devices; or

(g) The truth or falsity of a statement or representation.

(13) "Qualifying agent" means an officer or manager of a corporation who meets the requirements set forth in this chapter for obtaining a private investigator agency license.

(14) "Sworn peace officer" means a person who is an employee of the federal government, the state, or a political subdivision, agency, or department branch of a municipality or other unit of local government, and has law enforcement powers. [1995 c 277 § 17; 1991 c 328 § 1.]

**18.165.020 Exemptions.** The requirements of this chapter do not apply to:

(1) A person who is employed exclusively or regularly by one employer and performs investigations solely in connection with the affairs of that employer, if the employer is not a private investigator agency;

(2) An officer or employee of the United States or of this state or a political subdivision thereof, while engaged in the performance of the officer's official duties;

(3) A person engaged exclusively in the business of obtaining and furnishing information about the financial rating of persons;

(4) An attorney at law while performing the attorney's duties as an attorney;

(5) A licensed collection agency or its employee, while acting within the scope of that person's employment and making an investigation incidental to the business of the agency;

(6) Insurers, agents, and insurance brokers licensed by the state, while performing duties in connection with insurance transacted by them;

(7) A bank subject to the jurisdiction of the \*Washington state banking commission or the comptroller of currency of the United States, or a savings and loan association subject to the jurisdiction of this state or the federal home loan bank board;

(8) A licensed insurance adjuster performing the adjuster's duties within the scope of the adjuster's license;

(9) A secured creditor engaged in the repossession of the creditor's collateral, or a lessor engaged in the repossession of leased property in which it claims an interest;

(10) A person who is a forensic scientist, accident reconstructionist, or other person who performs similar functions and does not hold himself or herself out to be an investigator in any other capacity; or

(11) A person solely engaged in the business of securing information about persons or property from public records. [1995 c 277 § 18; 1991 c 328 § 2.]

**\*Reviser's note:** Powers, duties, and functions of the department of general administration relating to financial institutions were transferred to the department of financial institutions by 1993 c 472, effective October 1, 1993. See chapter 43.320 RCW.

**18.165.030 Private investigator license—Requirements.** An applicant must meet the following minimum requirements to obtain a private investigator license:

(1) Be at least eighteen years of age;

(2) Be a citizen or resident alien of the United States;

(3) Not have been convicted of a crime in any jurisdiction, if the director determines that the applicant's particular crime directly relates to his or her capacity to perform the duties of a private investigator and the director determines that the license should be withheld to protect the citizens of Washington state. The director shall make her or his determination to withhold a license because of previous convictions notwithstanding the restoration of employment rights act, chapter 9.96A RCW;

(4) Be employed by or have an employment offer from a private investigator agency or be licensed as a private investigator agency;

(5) Submit a set of fingerprints;

(6) Pay the required nonrefundable fee for each application; and

(7) Submit a fully completed application that includes proper identification on a form prescribed by the director for each company of employment. [1995 c 277 § 19; 1991 c 328 § 3.]

**18.165.040 Armed private investigator license—Requirements.** (1) An applicant must meet the following minimum requirements to obtain an armed private investigator license:

(a) Be licensed as a private investigator;

(b) Be at least twenty-one years of age;

(c) Have a current firearms certificate issued by the commission;

(d) Have a license to carry a concealed pistol; and

(e) Pay the fee established by the director.

(2) The armed private investigator license may take the form of an endorsement to the private investigator license if deemed appropriate by the director. [1995 c 277 § 21; 1991 c 328 § 4.]

**18.165.050 Private investigator agency license—Requirements, restrictions—Assignment or transfer.** (1) In addition to meeting the minimum requirements to obtain a license as a private investigator, an applicant, or, in the case of a partnership or limited partnership, each partner, or,

in the case of a corporation, the qualifying agent must meet the following additional requirements to obtain a private investigator agency license:

(a) Pass an examination determined by the director to measure the person's knowledge and competence in the private investigator agency business; or

(b) Have had at least three years' experience in investigative work or its equivalent as determined by the director. A year's experience means not less than two thousand hours of actual compensated work performed before the filing of an application. An applicant shall substantiate the experience by written certifications from previous employers. If the applicant is unable to supply written certifications from previous employers, applicants may offer written certifications from professional persons other than employers who, based on personal professional knowledge, can substantiate the employment.

(2) An agency license issued pursuant to this section may not be assigned or transferred without prior written approval of the director.

(3) No license to own or operate a private investigator company may be issued to an applicant if the name of the company portrays the company as a public law enforcement agency, or in association with a public law enforcement agency, or includes the word "police." [1995 c 277 § 22; 1991 c 328 § 5.]

**18.165.060 Armed private investigator license authority—Registration of firearms.** (1) An armed private investigator license grants authority to the holder, while in the performance of his or her duties, to carry a firearm with which the holder has met the proficiency requirements established by the commission.

(2) All firearms carried by armed private investigators in the performance of their duties must be owned by the employer and, if required by law, must be registered with the proper government agency. [1995 c 277 § 23; 1991 c 328 § 6.]

**18.165.070 Investigation of applicants.** (1) Applications for licenses required under this chapter shall be filed with the director on a form provided by the director. The director may require any information and documentation that reasonably relates to the need to determine whether the applicant meets the criteria.

(2) After receipt of an application for a license, the director shall conduct an investigation to determine whether the facts set forth in the application are true and shall request that the Washington state patrol compare the fingerprints submitted with the application to fingerprint records available to the Washington state patrol. The Washington state patrol shall forward the fingerprints of applicants for an armed private investigator license to the federal bureau of investigation for a national criminal history records check. The director may require that fingerprint cards of licensees be periodically reprocessed to identify criminal convictions subsequent to registration.

(3) The director shall solicit comments from the chief law enforcement officer of the county and city or town in which the applicant's employer is located on issuance of a permanent private investigator license.

(4) A summary of the information acquired under this section, to the extent that it is public information, may be forwarded by the department to the applicant's employer. [1995 c 277 § 25; 1991 c 328 § 7.]

**18.165.080 License cards and certificates—Issuance and requirements.** (1) The director shall issue a private investigator license card to each licensed private investigator and an armed private investigator license card to each armed private investigator.

(a) The license card may not be used as security clearance.

(b) A private investigator shall carry the license card whenever he or she is performing the duties of a private investigator and shall exhibit the card upon request.

(c) An armed private investigator shall carry the license card whenever he or she is performing the duties of an armed private investigator and shall exhibit the card upon request.

(2) The director shall issue a license certificate to each licensed private investigator agency.

(a) Within seventy-two hours after receipt of the license certificate, the licensee shall post and display the certificate in a conspicuous place in the principal office of the licensee within the state.

(b) It is unlawful for any person holding a license certificate to knowingly and willfully post the license certificate upon premises other than those described in the license certificate or to materially alter a license certificate.

(c) Every advertisement by a licensee that solicits or advertises business shall contain the name of the licensee, the address of record, and the license number as they appear in the records of the director.

(d) The licensee shall notify the director within thirty days of any change in the licensee's officers or directors or any material change in the information furnished or required to be furnished to the director. [1995 c 277 § 26; 1991 c 328 § 8.]

**18.165.090 Preassignment training and testing.** (1) The director shall adopt rules establishing preassignment training and testing requirements. The director may establish, by rule, continuing education requirements for private investigators.

(2) The director shall consult with the private investigator industry and law enforcement before adopting or amending the preassignment training or continuing education requirements of this section. [1995 c 277 § 27; 1991 c 328 § 9.]

**18.165.100 Agency license—Surety bond or certificate of insurance required.** (1) No private investigator agency license may be issued under the provisions of this chapter unless the applicant files with the director a surety bond, executed by a surety company authorized to do business in this state, in the sum of ten thousand dollars conditioned to recover against the principal and its servants, officers, agents, and employees by reason of its wrongful or illegal acts in conducting business licensed under this chapter. The bond shall be made payable to the state of Washington, and anyone so injured by the principal or its

servants, officers, agents, or employees shall have the right and shall be permitted to sue directly upon this obligation in his or her own name. This obligation shall be subject to successive suits for recovery until the face amount is completely exhausted.

(2) Every licensee must at all times maintain on file with the director the surety bond required by this section in full force and effect. Upon failure by a licensee to do so, the director shall suspend the licensee's license and shall not reinstate the license until this requirement is met.

(3) In lieu of posting bond, a licensed private investigator agency may file with the director a certificate of insurance as evidence that it has comprehensive general liability coverage of at least twenty-five thousand dollars for bodily or personal injury and twenty-five thousand dollars for property damage.

(4) The director may approve alternative methods of guaranteeing financial responsibility. [1995 c 277 § 28; 1991 c 328 § 10.]

**18.165.110 Regulatory provisions exclusive—Authority of the state and political subdivisions.** (1) The provisions of this chapter relating to the licensing for regulatory purposes of private investigators, armed private investigators, and private investigator agencies are exclusive. No governmental subdivision of this state may enact any laws or rules licensing for regulatory purposes such persons, except as provided in subsections (2) and (3) of this section.

(2) This section shall not be construed to prevent a political subdivision of this state from levying a business fee, business and occupation tax, or other tax upon private investigator agencies if such fees or taxes are levied by the state on other types of businesses within its boundaries.

(3) This section shall not be construed to prevent this state or a political subdivision of this state from licensing for regulatory purposes private investigator agencies with respect to activities that are not regulated under this chapter. [1995 c 277 § 29; 1991 c 328 § 11.]

**18.165.120 Out-of-state private investigators operating across state lines.** Private investigators or armed private investigators whose duties require them to operate across state lines may operate in this state for up to thirty days per year, if they are properly registered and certified in another state with training and certification requirements that the director finds are at least equal to the requirements of this state. [1995 c 277 § 30; 1991 c 328 § 12.]

**18.165.130 Required notice of certain occurrences.** (1) A private investigator agency shall notify the director within thirty days after the death or termination of employment of any employee who is a licensed private investigator or armed private investigator by returning the license to the department with the word ["terminated"] written across the face of the license, the date of termination, and the signature of the principal of the private investigator company.

(2) A private investigator agency shall notify the director within seventy-two hours and the chief law enforcement officer of the county, city, or town in which the agency is located immediately upon receipt of information affecting a licensed private investigator's or armed private

investigator's continuing eligibility to hold a license under the provisions of this chapter.

(3) A private investigator company shall notify the local law enforcement agency whenever an employee who is an armed private investigator discharges his or her firearm while on duty other than on a supervised firearm range. The notification shall be made within ten business days of the date the firearm is discharged. [1995 c 277 § 31; 1991 c 328 § 13.]

**18.165.140 Out-of-state private investigators—Application—Fee—Temporary assignment.** (1) Any person from another state that the director determines has selection, training, and other requirements at least equal to those required by this chapter, and who holds a valid license, registration, identification, or similar card issued by the other state, may apply for a private investigator license card or armed private investigator license card on a form prescribed by the director. Upon receipt of an application fee to be determined by the director, the director shall issue the individual a private investigator license card or armed private investigator license card.

(2) A valid license, registration, identification, or similar card issued by any other state of the United States is valid in this state for a period of ninety days, but only if the licensee is on temporary assignment for the same employer that employs the licensee in the state in which he or she is a permanent resident.

(3) A person from another state on temporary assignment in Washington may not solicit business in this state or represent himself or herself as licensed in this state. [1995 c 277 § 32; 1991 c 328 § 14.]

**18.165.150 Licenses required—Use of public law enforcement insignia prohibited—Penalties—Enforcement.** (1) After June 30, 1992, any person who performs the functions and duties of a private investigator in this state without being licensed in accordance with the provisions of this chapter, or any person presenting or attempting to use as his or her own the license of another, or any person who gives false or forged evidence of any kind to the director in obtaining a license, or any person who falsely impersonates any other licensee, or any person who attempts to use an expired or revoked license, or any person who violates any of the provisions of this chapter is guilty of a gross misdemeanor.

(2) After January 1, 1992, a person is guilty of a gross misdemeanor if he or she owns or operates a private investigator agency in this state without first obtaining a private investigator agency license.

(3) After June 30, 1992, the owner or qualifying agent of a private investigator agency is guilty of a gross misdemeanor if he or she employs any person to perform the duties of a private investigator without the employee having in his or her possession a permanent private investigator license issued by the department. This shall not preclude a private investigator agency from requiring applicants to attend preassignment training classes or from paying wages for attending the required preassignment training classes.

(4) After June 30, 1992, a person is guilty of a gross misdemeanor if he or she performs the functions and duties

of an armed private investigator in this state unless the person holds a valid armed private investigator license issued by the department.

(5) After June 30, 1992, it is a gross misdemeanor for a private investigator agency to hire, contract with, or otherwise engage the services of an unlicensed armed private investigator knowing that the private investigator does not have a valid armed private investigator license issued by the director.

(6) It is a gross misdemeanor for a person to possess or use any vehicle or equipment displaying the word "police" or "law enforcement officer" or having any sign, shield, marking, accessory, or insignia that indicates that the equipment or vehicle belongs to a public law enforcement agency.

(7) It is the duty of all officers of the state and political subdivisions thereof to enforce the provisions of this chapter. The attorney general shall act as legal adviser of the director, and render such legal assistance as may be necessary in carrying out the provisions of this chapter. [1995 c 277 § 33; 1991 c 328 § 15.]

**18.165.155 Transfer of license.** A licensee who transfers from one company to another must submit a transfer application on a form prescribed by the director along with a transfer fee established by the director. [1995 c 277 § 20.]

**18.165.160 Prohibited acts.** The following acts are prohibited and constitute grounds for disciplinary action, assessing administrative penalties, or denial, suspension, or revocation of any license under this chapter, as deemed appropriate by the director:

(1) Knowingly violating any of the provisions of this chapter or the rules adopted under this chapter;

(2) Knowingly making a material misstatement or omission in the application for or renewal of a license or firearms certificate, including falsifying requested identification information;

(3) Not meeting the qualifications set forth in RCW 18.165.030, 18.165.040, or 18.165.050;

(4) Failing to return immediately on demand a firearm issued by an employer;

(5) Carrying a firearm in the performance of his or her duties if not the holder of a valid armed private investigator license, or carrying a firearm not meeting the provisions of this chapter while in the performance of his or her duties;

(6) Failing to return immediately on demand company identification, badges, or other items issued to the private investigator by an employer;

(7) Making any statement that would reasonably cause another person to believe that the private investigator is a sworn peace officer;

(8) Divulging confidential information obtained in the course of any investigation to which he or she was assigned;

(9) Acceptance of employment that is adverse to a client or former client and relates to a matter about which a licensee has obtained confidential information by reason of or in the course of the licensee's employment by the client;

(10) Conviction of a gross misdemeanor or felony or the commission of any act involving moral turpitude, dishonesty,

or corruption whether the act constitutes a crime or not. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon such a conviction, however, the judgment and sentence is conclusive evidence at the ensuing disciplinary hearing of the guilt of the license holder or applicant of the crime described in the indictment or information, and of the person's violation of the statute on which it is based. For the purposes of this section, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for the conviction and all proceedings in which the sentence has been deferred or suspended;

(11) Advertising that is false, fraudulent, or misleading;

(12) Incompetence or negligence that results in injury to a person or that creates an unreasonable risk that a person may be harmed;

(13) Suspension, revocation, or restriction of the individual's license to practice the profession by competent authority in any state, federal, or foreign jurisdiction, a certified copy of the order, stipulation, or agreement being conclusive evidence of the revocation, suspension, or restriction;

(14) Failure to cooperate with the director by:

(a) Not furnishing any necessary papers or documents requested by the director for purposes of conducting an investigation for disciplinary action, denial, suspension, or revocation of a license under this chapter;

(b) Not furnishing in writing a full and complete explanation covering the matter contained in a complaint filed with the department; or

(c) Not responding to subpoenas issued by the director, whether or not the recipient of the subpoena is the accused in the proceeding;

(15) Failure to comply with an order issued by the director or an assurance of discontinuance entered into with the director;

(16) Aiding or abetting an unlicensed person to practice if a license is required;

(17) Misrepresentation or fraud in any aspect of the conduct of the business or profession;

(18) Failure to adequately supervise employees to the extent that the public health or safety is at risk;

(19) Interference with an investigation or disciplinary proceeding by willful misrepresentation of facts before the director or the director's authorized representative, or by the use of threats or harassment against any client or witness to prevent them from providing evidence in a disciplinary proceeding or any other legal action;

(20) Assigning or transferring any license issued pursuant to the provisions of this chapter, except as provided in RCW 18.165.050;

(21) Assisting a client to locate, trace, or contact a person when the investigator knows that the client is prohibited by any court order from harassing or contacting the person whom the investigator is being asked to locate, trace, or contact, as it pertains to domestic violence, stalking, or minor children;

(22) Failure to maintain bond or insurance; or

(23) Failure to have a qualifying principal in place. [1995 c 277 § 34; 1991 c 328 § 16.]

**18.165.165 Display of firearms while soliciting clients.** No licensee, employee or agent of a licensee, or anyone accompanying a licensee, employee, or agent may display a firearm while soliciting a client. [1995 c 277 § 24.]

**18.165.170 Authority of director.** The director has the following authority in administering this chapter:

(1) To adopt, amend, and rescind rules as deemed necessary to carry out this chapter;

(2) To issue subpoenas and administer oaths in connection with an investigation, hearing, or proceeding held under this chapter;

(3) To take or cause depositions to be taken and use other discovery procedures as needed in an investigation, hearing, or proceeding held under this chapter;

(4) To compel attendance of witnesses at hearings;

(5) In the course of investigating a complaint or report of unprofessional conduct, to conduct practice reviews;

(6) To take emergency action ordering summary suspension of a license, or restriction or limitation of the licensee's practice pending proceedings by the director;

(7) To use the office of administrative hearings as authorized in chapter 34.12 RCW to conduct hearings. However, the director or the director's designee shall make the final decision in the hearing;

(8) To enter into contracts for professional services determined to be necessary for adequate enforcement of this chapter;

(9) To adopt standards of professional conduct or practice;

(10) In the event of a finding of unprofessional conduct by an applicant or license holder, to impose sanctions against a license applicant or license holder as provided by this chapter;

(11) To enter into an assurance of discontinuance in lieu of issuing a statement of charges or conducting a hearing. The assurance shall consist of a statement of the law in question and an agreement to not violate the stated provision. The applicant or license holder shall not be required to admit to any violation of the law, and the assurance shall not be construed as such an admission. Violation of an assurance under this subsection is grounds for disciplinary action;

(12) To designate individuals authorized to sign subpoenas and statements of charges;

(13) To employ such investigative, administrative, and clerical staff as necessary for the enforcement of this chapter;

(14) To compel attendance of witnesses at hearings; and

(15) To assess administrative penalties for violations of law, rules, or regulations. [1995 c 277 § 35; 1991 c 328 § 17.]

**18.165.180 Complaints—Investigation—Immunity.** A person, including but not limited to consumers, licensees, corporations, organizations, and state and local governmental agencies, may submit a written complaint to the department charging a license holder or applicant with unprofessional or unlawful conduct and specifying the grounds for the charge. If the director determines that the complaint merits investigation, or if the director has reason to believe, without a formal



complaint, that a license holder or applicant may have engaged in unprofessional or unlawful conduct, the director shall investigate to determine if there has been unprofessional or unlawful conduct. A person who files a complaint under this section in good faith is immune from suit in any civil action related to the filing or contents of the complaint. [1995 c 277 § 36; 1991 c 328 § 18.]

**18.165.190 Violations—Statement of charges—Hearings.** (1) If the director determines, upon investigation, that there is reason to believe a violation of this chapter has occurred, a statement of charges shall be prepared and served upon the license holder or applicant and notice of this action given to the owner or qualifying agent of the employing private investigator agency. The statement of charges shall be accompanied by a notice that the license holder or applicant may request a hearing to contest the charges. The license holder or applicant must file a request for hearing with the department within twenty days after being served the statement of charges. The failure to request a hearing constitutes a default, whereupon the director may enter an order pursuant to RCW 34.05.440.

(2) If a hearing is requested, the time of the hearing shall be scheduled but the hearing shall not be held earlier than thirty days after service of the charges upon the license holder or applicant. A notice of hearing shall be issued at least twenty days prior to the hearing, specifying the time, date, and place of the hearing. [1995 c 277 § 37; 1991 c 328 § 19.]

**18.165.220 Unprofessional, unlawful conduct or inability to practice—Penalties.** Upon a finding that a license holder or applicant has committed unprofessional or unlawful conduct or is unable to practice with reasonable skill and safety due to a physical or mental condition, the director may issue an order providing for one or any combination of the following:

- (1) Revocation of the license;
- (2) Suspension of the license for a fixed or indefinite term;
- (3) Restriction or limitation of the practice;
- (4) Requiring the satisfactory completion of a specific program of remedial education or treatment;
- (5) Monitoring of the practice by a supervisor approved by the director;
- (6) Censure or reprimand;
- (7) Compliance with conditions of probation for a designated period of time;
- (8) Withholding a license request;
- (9) Other corrective action;
- (10) Refund of fees billed to and collected from the consumer; or
- (11) Assessing administrative penalties.

Any of the actions under this section may be totally or partly stayed by the director. All costs associated with compliance with orders issued under this section are the obligation of the license holder or applicant. [1995 c 277 § 38; 1991 c 328 § 22.]

**18.165.240 Unlicensed practice—Complaints—Director's authority—Injunctions—Penalty.** (1) The

director shall investigate complaints concerning practice by unlicensed persons of a profession or business for which a license is required by this chapter. In the investigation of the complaints, the director shall have the same authority as provided the director under RCW 18.165.190. The director shall issue a cease and desist order to a person after notice and hearing and upon a determination that the person has violated this subsection. If the director makes a written finding of fact that the public interest will be irreparably harmed by delay in issuing an order, the director may issue a temporary cease and desist order. The cease and desist order shall not relieve the person practicing or operating a business without a license from criminal prosecution therefor, but the remedy of a cease and desist order shall be in addition to any criminal liability. The cease and desist order is conclusive proof of unlicensed practice and may be enforced under RCW 7.21.060. This method of enforcement of the cease and desist order may be used in addition to, or as an alternative to, any provisions for enforcement of agency orders.

(2) The attorney general, a county prosecuting attorney, the director, or any person may, in accordance with the law of this state governing injunctions, maintain an action in the name of this state to enjoin any person practicing a profession or business for which a license is required by this chapter without a license from engaging in such practice or operating such business until the required license is secured. However, the injunction shall not relieve the person practicing or operating a business without a license from criminal prosecution therefor, but the remedy by injunction shall be in addition to any criminal liability.

(3) Unlicensed practice of a profession or operating a business for which a license is required by this chapter, unless otherwise exempted by law, constitutes a gross misdemeanor. [1995 c 277 § 39; 1991 c 328 § 24.]

**18.165.901 Severability—Effective date—1995 c 277.** See RCW 18.170.901 and 18.170.902.

## Chapter 18.170 SECURITY GUARDS

Sections	
18.170.030	Security guard license—Requirements.
18.170.060	Private security company license—Requirements, restrictions—Qualifying agent—Assignment or transfer of license.
18.170.070	License cards and certificates—Issuance and requirements.
18.170.090	Temporary registration cards—Requirements—Expiration—Suspension.
18.170.100	Preassignment training and testing.
18.170.110	Required notice of certain occurrences.
18.170.120	Out-of-state licensees—Application—Fee—Temporary assignment.
18.170.130	Investigation of applicants.
18.170.160	Licenses required—Use of public law enforcement insignia prohibited—Penalties—Enforcement.
18.170.165	Transfer of license.
18.170.170	Prohibited acts.
18.170.175	Display of firearms while soliciting clients.
18.170.190	Complaints—Investigation—Immunity.
18.170.230	Unprofessional conduct or inability to practice—Penalties.

18.170.250	Unlicensed practice—Complaints—Director's authority—Injunctions—Penalty.
18.170.901	Severability—1995 c 277.
18.170.902	Effective date—1995 c 277.

**18.170.030 Security guard license—Requirements.**

An applicant must meet the following minimum requirements to obtain a private security guard license:

- (1) Be at least eighteen years of age;
- (2) Be a citizen of the United States or a resident alien;
- (3) Not have been convicted of a crime in any jurisdiction, if the director determines that the applicant's particular crime directly relates to his or her capacity to perform the duties of a private security guard, and the director determines that the license should be withheld to protect the citizens of Washington state. The director shall make her or his determination to withhold a license because of previous convictions notwithstanding the restoration of employment rights act, chapter 9.96A RCW;
- (4) Be employed by or have an employment offer from a licensed private security company or be licensed as a private security company;
- (5) Satisfy the training requirements established by the director;
- (6) Submit a set of fingerprints;
- (7) Pay the required nonrefundable fee for each application; and
- (8) Submit a fully completed application that includes proper identification on a form prescribed by the director for each company of employment. [1995 c 277 § 1; 1991 c 334 § 3.]

**18.170.060 Private security company license—Requirements, restrictions—Qualifying agent—Assignment or transfer of license.** (1) In addition to meeting the minimum requirements to obtain a license as a private security guard, an applicant, or, in the case of a partnership, each partner, or, in the case of a corporation, the qualifying agent must meet the following requirements to obtain a license to own or operate a private security company:

- (a) Possess three years' experience as a manager, supervisor, or administrator in the private security business or a related field approved by the director, or be at least twenty-one years of age and pass an examination determined by the director to measure the person's knowledge and competence in the private security business;
  - (b) Meet the insurance requirements of this chapter, and
  - (c) Pay any additional fees established by the director.
- (2) If the qualifying agent upon whom the licensee relies to comply with subsection (1) of this section ceases to perform his or her duties on a regular basis, the licensee must promptly notify the director by certified or registered mail. Within sixty days of sending notification to the director, the licensee must obtain a substitute qualifying agent who meets the requirements of this section. The director may extend the period for obtaining a substitute qualifying agent.
- (3) A company license issued pursuant to this section may not be assigned or transferred without prior written approval of the director.

(4) No license to own or operate a private security guard company may be issued to an applicant if the name of the company portrays the company as a public law enforcement agency, or in association with a public law enforcement agency, or includes the word "police." [1995 c 277 § 4; 1991 c 334 § 6.]

**18.170.070 License cards and certificates—Issuance and requirements.** (1) The director shall issue a private security guard license card to each licensed private security guard and an armed private security guard license card to each armed private security guard.

(a) The license card may not be used as security clearance.

(b) A private security guard shall carry the license card whenever he or she is performing the duties of a private security guard and shall exhibit the card upon request.

(c) An armed private security guard shall carry the license card whenever he or she is performing the duties of an armed private security guard and shall exhibit the card upon request.

(2) The director shall issue a license certificate to each licensed private security company.

(a) Within seventy-two hours after receipt of the license certificate, the licensee shall post and display the certificate in a conspicuous place in the principal office of the licensee within the state.

(b) It is unlawful for any person holding a license certificate to knowingly and willfully post the license certificate upon premises other than those described in the license certificate or to materially alter a license certificate.

(c) Every advertisement by a licensee that solicits or advertises business shall contain the name of the licensee, the address of record, and the license number as they appear in the records of the director.

(d) The licensee shall notify the director within thirty days of any change in the licensee's officers or directors or any material change in the information furnished or required to be furnished to the director. [1995 c 277 § 5; 1991 c 334 § 7.]

**18.170.090 Temporary registration cards—Requirements—Expiration—Suspension.** (1) A licensed private security company may issue an employee a temporary registration card of the type and form provided by the director, but only after the employee has completed preassignment training and submitted a full and complete application for a private security guard license to the department. The application must be mailed to the department within three business days after issuance of the temporary registration card. The temporary registration card is valid for a maximum period of sixty days and does not authorize a person to carry firearms during the performance of his or her duties as a private security guard. The temporary registration card permits the applicant to perform the duties of a private security guard for the issuing licensee.

(2) Upon expiration of a temporary registration card or upon the receipt of a permanent registration card or notification from the department that a permanent license is being withheld from an applicant, the applicant shall surrender his or her temporary registration card to the licensee.

(3) The director may suspend the authority to use temporary registration cards for a period of one year for any private security guard company that fails to comply with the provisions of this section. After the suspension period, the director may reinstate the company's use of temporary registration cards after receipt of a written request from the company. [1995 c 277 § 6; 1991 c 334 § 9.]

**18.170.100 Preassignment training and testing.** (1) The director shall adopt rules establishing preassignment training and testing requirements, which shall include a minimum of four hours of classes. The director may establish, by rule, continuing education requirements for private security guards.

(2) The director shall consult with the private security industry and law enforcement before adopting or amending the preassignment training or continuing education requirements of this section. [1995 c 277 § 7; 1991 c 334 § 10.]

**18.170.110 Required notice of certain occurrences.**

(1) A private security company shall notify the director within thirty days after the death or termination of employment of any employee who is a licensed private security guard or armed private security guard by returning the license to the department with the word ["terminated"] written across the face of the license, the date of termination, and the signature of the principal or the principal's designee of the private security guard company.

(2) A private security company shall notify the department within seventy-two hours and the chief law enforcement officer of the county, city, or town in which the private security guard or armed private security guard was last employed immediately upon receipt of information affecting his or her continuing eligibility to hold a license under the provisions of this chapter.

(3) A private security guard company shall notify the local law enforcement agency whenever an employee who is an armed private security guard discharges his or her firearm while on duty other than on a supervised firearm range. The notification shall be made within ten business days of the date the firearm is discharged. [1995 c 277 § 8; 1991 c 334 § 11.]

**18.170.120 Out-of-state licensees—Application—Fee—Temporary assignment.** (1) Any person from another state that the director determines has selection, training, and other requirements at least equal to those required by this chapter, and who holds a valid license, registration, identification, or similar card issued by the other state, may apply for a private security guard license card or armed private security guard license card on a form prescribed by the director. Upon receipt of a processing fee to be determined by the director, the director shall issue the individual a private security guard license card or armed private security guard license card.

(2) A valid private security guard license, registration, identification, or similar card issued by any other state of the United States is valid in this state for a period of ninety days, but only if the licensee is on temporary assignment as a private security guard for the same employer that employs

the licensee in the state in which he or she is a permanent resident.

(3) A person from another state on temporary assignment in Washington may not solicit business in this state or represent himself or herself as licensed in this state. [1995 c 277 § 9; 1991 c 334 § 12.]

**18.170.130 Investigation of applicants.** (1) Applications for licenses required under this chapter shall be filed with the director on a form provided by the director. The director may require any information and documentation that reasonably relates to the need to determine whether the applicant meets the criteria.

(2) After receipt of an application for a license, the director shall conduct an investigation to determine whether the facts set forth in the application are true and shall request that the Washington state patrol compare the fingerprints submitted with the application to fingerprint records available to the Washington state patrol. The Washington state patrol shall forward the fingerprints of applicants for an armed private security guard license to the Federal Bureau of Investigation for a national criminal history records check. The director may require that fingerprint cards of licensees be periodically reprocessed to identify criminal convictions subsequent to registration.

(3) The director shall solicit comments from the chief law enforcement officer of the county and city or town in which the applicant's employer is located on issuance of a permanent private security guard license.

(4) A summary of the information acquired under this section, to the extent that it is public information, shall be forwarded by the department to the applicant's employer. [1995 c 277 § 10; 1991 c 334 § 13.]

**18.170.160 Licenses required—Use of public law enforcement insignia prohibited—Penalties—Enforcement.** (1) After June 30, 1992, any person who performs the functions and duties of a private security guard in this state without being licensed in accordance with this chapter, or any person presenting or attempting to use as his or her own the license of another, or any person who gives false or forged evidence of any kind to the director in obtaining a license, or any person who falsely impersonates any other licensee, or any person who attempts to use an expired or revoked license, or any person who violates any of the provisions of this chapter is guilty of a gross misdemeanor.

(2) After January 1, 1992, a person is guilty of a gross misdemeanor if he or she owns or operates a private security company in this state without first obtaining a private security company license.

(3) After June 30, 1992, the owner or qualifying agent of a private security company is guilty of a gross misdemeanor if he or she employs an unlicensed person to perform the duties of a private security guard without issuing the employee a valid temporary registration card if the employee does not have in his or her possession a permanent private security guard license issued by the department. This subsection does not preclude a private security company from requiring applicants to attend preassignment training

classes or from paying wages for attending the required preassignment training classes.

(4) After June 30, 1992, a person is guilty of a gross misdemeanor if he or she performs the functions and duties of an armed private security guard in this state unless the person holds a valid armed private security guard license issued by the department.

(5) After June 30, 1992, it is a gross misdemeanor for a private security company to hire, contract with, or otherwise engage the services of an unlicensed armed private security guard knowing that he or she does not have a valid armed private security guard license issued by the director.

(6) It is a gross misdemeanor for a person to possess or use any vehicle or equipment displaying the word "police" or "law enforcement officer" or having any sign, shield, marking, accessory, or insignia that indicates that the equipment or vehicle belongs to a public law enforcement agency.

(7) It is a gross misdemeanor for any person who performs the functions and duties of a private security guard to use any name that includes the word "police" or "law enforcement" or that portrays the individual or a business as a public law enforcement agency.

(8) It is the duty of all officers of the state and political subdivisions thereof to enforce the provisions of this chapter. The attorney general shall act as legal adviser of the director, and render such legal assistance as may be necessary in carrying out the provisions of this chapter. [1995 c 277 § 11; 1991 c 334 § 16.]

**18.170.165 Transfer of license.** A licensee who transfers from one company to another must submit a transfer application on a form prescribed by the director along with a transfer fee established by the director. [1995 c 277 § 2.]

**18.170.170 Prohibited acts.** The following acts are prohibited and constitute grounds for disciplinary action, assessing administrative penalties, or denial, suspension, or revocation of any license under this chapter, as deemed appropriate by the director:

(1) Knowingly violating any of the provisions of this chapter or the rules adopted under this chapter;

(2) Practicing fraud, deceit, or misrepresentation in any of the private security activities covered by this chapter;

(3) Knowingly making a material misstatement or omission in the application for a license or firearms certificate;

(4) Not meeting the qualifications set forth in RCW 18.170.030, 18.170.040, or 18.170.060;

(5) Failing to return immediately on demand a firearm issued by an employer;

(6) Carrying a firearm in the performance of his or her duties if not the holder of a valid armed private security guard license, or carrying a firearm not meeting the provisions of this chapter while in the performance of his or her duties;

(7) Failing to return immediately on demand any uniform, badge, or other item of equipment issued to the private security guard by an employer;

(8) Making any statement that would reasonably cause another person to believe that the private security guard is a sworn peace officer;

(9) Divulging confidential information that may compromise the security of any premises, or valuables shipment, or any activity of a client to which he or she was assigned;

(10) Conviction of a gross misdemeanor or felony or the commission of any act involving moral turpitude, dishonesty, or corruption whether the act constitutes a crime or not. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon such a conviction, however, the judgment and sentence is conclusive evidence at the ensuing disciplinary hearing of the guilt of the license holder or applicant of the crime described in the indictment or information, and of the person's violation of the statute on which it is based. For the purposes of this section, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for the conviction and all proceedings in which the sentence has been deferred or suspended;

(11) Misrepresentation or concealment of a material fact in obtaining a license or in reinstatement thereof;

(12) Advertising that is false, fraudulent, or misleading;

(13) Incompetence or negligence that results in injury to a person or that creates an unreasonable risk that a person may be harmed;

(14) Suspension, revocation, or restriction of the individual's license to practice the profession by competent authority in any state, federal, or foreign jurisdiction, a certified copy of the order, stipulation, or agreement being conclusive evidence of the revocation, suspension, or restriction;

(15) Failure to cooperate with the director by:

(a) Not furnishing any necessary papers or documents requested by the director for purposes of conducting an investigation for disciplinary action, denial, suspension, or revocation of a license under this chapter;

(b) Not furnishing in writing a full and complete explanation covering the matter contained in a complaint filed with the department; or

(c) Not responding to subpoenas issued by the director, whether or not the recipient of the subpoena is the accused in the proceeding;

(16) Failure to comply with an order issued by the director or an assurance of discontinuance entered into with the disciplining authority;

(17) Aiding or abetting an unlicensed person to practice if a license is required;

(18) Misrepresentation or fraud in any aspect of the conduct of the business or profession;

(19) Failure to adequately supervise employees to the extent that the public health or safety is at risk;

(20) Interference with an investigation or disciplinary proceeding by willful misrepresentation of facts before the director or the director's authorized representative, or by the use of threats or harassment against a client or witness to prevent them from providing evidence in a disciplinary proceeding or any other legal action;

(21) Assigning or transferring any license issued pursuant to the provisions of this chapter, except as provided in RCW 18.170.060;

(22) Failure to maintain insurance; and

(23) Failure to have a qualifying principal in place. [1995 c 277 § 12; 1991 c 334 § 17.]

**18.170.175 Display of firearms while soliciting clients.** No licensee, employee or agent of a licensee, or anyone accompanying a licensee, employee, or agent may display a firearm while soliciting a client. [1995 c 277 § 3.]

**18.170.190 Complaints—Investigation—Immunity.** A person, including but not limited to consumers, licensees, corporations, organizations, and state and local governmental agencies, may submit a written complaint to the department charging a license holder or applicant with unprofessional or unlawful conduct and specifying the grounds for this charge. If the director determines that the complaint merits investigation, or if the director has reason to believe, without a formal complaint, that a license holder or applicant may have engaged in unprofessional or unlawful conduct, the director shall investigate to determine if there has been unprofessional or unlawful conduct. A person who files a complaint under this section in good faith is immune from suit in any civil action related to the filing or contents of the complaint. [1995 c 277 § 14; 1991 c 334 § 19.]

**18.170.230 Unprofessional conduct or inability to practice—Penalties.** Upon a finding that a license holder or applicant has committed unprofessional conduct or is unable to practice with reasonable skill and safety due to a physical or mental condition, the director may issue an order providing for one or any combination of the following:

- (1) Revocation of the license;
- (2) Suspension of the license for a fixed or indefinite term;
- (3) Restriction or limitation of the practice;
- (4) Requiring the satisfactory completion of a specific program of remedial education or treatment;
- (5) Monitoring of the practice by a supervisor approved by the director;
- (6) Censure or reprimand;
- (7) Compliance with conditions of probation for a designated period of time;
- (8) Withholding a license request;
- (9) Other corrective action;
- (10) Refund of fees billed to and collected from the consumer; or
- (11) The assessment of administrative penalties.

Any of the actions under this section may be totally or partly stayed by the director. All costs associated with compliance with orders issued under this section are the obligation of the license holder or applicant. [1995 c 277 § 15; 1991 c 334 § 23.]

**18.170.250 Unlicensed practice—Complaints—Director's authority—Injunctions—Penalty.** (1) The director shall investigate complaints concerning practice by unlicensed persons of a profession or business for which a license is required by this chapter. In the investigation of the complaints, the director shall have the same authority as provided the director under RCW 18.170.190. The director shall issue a cease and desist order to a person after notice and hearing and upon a determination that the person has

violated this subsection. If the director makes a written finding of fact that the public interest will be irreparably harmed by delay in issuing an order, the director may issue a temporary cease and desist order. The cease and desist order shall not relieve the person practicing or operating a business without a license from criminal prosecution therefor, but the remedy of a cease and desist order shall be in addition to any criminal liability. The cease and desist order is conclusive proof of unlicensed practice and may be enforced under RCW 7.21.060. This method of enforcement of the cease and desist order may be used in addition to, or as an alternative to, any provisions for enforcement of agency orders.

(2) The attorney general, a county prosecuting attorney, the director, or any person may, in accordance with the law of this state governing injunctions, maintain an action in the name of this state to enjoin any person practicing a profession or business for which a license is required by this chapter without a license from engaging in such practice or operating such business until the required license is secured. However, the injunction shall not relieve the person practicing or operating a business without a license from criminal prosecution therefor, but the remedy by injunction shall be in addition to any criminal liability.

(3) Unlicensed practice of a profession or operating a business for which a license is required by this chapter, unless otherwise exempted by law, constitutes a gross misdemeanor. [1995 c 277 § 16; 1991 c 334 § 25.]

**18.170.901 Severability—1995 c 277.** 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. [1995 c 277 § 40.]

**18.170.902 Effective date—1995 c 277.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 9, 1995]. [1995 c 277 § 41.]

## Title 19

### BUSINESS REGULATIONS— MISCELLANEOUS

#### Chapters

- 19.02 Business license center act.
- 19.27 State building code.
- 19.27A Energy-related building standards.
- 19.32 Food lockers.
- 19.60 Pawnbrokers and second-hand dealers.
- 19.85 Regulatory fairness act.
- 19.94 Weights and measures—1969 act.
- 19.118 Motor vehicle warranties.
- 19.166 International student exchange.
- 19.184 Wheelchairs.

## Chapter 19.02

## BUSINESS LICENSE CENTER ACT

## Sections

- 19.02.075 Master application fees—Renewal.  
19.02.220 Combined licensing project—Report—Evaluation.

**19.02.075 Master application fees—Renewal.** (1)

The department shall collect a fee of fifteen dollars on each master application. The entire master application fee shall be deposited in the master license fund.

(2) The department shall collect a fee of nine dollars on each renewal application. Renewal application fees shall be deposited in the master license fund. [1995 c 403 § 1007; 1992 c 107 § 2; 1990 c 264 § 2.]

**Findings—Short title—Intent—1995 c 403:** See note following RCW 34.05.328.

**Part headings not law—Severability—1995 c 403:** See RCW 43.05.903 and 43.05.904.

**Effective dates—1992 c 107:** See note following RCW 19.02.020.

**Effective date—1990 c 264:** See note following RCW 19.02.070.

**19.02.220 Combined licensing project—Report—Evaluation.** (1) By June 30, 1997, the department shall have a pilot combined licensing project fully operational in at least two cities within the state of Washington, with at least one city west of the Cascade mountains and at least one city east of the Cascade mountains.

(2) By January 31, 1997, the department shall make an interim report to the legislature on the progress of the pilot combined licensing project.

(3) By January 31, 1998, the department shall have evaluated the pilot combined licensing project and reported to the legislature with a plan for transition of the pilot project into an ongoing program. The transition plan shall include cost, funding sources, and staffing needs for the ongoing program.

(4) Upon approval and continued funding of the transition plan by the legislature under this section, the master license system shall implement a transition from the pilot program to the ongoing program. [1995 c 403 § 1006.]

**Findings—1995 c 403:** "The master license system of the department of licensing is a proven, progressive program for one-stop state licensing. This flexible system should be expanded into a state-wide shared data base to facilitate combined licensing processes at local, state, and federal levels as a benefit to the business community through improved customer service.

In order to achieve this goal the department of licensing should expand the license information management system, offered by the master license system, to include local and federal licensing requirements, making this information readily accessible at appropriate locations throughout the state. In addition, the department should develop a pilot program expanding the capabilities of the master licensing [license] system to local and federal levels in an efficient manner; and provide access to the expanded master licensing [license] system for all jurisdictions within the state of Washington." [1995 c 403 § 1001.]

**Findings—Short title—Intent—1995 c 403:** See note following RCW 34.05.328.

**Part headings not law—Severability—1995 c 403:** See RCW 43.05.903 and 43.05.904.

## Chapter 19.27

## STATE BUILDING CODE

## Sections

- 19.27.031 State building code—Adoption—Conflicts—Opinions.  
19.27.070 State building code council—Established—Membership—Travel expenses—Administrative, clerical assistance.  
19.27.097 Building permit application—Evidence of adequate water supply—Applicability—Exemption.  
19.27.150 Report to department of community, trade, and economic development.

**19.27.031 State building code—Adoption—Conflicts—Opinions.** Except as otherwise provided in this chapter, there shall be in effect in all counties and cities the state building code which shall consist of the following codes which are hereby adopted by reference:

(1) Uniform Building Code and Uniform Building Code Standards, published by the International Conference of Building Officials;

(2) Uniform Mechanical Code, including Chapter 13, Fuel Gas Piping, Appendix B, published by the International Conference of Building Officials;

(3) The Uniform Fire Code and Uniform Fire Code Standards, published by the International Fire Code Institute: PROVIDED, That, notwithstanding any wording in this code, participants in religious ceremonies shall not be precluded from carrying hand-held candles;

(4) Except as provided in RCW 19.27.170, the Uniform Plumbing Code and Uniform Plumbing Code Standards, published by the International Association of Plumbing and Mechanical Officials: PROVIDED, That chapters 11 and 12 of such code are not adopted; and

(5) The rules and regulations adopted by the council establishing standards for making buildings and facilities accessible to and usable by the physically handicapped or elderly persons as provided in RCW 70.92.100 through 70.92.160.

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

The codes enumerated in this section shall be adopted by the council as provided in RCW 19.27.074.

The council may issue opinions relating to the codes at the request of a local official charged with the duty to enforce the enumerated codes. [1995 c 343 § 1. Prior: 1989 c 348 § 9; 1989 c 266 § 1; 1985 c 360 § 5.]

**Severability—1989 c 348:** See note following RCW 90.54.020.

**Rights not impaired—1989 c 348:** See RCW 90.54.920.

**19.27.070 State building code council—Established—Membership—Travel expenses—Administrative, clerical assistance.** There is hereby established a state building code council to be appointed by the governor.

(1) The state building code council shall consist of fifteen members, two of whom shall be county elected legislative body members or elected executives and two of whom shall be city elected legislative body members or mayors. One of the members shall be a local government building code enforcement official and one of the members shall be a local government fire service official. Of the

remaining nine members, one member shall represent general construction, specializing in commercial and industrial building construction; one member shall represent general construction, specializing in residential and multifamily building construction; one member shall represent the architectural design profession; one member shall represent the structural engineering profession; one member shall represent the mechanical engineering profession; one member shall represent the construction building trades; one member shall represent manufacturers, installers, or suppliers of building materials and components; one member shall be a person with a physical disability and shall represent the disability community; and one member shall represent the general public. At least six of these fifteen members shall reside east of the crest of the Cascade mountains. The council shall include: Two members of the house of representatives appointed by the speaker of the house, one from each caucus; two members of the senate appointed by the president of the senate, one from each caucus; and an employee of the electrical division of the department of labor and industries, as ex officio, nonvoting members with all other privileges and rights of membership. Terms of office shall be for three years. The council shall elect a member to serve as chair of the council for one-year terms of office. Any member who is appointed by virtue of being an elected official or holding public employment shall be removed from the council if he or she ceases being such an elected official or holding such public employment. Before making any appointments to the building code council, the governor shall seek nominations from recognized organizations which represent the entities or interests listed in this subsection. Members serving on the council on July 28, 1985, may complete their terms of office. Any vacancy shall be filled by alternating appointments from governmental and nongovernmental entities or interests until the council is constituted as required by this subsection.

(2) Members shall not be compensated but shall receive reimbursement for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(3) The department of community, trade, and economic development shall provide administrative and clerical assistance to the building code council. [1995 c 399 § 8; 1989 c 246 § 2; 1987 c 505 § 7; 1985 c 360 § 11; 1984 c 287 § 55; 1975-'76 2nd ex.s. c 34 § 59; 1974 ex.s. c 96 § 7.]

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

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

**Polling places—Standards—Revision, when:** RCW 29.57.030.

**19.27.097 Building permit application—Evidence of adequate water supply—Applicability—Exemption.** (1) Each applicant for a building permit of a building necessitating potable water shall provide evidence of an adequate water supply for the intended use of the building. Evidence may be in the form of a water right permit from the department of ecology, a letter from an approved water purveyor stating the ability to provide water, or another form sufficient to verify the existence of an adequate water supply. In addition to other authorities, the county or city may impose

conditions on building permits requiring connection to an existing public water system where the existing system is willing and able to provide safe and reliable potable water to the applicant with reasonable economy and efficiency. An application for a water right shall not be sufficient proof of an adequate water supply.

(2) Within counties not required or not choosing to plan pursuant to RCW 36.70A.040, the county and the state may mutually determine those areas in the county in which the requirements of subsection (1) of this section shall not apply. The departments of health and ecology shall coordinate on the implementation of this section. Should the county and the state fail to mutually determine those areas to be designated pursuant to this subsection, the county may petition the department of community, trade, and economic development to mediate or, if necessary, make the determination.

(3) Buildings that do not need potable water facilities are exempt from the provisions of this section. The department of ecology, after consultation with local governments, may adopt rules to implement this section, which may recognize differences between high-growth and low-growth counties. [1995 c 399 § 9; 1991 sp.s. c 32 § 28; 1990 1st ex.s. c 17 § 63.]

**Section headings not law—1991 sp.s. c 32:** See RCW 36.70A.902.

**Severability—Part, section headings not law—1990 1st ex.s. c 17:** See RCW 36.70A.900 and 36.70A.901.

**19.27.150 Report to department of community, trade, and economic development.** Every month a copy of the United States department of commerce, bureau of the census' "report of building or zoning permits issued and local public construction" or equivalent report shall be transmitted by the governing bodies of counties and cities to the department of community, trade, and economic development. [1995 c 399 § 10; 1989 c 246 § 6.]

## Chapter 19.27A

### ENERGY-RELATED BUILDING STANDARDS

#### Sections

19.27A.080	Definitions.
19.27A.110	Portable oil-fueled heaters—Jurisdiction over approval—Sale and use governed exclusively.

**19.27A.080 Definitions.** Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 19.27A.080 through 19.27A.120.

(1) "Portable oil-fueled heater" means any nonflue-connected, self-contained, self-supporting, oil-fueled, heating appliance equipped with an integral reservoir, designed to be carried from one location to another.

(2) "Oil" means any liquid fuel with a flash point of greater than one hundred degrees Fahrenheit, including but not limited to kerosene.

(3) "Listed" means any portable oil-fueled heater which has been evaluated in accordance with the Underwriters Laboratories, Inc. standard for portable oil-fueled heaters or an equivalent standard and with respect to reasonably foreseeable hazards to life and property by a nationally recognized testing or inspection agency, such as Underwriters Laboratories, Inc., and which has been authorized as

being reasonably safe for its specific purpose and shown in a list published by such agency and/or bears the mark, name, and/or symbol of such agency as indication that it has been so authorized. Such evaluation shall include but not be limited to evaluation of the requirements hereinafter set forth.

(4) "Approved" means any listed portable oil-fueled heater which is deemed approved if it satisfies the requirements set forth herein or adopted under RCW 19.27A.080 through 19.27A.120 and if the supplier certifies to the authority having jurisdiction over the sale and use of the heater that it is listed and in compliance with RCW 19.27A.080 through 19.27A.120.

(5) "Structure" means any building or completed construction of any kind included in state building code groups M, R-1, R-3, B, F, S-1, S-2, and U occupancies, except sleeping rooms and bathrooms: PROVIDED, HOWEVER, That in B, M, and S-1 occupancies, approved portable oil-fueled heaters shall only be used under permit of the fire chief.

(6) "Supplier" means any party offering to sell to retailers or to the general public approved portable oil-fueled heaters. [1995 c 343 § 2; 1985 c 360 § 15; 1983 c 134 § 2. Formerly RCW 19.27.420.]

**19.27A.110 Portable oil-fueled heaters—Jurisdiction over approval—Sale and use governed exclusively.** The chief of the Washington state patrol, through the director of fire protection, is the only authority having jurisdiction over the approval of portable oil-fueled heaters. The sale and use of portable oil-fueled heaters is governed exclusively by RCW 19.27A.080 through 19.27A.120: PROVIDED, That cities and counties may adopt local standards as provided in RCW 19.27.040. [1995 c 369 § 8; 1986 c 266 § 85; 1985 c 360 § 16; 1983 c 134 § 5. Formerly RCW 19.27.450.]

**Effective date—1995 c 369:** See note following RCW 43.43.930.

**Severability—1986 c 266:** See note following RCW 38.52.005.

## Chapter 19.32 FOOD LOCKERS

### Sections

19.32.170 Operator's lien—Liability for game law violations.

**19.32.170 Operator's lien—Liability for game law violations.** Every operator of a locker shall have a lien upon all the property of every kind in his possession for all lockers' rentals, processing, handling or other charges due. Such lien may be foreclosed under the procedures as provided in chapter 60.10 RCW.

Locker owners and operators shall not be responsible for liability for violations of game or other laws by renters unless the contents of the locker are under the control of the locker plant operator. [1995 c 62 § 3; 1969 c 82 § 10; 1943 c 117 § 13; Rem. Supp. 1943 § 6294-137. Formerly RCW 19.32.160, part.]

## Chapter 19.60

### PAWNBROKERS AND SECOND-HAND DEALERS

#### Sections

19.60.010 Definitions.

19.60.060 Rates of interest and other fees—Sale of pledged property.

19.60.061 Pawnbrokers—Sale of pledged property limited—Written document required for transactions.

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

(1) Melted metals means metals derived from metal junk or precious metals that have been reduced to a melted state from other than ore or ingots which are produced from ore that has not previously been processed.

(2) Metal junk means any metal that has previously been milled, shaped, stamped, or forged and that is no longer useful in its original form, except precious metals.

(3) Nonmetal junk means any nonmetal, commonly discarded item that is worn out, or has outlasted its usefulness as intended in its original form except nonmetal junk does not include an item made in a former period which has enhanced value because of its age.

(4) Pawnbroker means every person engaged, in whole or in part, in the business of loaning money on the security of pledges of personal property, or deposits or conditional sales of personal property, or the purchase or sale of personal property.

(5) Precious metals means gold, silver, and platinum.

(6) Second-hand dealer means every person engaged in whole or in part in the business of purchasing, selling, trading, consignment selling, or otherwise transferring for value, second-hand property including metal junk, melted metals, precious metals, whether or not the person maintains a fixed place of business within the state. Second-hand dealer also includes persons or entities conducting business at flea markets or swap meets, more than three times per year.

(7) Second-hand property means any item of personal property offered for sale which is not new, including metals in any form, except postage stamps, coins that are legal tender, bullion in the form of fabricated hallmarked bars, used books, and clothing of a resale value of seventy-five dollars or less, except furs.

(8) Transaction means a pledge, or the purchase of, or consignment of, or the trade of any item of personal property by a pawnbroker or a second-hand dealer from a member of the general public.

(9) "Loan period" means the period of time from the date the loan is made until the date the loan is paid off, the loan is in default, or the loan is refinanced and new loan documents are issued, including all grace or extension periods. [1995 c 133 § 1; 1991 c 323 § 1; 1985 c 70 § 1; 1984 c 10 § 1; 1981 c 279 § 3; 1909 c 249 § 235; RRS § 2487. FORMER PARTS OF SECTION: (i) 1909 c 249 § 236; RRS § 2488, now codified as RCW 19.60.015. (ii) 1939 c 89 § 1; RRS § 2488-1, now codified as RCW 19.60.065.]

**19.60.060 Rates of interest and other fees—Sale of pledged property.** All pawnbrokers are authorized to



charge and receive interest and other fees at the following rates for money on the security of personal property actually received in pledge:

- (1) The interest for the loan period shall not exceed:
  - (a) For an amount loaned up to \$9.99 - interest at \$1.00 for each thirty-day period to include the loan date.
  - (b) For an amount loaned from \$10.00 to \$19.99 - interest at the rate of \$1.25 for each thirty-day period to include the loan date.
  - (c) For an amount loaned from \$20.00 to \$24.99 - interest at the rate of \$1.50 for each thirty-day period to include the loan date.
  - (d) For an amount loaned from \$25.00 to \$34.99 - interest at the rate of \$1.75 for each thirty-day period to include the loan date.
  - (e) For an amount loaned from \$35.00 to \$39.99 - interest at the rate of \$2.00 for each thirty-day period to include the loan date.
  - (f) For an amount loaned from \$40.00 to \$49.99 - interest at the rate of \$2.25 for each thirty-day period to include the loan date.
  - (g) For the amount loaned from \$50.00 to \$59.99 - interest at the rate of \$2.50 for each thirty-day period to include the loan date.
  - (h) For the amount loaned from \$60.00 to \$69.99 - interest at the rate of \$2.75 for each thirty-day period to include the loan date.
  - (i) For the amount loaned from \$70.00 to \$79.99 - interest at the rate of \$3.00 for each thirty-day period to include the loan date.
  - (j) For the amount loaned from \$80.00 to \$89.99 - interest at the rate of \$3.25 for each thirty-day period to include the loan date.
  - (k) For the amount loaned from \$90.00 to \$99.99 - interest at the rate of \$3.50 for each thirty-day period to include the loan date.
  - (l) For the amount loaned from \$100.00 or more - interest at the rate of three percent for each thirty-day period to include the loan date.
- (2) The fee for the preparation of loan documents, pledges, or reports required under the laws of the United States of America, the state of Washington, or the counties, cities, towns, or other political subdivisions thereof, shall not exceed:
  - (a) For the amount loaned up to \$4.99 - the sum of \$.50;
  - (b) For the amount loaned from \$5.00 to \$9.99 - the sum of \$2.00;
  - (c) For the amount loaned from \$10.00 to \$14.99 - the sum of \$3.00;
  - (d) For the amount loaned from \$15.00 to \$19.99 - the sum of \$3.50.
  - (e) For the amount loaned from \$20.00 to \$24.99 - the sum of \$4.00.
  - (f) For the amount loaned from \$25.00 to \$29.99 - the sum of \$4.50.
  - (g) For the amount loaned from \$30.00 to \$34.99 - the sum of \$5.00.
  - (h) For the amount loaned from \$35.00 to \$39.99 - the sum of \$5.50.

- (i) For the amount loaned from \$40.00 to \$44.99 - the sum of \$6.00.
- (j) For the amount loaned from \$45.00 to \$49.99 - the sum of \$6.50.
- (k) For the amount loaned from \$50.00 to \$54.99 - the sum of \$7.00.
- (l) For the amount loaned from \$55.00 to \$59.99 - the sum of \$7.50.
- (m) For the amount loaned from \$60.00 to \$64.99 - the sum of \$8.00.
- (n) For the amount loaned from \$65.00 to \$69.99 - the sum of \$8.50.
- (o) For the amount loaned from \$70.00 to \$74.99 - the sum of \$9.00.
- (p) For the amount loaned from \$75.00 to \$79.99 - the sum of \$9.50.
- (q) For the amount loaned from \$80.00 to \$84.99 - the sum of \$10.00.
- (r) For the amount loaned from \$85.00 to \$89.99 - the sum of \$10.50.
- (s) For the amount loaned from \$90.00 to \$94.99 - the sum of \$11.00.
- (t) For the amount loaned from \$95.00 to \$99.99 - the sum of \$11.50.
- (u) For the amount loaned from \$100.00 to \$104.99 - the sum of \$12.00.
- (v) For the amount loaned from \$105.00 to \$109.99 - the sum of \$12.25.
- (w) For the amount loaned from \$110.00 to \$114.99 - the sum of \$12.75.
- (x) For the amount loaned from \$115.00 to \$119.99 - the sum of \$13.25.
- (y) For the amount loaned from \$120.00 to \$124.99 - the sum of \$13.50.
- (z) For the amount loaned from \$125.00 to \$129.99 - the sum of \$13.75.
- (aa) For the amount loaned from \$130.00 to \$149.99 - the sum of \$14.50.
- (bb) For the amount loaned from \$150.00 to \$174.99 - the sum of \$14.75.
- (cc) For the amount loaned from \$175.00 to \$199.99 - the sum of \$15.00.
- (dd) For the amount loaned from \$200.00 to \$224.99 - the sum of \$16.00.
- (ee) For the amount loaned from \$225.00 to \$249.99 - the sum of \$17.00.
- (ff) For the amount loaned from \$250.00 to \$274.99 - the sum of \$18.00.
- (gg) For the amount loaned from \$275.00 to \$299.99 - the sum of \$19.00.
- (hh) For the amount loaned from \$300.00 to \$324.99 - the sum of \$20.00.
- (ii) For the amount loaned from \$325.00 to \$349.99 - the sum of \$21.00.
- (jj) For the amount loaned from \$350.00 to \$374.99 - the sum of \$22.00.
- (kk) For the amount loaned from \$375.00 to \$399.99 - the sum of \$23.00.
- (ll) For the amount loaned from \$400.00 to \$424.99 - the sum of \$24.00.

(mm) For the amount loaned from \$425.00 to \$449.99 - the sum of \$25.00.

(nn) For the amount loaned from \$450.00 to \$474.99 - the sum of \$26.00.

(oo) For the amount loaned from \$475.00 to \$499.99 - the sum of \$27.00.

(pp) For the amount loaned from \$500.00 to \$524.99 - the sum of \$28.00.

(qq) For the amount loaned from \$525.00 to \$549.99 - the sum of \$29.00.

(rr) For the amount loaned from \$550.00 to \$599.99 - the sum of \$30.00.

(ss) For the amount loaned from \$600.00 to \$699.99 - the sum of \$35.00.

(tt) For the amount loaned from \$700.00 to \$799.99 - the sum of \$40.00.

(uu) For the amount loaned from \$800.00 to \$899.99 - the sum of \$40.00.

(vv) For the amount loaned from \$900.00 to \$999.99 - the sum of \$50.00.

(ww) For the amount loaned from \$1000.00 to \$1499.99 - the sum of \$55.00.

(xx) For the amount loaned from \$1500.00 to \$1999.99 - the sum of \$60.00.

(yy) For the amount loaned from \$2000.00 to \$2499.99 - the sum of \$65.00.

(zz) For the amount loaned from \$2500.00 to \$2999.99 - the sum of \$70.00.

(aaa) For the amount loaned from \$3000.00 to \$3499.99 - the sum of \$75.00.

(bbb) For the amount loaned from \$3500.00 to \$3999.99 - the sum of \$80.00.

(ccc) For the amount loaned from \$4000.00 to \$4499.99 - the sum of \$85.00.

(ddd) For the amount loaned from \$4500.00 or more - the sum of \$90.00.

(3) Fees under subsection (2) of this section may be charged one time only for each loan period; no additional fees, other than interest allowed under subsection (1) of this section, shall be charged for making the loan.

A copy of this section, set in twelve point type or larger, shall be posted prominently in each premises subject to this chapter. [1995 c 133 § 2; 1991 c 323 § 7; 1984 c 10 § 9; 1973 1st ex.s. c 91 § 1; 1909 c 249 § 234; RRS § 2486.]

*Interest—Usury: Chapter 19.52 RCW.*

**19.60.061 Pawnbrokers—Sale of pledged property limited—Written document required for transactions.**

(1) The term of the loan shall be for a period of thirty days to include the date of the loan.

(2) A pawnbroker shall not sell any property received in pledge, until both the term of the loan and a grace period of a minimum of sixty days has expired. However, if a pledged article is not redeemed within the ninety-day period of the term of the loan and the grace period, the pawnbroker shall have all rights, title, and interest of that item of personal property. The pawnbroker shall not be required to account to the pledgor for the proceeds received from the disposition of that item. Any provision of law relating to the foreclosures and the subsequent sale of forfeited pledged

items, shall not be applicable to any pledge as defined under this chapter, the title to which is transferred in accordance with this section.

(3) Every loan transaction entered into by a pawnbroker shall be evidenced by a written document, a copy of which shall be furnished to the pledgor. The document shall set forth the term of the loan; the final date on which the loan is due and payable; the loan preparation fee; the amount of interest charged every thirty days; the total amount due including the principal amount, the preparation fee, and all interest charges due if the loan is outstanding for the full ninety days allowed by the term and minimum grace period; and the annual percentage rate, and shall inform the pledgor of the pledgor's right to redeem the pledge at any time within the term of the loan or the minimum sixty-day grace period.

(4) If a person who has entered into a loan transaction with a pawnbroker in this state is unable to redeem and repay the loan on or before the expiration of the term of the loan plus the minimum sixty-day grace period, and that person wishes to retain his or her rights to use that item by rewriting the loan, and if both parties mutually agree, an existing loan transaction may be rewritten into a new loan, either in person or by mail. All applicable provisions of this chapter shall be followed in rewriting a loan, except that where an existing loan is rewritten by mail RCW 19.60.020(1) (a) and (g) shall not apply. [1995 c 133 § 3; 1991 c 323 § 8; 1984 c 10 § 10.]

**Chapter 19.85**

**REGULATORY FAIRNESS ACT**

Sections

19.85.025	Application of chapter—Limited.
19.85.030	Agency rules—Small business economic impact statement—Reduction of costs imposed by rule.
19.85.040	Small business economic impact statement—Purpose—Contents.
19.85.060	Repealed.
19.85.061	Compliance with federal law.

**19.85.025 Application of chapter—Limited.** (1) Unless an agency receives a written objection to the expedited repeal of a rule, this chapter does not apply to a rule proposed for expedited repeal pursuant to RCW 34.05.354. If an agency receives a written objection to expedited repeal of the rule, this chapter applies to the rule-making proceeding.

(2) This chapter does not apply to the adoption of a rule described in RCW 34.05.310(4).

(3) An agency is not required to prepare a separate small business economic impact statement under RCW 19.85.040 if it prepared an analysis under RCW 34.05.328 that meets the requirements of a small business economic impact statement, and if the agency reduced the costs imposed by the rule on small business to the extent required by RCW 19.85.030(3). The portion of the analysis that meets the requirements of RCW 19.85.040 shall be filed with the code reviser and provided to any person requesting it in lieu of a separate small business economic impact statement. [1995 c 403 § 401.]

**Application—1995 c 403 §§ 201, 301-305, 401-405, and 801:** See note following RCW 34.05.328.

**Findings—Short title—Intent—1995 c 403:** See note following RCW 34.05.328.

**Part headings not law—Severability—1995 c 403:** See RCW 43.05.903 and 43.05.904.

### **19.85.030 Agency rules—Small business economic impact statement—Reduction of costs imposed by rule.**

(1) In the adoption of a rule under chapter 34.05 RCW, an agency shall prepare a small business economic impact statement: (a) If the proposed rule will impose more than minor costs on businesses in an industry; or (b) if requested to do so by a majority vote of the joint administrative rules review committee within forty-five days of receiving the notice of proposed rule making under RCW 34.05.320. However, if the agency has completed the pilot rule process as defined by RCW 34.05.313 before filing the notice of a proposed rule, the agency is not required to prepare a small business economic impact statement.

An agency shall prepare the small business economic impact statement in accordance with RCW 19.85.040, and file it with the code reviser along with the notice required under RCW 34.05.320. An agency shall file a statement prepared at the request of the joint administrative rules review committee with the code reviser upon its completion before the adoption of the rule. An agency shall provide a copy of the small business economic impact statement to any person requesting it.

An agency may request assistance from the business assistance center in the preparation of the small business economic impact statement.

(2) The business assistance center shall develop guidelines to assist agencies in determining whether a proposed rule will impose more than minor costs on businesses in an industry and therefore require preparation of a small business economic impact statement. The business assistance center may review an agency determination that a proposed rule will not impose such costs, and shall advise the joint administrative rules review committee on disputes involving agency determinations under this section.

(3) Based upon the extent of disproportionate impact on small business identified in the statement prepared under RCW 19.85.040, the agency shall, where legal and feasible in meeting the stated objectives of the statutes upon which the rule is based, reduce the costs imposed by the rule on small businesses. Methods to reduce the costs on small businesses may include:

- (a) Reducing, modifying, or eliminating substantive regulatory requirements;
- (b) Simplifying, reducing, or eliminating recordkeeping and reporting requirements;
- (c) Reducing the frequency of inspections;
- (d) Delaying compliance timetables;
- (e) Reducing or modifying fine schedules for noncompliance; or
- (f) Any other mitigation techniques. [1995 c 403 § 402; 1994 c 249 § 11. Prior: 1989 c 374 § 2; 1989 c 175 § 72; 1982 c 6 § 3.]

**Application—1995 c 403 §§ 201, 301-305, 401-405, and 801:** See note following RCW 34.05.328.

**Findings—Short title—Intent—1995 c 403:** See note following RCW 34.05.328.

**Part headings not law—Severability—1995 c 403:** See RCW 43.05.903 and 43.05.904.

**Severability—Application—1994 c 249:** See notes following RCW 34.05.310.

**Effective date—1989 c 175:** See note following RCW 34.05.010.

*Publication of small business economic impact statement in Washington State Register: RCW 34.08.020.*

### **19.85.040 Small business economic impact statement—Purpose—Contents.**

(1) A small business economic impact statement must include a brief description of the reporting, recordkeeping, and other compliance requirements of the proposed rule, and the kinds of professional services that a small business is likely to need in order to comply with such requirements. It shall analyze the costs of compliance for businesses required to comply with the proposed rule adopted pursuant to RCW 34.05.320, including costs of equipment, supplies, labor, and increased administrative costs. It shall consider, based on input received, whether compliance with the rule will cause businesses to lose sales or revenue. To determine whether the proposed rule will have a disproportionate impact on small businesses, the impact statement must compare the cost of compliance for small business with the cost of compliance for the ten percent of businesses that are the largest businesses required to comply with the proposed rules using one or more of the following as a basis for comparing costs:

- (a) Cost per employee;
- (b) Cost per hour of labor; or
- (c) Cost per one hundred dollars of sales.

(2) A small business economic impact statement must also include:

- (a) A statement of the steps taken by the agency to reduce the costs of the rule on small businesses as required by RCW 19.85.030(3), or reasonable justification for not doing so, addressing the options listed in RCW 19.85.030(3);
- (b) A description of how the agency will involve small businesses in the development of the rule; and
- (c) A list of industries that will be required to comply with the rule. However, this subsection (2)(c) shall not be construed to preclude application of the rule to any business or industry to which it would otherwise apply.

(3) To obtain information for purposes of this section, an agency may survey a representative sample of affected businesses or trade associations and should, whenever possible, appoint a committee under RCW 34.05.310(2) to assist in the accurate assessment of the costs of a proposed rule, and the means to reduce the costs imposed on small business. [1995 c 403 § 403; 1994 c 249 § 12. Prior: 1989 c 374 § 3; 1989 c 175 § 73; 1982 c 6 § 4.]

**Application—1995 c 403 §§ 201, 301-305, 401-405, and 801:** See note following RCW 34.05.328.

**Findings—Short title—Intent—1995 c 403:** See note following RCW 34.05.328.

**Part headings not law—Severability—1995 c 403:** See RCW 43.05.903 and 43.05.904.

**Severability—Application—1994 c 249:** See notes following RCW 34.05.310.

**Effective date—1989 c 175:** See note following RCW 34.05.010.

*Publication in Washington State Register: RCW 34.08.020.*

**19.85.060 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**19.85.061 Compliance with federal law.** Unless so requested by a majority vote of the joint administrative rules review committee under RCW 19.85.030, an agency is not required to comply with this chapter when adopting any rule solely for the purpose of conformity or compliance, or both, with federal statute or regulations. In lieu of the statement required under RCW 19.85.030, the agency shall file a statement citing, with specificity, the federal statute or regulation with which the rule is being adopted to conform or comply, and describing the consequences to the state if the rule is not adopted. [1995 c 403 § 404.]

**Application—1995 c 403 §§ 201, 301-305, 401-405, and 801:** See note following RCW 34.05.328.

**Findings—Short title—Intent—1995 c 403:** See note following RCW 34.05.328.

**Part headings not law—Severability—1995 c 403:** See RCW 43.05.903 and 43.05.904.

## Chapter 19.94

### WEIGHTS AND MEASURES—1969 ACT

#### Sections

19.94.005	Findings.
19.94.010	Definitions—Director may prescribe by rule.
19.94.015	Commercial use of instrument or device—Registration—Fees. ( <i>Effective January 1, 1996.</i> )
19.94.025	Registration certificate—Fee—Decision—Denial—Notice—Refund.
19.94.035	Registration certificate—Revocation, suspension, refusal to renew—Appeal.
19.94.160	State standards.
19.94.163	Testing by department—Ensuring enforcement—Issuance of seal of approval—Exception.
19.94.165	Commercial instruments or devices to be correct.
19.94.175	Registration—Inspection and testing—Fees. ( <i>Effective January 1, 1996.</i> )
19.94.185	Deposit of moneys—Weights and measures account—General fund—Report of revenues.
19.94.190	Enforcement—Rules.
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19.94.410	Butter, margarine to be sold by weight.
19.94.510	Unlawful practices—Penalty.
19.94.515	Unlawful commercial use of instrument or device—Penalty.
19.94.517	Incorrect commercial instrument or device to benefit of owner/operator—Penalties—Appeal.

**19.94.005 Findings.** The legislature finds:

(1) The accuracy of weighing and measuring instruments and devices used in commerce in the state of Washington affects every consumer throughout the state and is of vital importance to the public interest.

(2) Fair weights and measures are equally important to business and the consumer.

(3) This chapter safeguards the consuming public and ensures that businesses receive proper compensation for the commodities they deliver. [1995 c 355 § 3; 1992 c 237 § 1.]

**Application—Effective dates—1995 c 355:** See notes following RCW 19.94.015.

**Intent—1992 c 237:** "Until such time as the study in section 38, chapter 237, Laws of 1992, is completed, it is the intent of the legislature that consumer protection activities of the department of agriculture weights and measures program be funded by the general fund and that device inspection related activities be funded on a fee-for-service basis." [1992 c 237 § 2.]

**19.94.010 Definitions—Director may prescribe by rule.** (1) Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter and to any rules adopted pursuant to this chapter.

(a) "City" means a first class city with a population of over fifty thousand persons.

(b) "City sealer" means the person duly authorized by a city to enforce and administer the weights and measures program within such city and any duly appointed deputy sealer acting under the instructions and at the direction of the city sealer.

(c) "Commodity in package form" means a commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale, exclusive, however, of an auxiliary shipping container enclosing packages that individually conform to the requirements of this chapter. An individual item or lot of any commodity not in packaged form, but on which there is marked a selling price based on established price per unit of weight or of measure, shall be construed to be a commodity in package form.

(d) "Consumer package" or "package of consumer commodity" means a commodity in package form that is customarily produced or distributed for sale through retail sales agencies or instrumentalities for consumption by persons, or used by persons for the purpose of personal care or in the performance of services ordinarily rendered in or about a household or in connection with personal possessions.

(e) "Cord" means the measurement of wood intended for fuel or pulp purposes that is contained in a space of one hundred twenty-eight cubic feet, when the wood is ranked and well stowed.

(f) "Department" means the department of agriculture of the state of Washington.

(g) "Director" means the director of the department or duly authorized representative acting under the instructions and at the direction of the director.

(h) "Fish" means any waterbreathing animal, including shellfish, such as, but not limited to, lobster, clam, crab, or other mollusca that is prepared, processed, sold, or intended for sale.

(i) "Net weight" means the weight of a commodity excluding any materials, substances, or items not considered

to be part of such commodity. Materials, substances, or items not considered to be part of a commodity shall include, but are not limited to, containers, conveyances, bags, wrappers, packaging materials, labels, individual piece coverings, decorative accompaniments, and coupons.

(j) "Nonconsumer package" or "package of nonconsumer commodity" means a commodity in package form other than a consumer package and particularly a package designed solely for industrial or institutional use or for wholesale distribution only.

(k) "Meat" means and shall include all animal flesh, carcasses, or parts of animals, and shall also include fish, shellfish, game, poultry, and meat food products of every kind and character, whether fresh, frozen, cooked, cured, or processed.

(l) "Official seal of approval" means the seal or certificate issued by the director or city sealer which indicates that a secondary weights and measures standard or a weighing or measuring instrument or device conforms with the specifications, tolerances, and other technical requirements adopted in RCW 19.94.195.

(m) "Person" means any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, business trust, corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise.

(n) "Poultry" means all fowl, domestic or wild, that is prepared, processed, sold, or intended or offered for sale.

(o) "Service agent" means a person who for hire, award, commission, or any other payment of any kind, installs, tests, inspects, checks, adjusts, repairs, reconditions, or systematically standardizes the graduations of a weighing or measuring instrument or device.

(p) "Ton" means a unit of two thousand pounds avoirdupois weight.

(q) "Weighing or measuring instrument or device" means any equipment or apparatus used commercially to establish the size, quantity, capacity, count, extent, area, heaviness, or measurement of quantities, things, produce, or articles for distribution or consumption, that are purchased, offered or submitted for sale, hire, or award on the basis of weight, measure or count, including any accessory attached to or used in connection with a weighing or measuring instrument or device when such accessory is so designed or installed that its operation affects, or may effect, the accuracy or indication of the device. This definition shall be strictly limited to those weighing or measuring instruments or devices governed by Handbook 44 as adopted under RCW 19.94.195.

(r) "Weight" means net weight as defined in this section.

(s) "Weights and measures" means the recognized standards or units of measure used to indicate the size, quantity, capacity, count, extent, area, heaviness, or measurement of any consumable commodity.

(t) "Secondary weights and measures standard" means the physical standards that are traceable to the primary standards through comparisons, used by the director, a city sealer, or a service agent that under specified conditions defines or represents a recognized weight or measure during the inspection, adjustment, testing, or systematic standardiza-

tion of the graduations of any weighing or measuring instrument or device.

(2) The director shall prescribe by rule other definitions as may be necessary for the implementation of this chapter. [1995 c 355 § 4; 1992 c 237 § 3; 1969 c 67 § 1.]

**Application—Effective dates—1995 c 355:** See notes following RCW 19.94.015.

**19.94.015 Commercial use of instrument or device—Registration—Fees. (Effective January 1, 1996.)**

(1) Except as provided in subsection (4) of this section for the initial registration of an instrument or device, no weighing or measuring instrument or device may be used for commercial purposes in the state unless its commercial use is registered annually. If its commercial use is within a city that has a city sealer and a weights and measures program as provided by RCW 19.94.280, the commercial use of the instrument or device shall be registered with the city if the city has adopted fees pursuant to subsection (2) of this section. If its commercial use is outside of such a city, the commercial use of the instrument or device shall be registered with the department.

(2) A city with such a sealer and program may establish an annual fee for registering the commercial use of such a weighing or measuring instrument or device with the city. The annual fee shall not exceed the fee established in RCW 19.94.175 for registering the use of a similar instrument or device with the department. Fees upon weighing or measuring instruments or devices within the jurisdiction of the city that are collected under this subsection by city sealers shall be deposited into the general fund, or other account, of the city as directed by the governing body of the city.

(3) Registrations with the department are accomplished as part of the master license system under chapter 19.02 RCW. Payment of the registration fee for a weighing or measuring instrument or device under the master license system constitutes the registration required by this section.

(4) The fees established by or under RCW 19.94.175 for registering a weighing or measuring instrument or device shall be paid to the department of licensing concurrently with an application for a master license or with the annual renewal of a master license under chapter 19.02 RCW. A weighing or measuring instrument or device shall be initially registered with the state at the time the owner applies for a master license for a new business or at the first renewal of the license that occurs after the instrument or device is first placed into commercial use. However, the use of an instrument or device that is in commercial use on the effective date of this act shall be initially registered at the time the first renewal of the master license of the owner of the instrument or device is due following the effective date of this act. The department of licensing shall remit to the department of agriculture all fees collected under this provision less reasonable collection expenses.

(5) Each city charging registration fees under this section shall notify the department of agriculture at the time such fees are adopted and whenever changes in the fees are adopted. [1995 c 355 § 1.]

**\*Reviser's note:** 1995 c 355 has different effective dates. The effective date for sections 1 and 7 is January 1, 1996, and the effective date for sections 2 through 6 and 8 through 25 is July 1, 1995.

**Application—1995 c 355:** "This act applies prospectively only and not retroactively. It applies only to causes of action that arise or that are commenced on or after \*the effective date of this act. This act does not affect any liability or obligation arising prior to \*the effective date of this act." [1995 c 355 § 27.]

**\*Reviser's note:** For "the effective date of this act" see note following RCW 19.94.015.

**Effective dates—1995 c 355:** "(1) Sections 2 through 6 and 8 through 25 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995.

(2) Sections 1 and 7 of this act shall take effect January 1, 1996." [1995 c 355 § 28.]

**19.94.025 Registration certificate—Fee—Decision—Denial—Notice—Refund.** (1) Each request for an official registration certificate shall be in writing, under oath, and on a form prescribed by the department and shall contain any relevant information as the director may require, including but not limited to the following:

(a) The name and address of the person, corporation, partnership, or sole proprietorship requesting registration;

(b) The names and addresses of all individuals requesting an official registration certificate from the department; and

(c) The tax registration number as required under RCW 82.32.030 or uniform business identifier provided on a master license issued under RCW 19.02.070.

(2) Each individual when submitting a request for an official registration certificate or a renewal of such a certificate shall pay a fee to the department in the amount of eighty dollars per individual.

(3) The department shall issue a decision on a request for an official registration certificate within twenty days of receipt of the request. If an individual is denied their request for an official registration certificate, the department must notify that individual in writing stating the reasons for the denial and shall refund any payments made by that individual in connection with the request. [1995 c 355 § 16.]

**Application—Effective dates—1995 c 355:** See notes following RCW 19.94.015.

**19.94.035 Registration certificate—Revocation, suspension, refusal to renew—Appeal.** (1) The department shall have the power to revoke, suspend, or refuse to renew the official registration certificate of any service agent for any of the following reasons:

(a) Fraud or deceit in obtaining an official registration certificate under this chapter;

(b) A finding by the department of a pattern of intentional fraudulent or negligent activities in the installation, inspection, testing, checking, adjusting, or systematically standardizing and approving the graduations of any weighing or measuring instrument or device;

(c) Knowingly placing back into commercial service any weighing or measuring instrument or device that is incorrect;

(d) A violation of any provision of this chapter; or

(e) Conviction of a crime or an act constituting a crime under the laws of this state, the laws of another state, or federal law.

(2) Upon the department's revocation of, suspension of, or refusal to renew [renew] an official registration certifi-

cate, an individual shall have the right to appeal this decision in accordance with the administrative procedure act, chapter 34.05 RCW. [1995 c 355 § 17.]

**Application—Effective dates—1995 c 355:** See notes following RCW 19.94.015.

**19.94.160 State standards.** Weights and measures standards that are in conformity with the standards of the United States as have been supplied to the state by the federal government or otherwise obtained by the state for use as state weights and measures standards, shall, when the same shall have been certified as such by the national institute of standards and technology or any successor organization, be the primary standards of weight and measure. The state weights and measures standards shall be kept in a place designated by the director and shall be maintained in such calibration as prescribed by the national institute of standards and technology or any successor organization. [1995 c 355 § 5; 1992 c 237 § 5; 1991 sp.s. c 23 § 5; 1969 c 67 § 16.]

**Application—Effective dates—1995 c 355:** See notes following RCW 19.94.015.

**Legislative findings—Intent—1991 sp.s. c 23:** See notes following RCW 19.94.150.

**19.94.163 Testing by department—Ensuring enforcement—Issuance of seal of approval—Exception.** (1) Except as provided in subsection (3) of this section and RCW 19.94.190(1)(d), the department shall test and inspect each biennium a sufficient number of weighing and measuring instruments and devices to ensure that the provisions of this chapter are enforced.

(2) The department may issue an official seal of approval for each weighing or measuring instrument or device that has been tested and inspected and found to be correct.

(3) Except as provided in RCW 19.94.216, this section does not apply to weighing or measuring instruments or devices located in an area of the state that is within a city that has a city sealer and a weights and measures program pursuant to RCW 19.94.280 unless the city sealer does not possess the equipment necessary to test and inspect the weighing or measuring instrument or device. [1995 c 355 § 2.]

**Application—Effective dates—1995 c 355:** See notes following RCW 19.94.015.

**19.94.165 Commercial instruments or devices to be correct.** All weighing or measuring instruments or devices used for commercial purposes within this state shall be correct. [1995 c 355 § 6; 1992 c 237 § 6.]

**Application—Effective dates—1995 c 355:** See notes following RCW 19.94.015.

**19.94.175 Registration—Inspection and testing—Fees. (Effective January 1, 1996.)** (1) Pursuant to RCW 19.94.015, the following annual registration fees shall be charged for each weighing or measuring instrument or device used for commercial purposes in this state:

(a) Weighing devices:

(i)	Small scales "zero to four hundred pounds capacity" . . . . . \$	5.00
(ii)	Intermediate scales "four hundred one pounds to five thousand pounds capacity" . . . . . \$	20.00
(iii)	Large scales "over five thousand pounds capacity" . . . . . \$	52.00
(iv)	Large scales with supplemental devices . . . . . \$	52.00
(v)	Railroad track scales . . . . . \$	800.00
(b)	Liquid fuel metering devices:	
(i)	Motor fuel meters with flows of less than twenty gallons per minute . . . . . \$	5.00
(ii)	Motor fuel meters with flows of more than twenty but not more than one hundred fifty gallons per minute . . . \$	16.00
(iii)	Motor fuel meters with flows over one hundred fifty gallons per minute . \$	25.00
(c)	Liquid petroleum gas meters:	
(i)	With one inch diameter or smaller dispensers . . . . . \$	10.00
(ii)	With greater than one inch diameter dispensers . . . . . \$	30.00
(d)	Fabric meters . . . . . \$	5.00
(e)	Cordage meters . . . . . \$	5.00
(f)	Mass flow meters . . . . . \$	14.00
(g)	Taxi meters . . . . . \$	5.00

(2) With the exception of subsection (3) of this section, no person shall be required to pay more than the established fee adopted under this section for any weighing or measuring instrument or device in any one year.

(3) The department or a city sealer may establish reasonable inspection and testing fees for each type or class of weighing or measuring instrument or device specially requested to be inspected or tested by the device owner. These inspection and testing fees shall be limited to those amounts necessary for the department or city sealer to cover the direct costs associated with such inspection and testing. The fees established under this subsection shall not be set so as to compete with service agents normally engaged in such services. [1995 c 355 § 7; 1992 c 237 § 7.]

**Application—Effective dates—1995 c 355:** See note following RCW 19.94.015.

**19.94.185 Deposit of moneys—Weights and measures account—General fund—Report of revenues.** (1)

Except as provided in subsection (2) of this section, all moneys collected under this chapter shall be payable to the director and placed in the weights and measures account hereby established in the agricultural local fund. Moneys deposited in this account shall be used solely for the purposes of implementing or enforcing this chapter. No appropriation is required for the disbursement of moneys from the weights and measures account by the director.

(2) Civil penalties collected by the department under RCW 19.94.510, 19.94.515, and 19.94.517 shall be deposited in the state general fund.

(3) By January 1st of each odd-numbered year, the department shall provide a written report on the amount of revenues by major category received under this chapter, including the metrology laboratory, for the administration of

the weights and measures program by the department. The report shall include the amount of revenue generated for the two previous biennia, an estimate of the amount of funds to be received during the current biennium, and an estimate of the amount of funds to be generated during the next ensuing biennium. The report shall be submitted to the office of financial management and to each committee in the legislature with jurisdiction over programs administered by the department in the house and the senate. [1995 c 355 § 8; 1992 c 237 § 8.]

**Application—Effective dates—1995 c 355:** See notes following RCW 19.94.015.

**19.94.190 Enforcement—Rules.** (1) The director and duly appointed city sealers shall enforce the provisions of this chapter. The director shall adopt rules for enforcing and carrying out the purposes of this chapter including but not limited to the following:

(a) Establishing state standards of weight, measure, or count, and reasonable standards of fill for any commodity in package form;

(b) The establishment of technical and reporting procedures to be followed, any necessary report and record forms, and marks of rejection to be used by the director and city sealers in the discharge of their official duties as required by this chapter;

(c) The establishment of technical test procedures, reporting procedures, and any necessary record and reporting forms to be used by service agents when testing and inspecting instruments or devices under RCW 19.94.255(3) or when otherwise installing, repairing, inspecting, or standardizing the graduations of any weighing or measuring instruments or devices;

(d) The establishment of exemptions from the marking or tagging requirements of RCW 19.94.250 with respect to weighing or measuring instruments or devices of such character or size that such marking or tagging would be inappropriate, impracticable, or damaging to the apparatus in question;

(e) The establishment of exemptions from the inspection and testing requirements of RCW 19.94.163 with respect to classes of weighing or measuring instruments or devices found to be of such character that periodic inspection and testing is unnecessary to ensure continued accuracy;

(f) The establishment of inspection and approval techniques, if any, to be used with respect to classes of weighing or measuring instruments or devices that are designed specifically to be used commercially only once and then discarded, or are uniformly mass-produced by means of a mold or die and are not individually adjustable; and

(g) The establishment of inspection and testing procedures to be used for classes of weighing or measuring instruments or devices found to be few in number, highly complex, and of such character that differential or special inspection and testing is necessary, including railroad track scales. The department's procedures shall include requirements for the provision, maintenance, and transport of any weight or measure necessary for the inspection and testing at no expense to the state.

(2) These rules shall also include specifications and tolerances for the acceptable range of accuracy required of

weighing or measuring instruments or devices and shall be designed to eliminate from use, without prejudice to weighing or measuring instruments or devices that conform as closely as practicable to official specifications and tolerances, those (a) that are of such construction that they are faulty, that is, that are not reasonably permanent in their adjustment or will not repeat their indications correctly, or (b) that facilitate the perpetration of fraud. [1995 c 355 § 9; 1992 c 237 § 9; 1991 sp.s. c 23 § 6; 1989 c 354 § 36; 1977 ex.s. c 26 § 5; 1969 c 67 § 19.]

**Application—Effective dates—1995 c 355:** See notes following RCW 19.94.015.

**Legislative findings—Intent—1991 sp.s. c 23:** See notes following RCW 19.94.150.

**Severability—1989 c 354:** See note following RCW 15.36.012.

**19.94.216 Department inspection—City sealer—Agencies, institutions—Fees.** The department shall:

(1) Biennially inspect and test the secondary weights and measures standards of any city for which the appointment of a city sealer is provided by this chapter and shall issue an official seal of approval for same when found to be correct. The department shall, by rule, establish a reasonable fee for this and any other inspection and testing services performed by the department's metrology laboratory. Each such fee shall recover at least seventy-five percent of the laboratory's costs incurred in performing the service governed by the fee on or before June 30, 1998. The fees established under this subsection may be increased in excess of the fiscal growth factor as provided in RCW 43.135.055 for the fiscal year ending 1996, 1997, and 1998. For fiscal year 1999 and thereafter, the fees established under this subsection may not be increased by an amount greater than the fiscal growth factor as provided in RCW 43.135.055.

(2) Biennially inspect and test any weighing or measuring instrument or device used in an agency or institution to which moneys are appropriated by the legislature or of the federal government and shall report any findings in writing to the executive officer of the agency or institution concerned. The department shall collect a reasonable fee, to be set by rule, for testing any such weighing or measuring instrument or device. [1995 c 355 § 10; 1992 c 237 § 12.]

**Application—Effective dates—1995 c 355:** See notes following RCW 19.94.015.

**19.94.250 Inspection of instrument or device to determine if correct—Rejection or seizure—Confiscation or destruction—Use of incorrect instrument or device—Notice.** (1) If the director or a city sealer discovers upon inspection that a weighing or measuring instrument or device is "incorrect," but in his or her best judgment is susceptible of satisfactory repair, he or she shall reject and mark or tag as rejected any such weighing or measuring instrument or device.

(2) The director or a city sealer may reject or seize any weighing or measuring instrument or device found to be incorrect that, in his or her best judgment, is not susceptible of satisfactory repair.

(3) Weighing or measuring instruments or devices that have been rejected under subsection (1) of this section may be confiscated and may be destroyed by the director or a city sealer if not corrected as required by RCW 19.94.255 or if

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used or disposed of contrary to the requirements of that section.

(4) The director or a city sealer shall permit the use of an incorrect weighing or measuring instrument or device, pending repairs, if the device is incorrect to the economic benefit of the consumer and the consumer is not the seller. However, if the director or city sealer finds such an error, the director or city sealer shall notify the owner of the instrument or device, or the owner's representative at the business location, regarding the error. [1995 c 355 § 11; 1992 c 237 § 16; 1991 sp.s. c 23 § 10; 1969 c 67 § 25.]

**Application—Effective dates—1995 c 355:** See notes following RCW 19.94.015.

**Legislative findings—Intent—1991 sp.s. c 23:** See notes following RCW 19.94.150.

**19.94.255 Correction of rejected weights and measures.** (1) Weighing or measuring instruments or devices that have been rejected under the authority of the director or a city sealer shall remain subject to the control of the rejecting authority until such time as suitable repair or disposition thereof has been made as required by this section.

(2) The owner of any weighing or measuring instrument or device that has been marked or tagged as rejected by the director or a city sealer shall cause the same to be made correct within thirty days or such longer period as may be authorized by the rejecting authority. In lieu of correction, the owner of such weighing and measuring instrument or device may dispose of the same, but only in the manner specifically authorized by the rejecting authority.

(3) Weighing and measuring instruments or devices that have been rejected shall not again be used commercially until they have been reexamined and found to be correct by the department, city sealer, or a service agent registered with the department.

(4) If a weighing or measuring instrument or device marked or tagged as rejected is placed back into commercial service by a service agent registered with the department, the agent shall provide a signed certification to the owner or operator of the instrument or device so indicating and shall report to the rejecting authority as provided by rule under RCW 19.94.190(1)(c). [1995 c 355 § 12; 1992 c 237 § 17; 1991 sp.s. c 23 § 14; 1969 c 67 § 33. Formerly RCW 19.94.330.]

**Application—Effective dates—1995 c 355:** See notes following RCW 19.94.015.

**Legislative findings—Intent—1991 sp.s. c 23:** See notes following RCW 19.94.150.

**19.94.258 Registration certificate for rejected instrument or device placed back into commercial service.** (1) Except as authorized by the department, a service agent who intends to provide the examination that permits a weighing or measuring instrument or device to be placed back into commercial service under RCW 19.94.255(3) shall receive an official registration certificate from the director prior to performing such a service. This registration requirement does not apply to the department or a city sealer.

(2) Except as provided in RCW 19.94.035, a registration certificate is valid for one year. It may be renewed by



submitting a request for renewal to the department. [1995 c 355 § 15.]

**Application—Effective dates—1995 c 355:** See notes following RCW 19.94.015.

**19.94.280 City sealers and deputies—Appointment, removal—Record, report—Testing of devices and instruments—Seal of approval.** (1) There may be a city sealer in every city and such deputies as may be required by ordinance of each such city to administer and enforce the provisions of this chapter.

(2) Each city electing to have a city sealer shall adopt rules for the appointment and removal of the city sealer and any deputies required by local ordinance. The rules for appointment of a city sealer and any deputies must include provisions for the advice and consent of the local governing body of such city and, as necessary, any provisions for local civil service laws and regulations.

(3) A city sealer shall keep a complete and accurate record of all official acts performed under the authority of this chapter and shall submit an annual report to the governing body of his or her city and shall make any reports as may be required by the director.

(4) The city sealer shall test and inspect a sufficient number of weighing and measuring instruments and devices to ensure that the provisions of this chapter are enforced in the city. This subsection does not apply to weighing or measuring instruments or devices for which the sealer does not have the necessary testing or inspection equipment or to instruments or devices that are to be inspected by the department under RCW 19.94.216(2).

(5) A city sealer may issue an official seal of approval for each weighing or measuring instrument or device that has been inspected and tested and found to be correct. [1995 c 355 § 13; 1992 c 237 § 20; 1969 c 67 § 28.]

**Application—Effective dates—1995 c 355:** See notes following RCW 19.94.015.

**19.94.320 City sealers—Director—General oversight powers, concurrent authority—Powers and duties of chapter are additional.** (1) In cities for which city sealers have been appointed as provided for in this chapter, the director shall have general oversight powers over city weights and measures programs and may, when he or she deems it reasonably necessary, exercise concurrent authority to carry out the provisions of this chapter.

(2) When the director elects to exercise concurrent authority within a city with a duly appointed city sealer, the director's powers and duties relative to this chapter shall be in addition to the powers granted in any such city by law or charter. [1995 c 355 § 14; 1992 c 237 § 22; 1969 c 67 § 32.]

**Application—Effective dates—1995 c 355:** See notes following RCW 19.94.015.

**19.94.360 Declaration of price on outside of package.** In addition to the declarations required by RCW 19.94.350, any commodity in package form, the package being one of a lot containing random weights, measures or counts of the same commodity at the time it is exposed for sale at retail, shall bear on the outside of the package a plain

and conspicuous declaration of the price per single unit of weight, measure, or count and the total selling price of the package. [1995 c 355 § 18; 1969 c 67 § 36.]

**Application—Effective dates—1995 c 355:** See notes following RCW 19.94.015.

**19.94.390 Price not to be misleading, deceiving, misrepresented—Fractions—Examination procedure standard—Department may revise—Electronic scanner screen visibility.** (1) Whenever any commodity or service is sold, or is offered, exposed, or advertised for sale, by weight, measure, or count, the price shall not be misrepresented, nor shall the price be represented in any manner calculated or tending to mislead or deceive an actual or prospective purchaser. Whenever an advertised, poster or labeled price per unit of weight, measure, or count includes a fraction of a cent, all elements of the fraction shall be prominently displayed and the numeral or numerals expressing the fraction shall be immediately adjacent to, of the same general design and style as, and at least one-half the height and one-half the width of the numerals representing the whole cents.

(2) The examination procedure recommended for price verification by the price verification working group of the laws and regulations committee of the national conference on weights and measures (as reflected in the fourth draft, dated November 1, 1994) for devices such as electronic scanners shall govern such examinations conducted under this chapter. The procedure shall be deemed to be adopted under this chapter. However, the department may revise the procedure as follows: The department shall provide notice of and conduct a public hearing pursuant to chapter 34.05 RCW to determine whether any revisions to this procedure made by the national institute of standards and technology or its successor organization for incorporating the examination procedure into an official handbook of the institute or its successor, or any subsequent revisions of the handbook regarding such procedures shall also be adopted under this chapter. If the department determines that the procedure should be so revised, it may adopt the revisions. Violations of this section regarding the use of devices such as electronic scanners may be found only as provided by the examination procedures adopted by or under this subsection.

(3) Electronic scanner screens installed after January 1, 1996, and used in retail establishments must be visible to the consumer at the checkout line. [1995 c 355 § 20; 1969 c 67 § 39.]

**Application—Effective dates—1995 c 355:** See notes following RCW 19.94.015.

**19.94.410 Butter, margarine to be sold by weight.** Butter, oleomargarine and margarine shall be offered and exposed for sale and sold by weight. [1995 c 355 § 19; 1988 c 63 § 1; 1969 c 67 § 41.]

**Application—Effective dates—1995 c 355:** See notes following RCW 19.94.015.

**19.94.510 Unlawful practices—Penalty.** (1) Any person who, by himself or herself, by his or her agent or employee, or as the agent or employee of another person, performs any one of the acts enumerated in (a) through (l)

of this subsection is subject to a civil penalty of no more than one thousand dollars:

(a) Use or have in possession for the purpose of using for any commercial purpose a weighing or measuring instrument or device that is intentionally calculated to falsify any weight, measure, or count of any commodity, or to sell, offer, expose for sale or hire or have in possession for the purpose of selling or hiring an incorrect weighing or measuring instrument or device or any weighing or measuring instrument or device calculated to falsify any weight or measure.

(b) Knowingly use or have in possession for current use in the buying or selling of any commodity or thing, for hire or award, or in the computation of any basic charge or payment for services rendered on the basis of weight, measurement, or count, or in the determination of weight, measurement or count, when a charge is made for such determination, any incorrect weighing or measuring instrument or device.

(c) Dispose of any rejected weighing or measuring instrument or device in a manner contrary to law or rule.

(d) Remove from any weighing or measuring instrument or device, contrary to law or rule, any tag, seal, stamp or mark placed thereon by the director or a city sealer.

(e) Sell, offer or expose for sale less than the quantity he or she represents of any commodity, thing or service.

(f) Take more than the quantity he or she represents of any commodity, thing, or service when, as buyer, he or she furnishes the weight, measure, or count by means of which the amount of the commodity, thing or service is determined.

(g) Keep for the purpose of sale, advertise, offer or expose for sale or sell any commodity, thing or service known to be in a condition or manner contrary to law or rule.

(h) Use in retail trade, except in the preparation of packages put up in advance of sale and of medical prescriptions, a weighing or measuring instrument or device that is not so positioned that its indications may be accurately read and the weighing or measuring operation observable from some position which may reasonably be assumed by a customer.

(i) Knowingly approve or issue an official seal of approval for any weighing or measuring instrument or device known to be incorrect.

(j) Find a weighing or measuring instrument or device to be correct under RCW 19.94.255 when the person knows the instrument or device is incorrect.

(k) Fails to disclose to the department or a city sealer any knowledge of information relating to, or observation of, any device or instrument added to or modifying any weighing or measuring instrument or device for the purpose of selling, offering, or exposing for sale, less than the quantity represented of a commodity or calculated to falsify weight or measure, if the person is a service agent.

(1) Violate any other provision of this chapter or of the rules adopted under the provisions of this chapter for which a specific penalty has not been prescribed.

(2) Any person who, by himself or herself, by his or her agent or employee, or as the agent or employee of another person, violates RCW 19.94.390 as determined by the examination procedure adopted by or under RCW

19.94.390(2) is subject to a civil penalty of not more than one thousand dollars.

(3) Any person who, by himself or herself, by his or her agent or employee, or as the agent or employee of another person, performs any of the following acts is subject to a civil penalty of no more than five thousand dollars:

(a) Knowingly adds to or modifies any weighing or measuring instrument or device by the addition of a device or instrument that would allow the sale, or the offering or exposure for sale, of less than the quantity represented of a commodity or falsification of weight or measure.

(b) Commits as a fourth or subsequent infraction any of the acts listed in subsection (1) or (2) of this section. [1995 c 355 § 21; 1992 c 237 § 35; 1969 c 67 § 51.]

Application—Effective dates—1995 c 355: See notes following RCW 19.94.015.

**19.94.515 Unlawful commercial use of instrument or device—Penalty.** A person who owns a weighing or measuring instrument or device and uses or permits the use of the instrument for commercial purposes in violation of RCW 19.94.015 is subject to a civil penalty of fifty dollars for each such instrument or device used or permitted to be used in violation of RCW 19.94.015. [1995 c 355 § 22.]

Application—Effective dates—1995 c 355: See notes following RCW 19.94.015.

**19.94.517 Incorrect commercial instrument or device to benefit of owner/operator—Penalties—Appeal.**

(1) Whenever the department or a city sealer tests or inspects a weighing or measuring instrument or device and finds the instrument or device to be incorrect to the economic benefit of the owner/operator of the weighing or measuring instrument or device and to the economic detriment of the customer, the owner of the weighing or measuring instrument or device may be subject to the following civil penalties:

Device deviations outside the tolerances stated in Handbook 44.  
Penalty

Small weighing or measuring instruments or devices:	
First violation . . . . .	\$ 50.00
Second or subsequent violation within one year of first violation . . . . .	\$150.00
Medium weighing or measuring instruments or devices:	
First violation . . . . .	\$100.00
Second or subsequent violation within one year of first violation . . . . .	\$300.00
Large weighing or measuring instruments or devices:	
First violation . . . . .	\$200.00
Second or subsequent violation within one year of first violation . . . . .	\$500.00

(2) For the purposes of this section:

(a) The following are small weighing or measuring instruments or devices: Scales of zero to four hundred pounds capacity, liquid fuel metering devices with flows of not more than twenty gallons per minute, liquid petroleum gas meters with one inch in diameter or smaller dispensers, fabric meters, cordage meters, and taxi meters.

(b) The following are medium weighing or measuring instruments or devices: Scales of four hundred one to five thousand pounds capacity, liquid fuel metering devices with

flows of more than twenty but not more than one hundred fifty gallons per minute, and mass flow meters.

(c) The following are large weighing or measuring instruments or devices: Liquid petroleum gas meters with greater than one inch diameter dispensers, liquid fuel metering devices with flows over one hundred fifty gallons per minute, and scales of more than five thousand pounds capacity and scales of more than five thousand pounds capacity with supplemental devices.

(3) The director or a city sealer shall issue the appropriate civil penalty concurrently with the conclusion of the test or inspection.

(4) The weighing or measuring instrument or device owner shall have the right to appeal the civil penalty in accordance with the administrative procedure act, chapter 34.05 RCW. [1995 c 355 § 23.]

**Application—Effective dates—1995 c 355:** See notes following RCW 19.94.015.

### Chapter 19.118

#### MOTOR VEHICLE WARRANTIES

##### Sections

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

(1) "Board" means new motor vehicle arbitration board.

(2) "Collateral charges" means any sales or lease related charges including but not limited to sales tax, use tax, arbitration service fees, unused license fees, unused registration fees, unused title fees, finance charges, prepayment penalties, credit disability and credit life insurance costs not otherwise refundable, any other insurance costs prorated for time out of service, transportation charges, dealer preparation charges, or any other charges for service contracts, undercoating, rustproofing, or factory or dealer installed options.

(3) "Condition" means a general problem that results from a defect or malfunction of one or more parts, or their improper installation by the manufacturer, its agents, or the new motor vehicle dealer.

(4) "Consumer" means any person who has entered into an agreement or contract for the transfer, lease, or purchase of a new motor vehicle, other than for purposes of resale or sublease, during the duration of the warranty period defined under this section.

(5) "Court" means the superior court in the county where the consumer resides, except if the consumer does not reside in this state, then the superior court in the county where an arbitration hearing or determination was conducted or made pursuant to this chapter.

(6) "Incidental costs" means any reasonable expenses incurred by the consumer in connection with the repair of the new motor vehicle, including any towing charges and the costs of obtaining alternative transportation.

(7) "Manufacturer" means any person engaged in the business of constructing or assembling new motor vehicles or engaged in the business of importing new motor vehicles into the United States for the purpose of selling or distributing new motor vehicles to new motor vehicle dealers. "Manufacturer" does not include any person engaged in the business of set-up of motorcycles as an agent of a new motor vehicle dealer if the person does not otherwise construct or assemble motorcycles.

(8) "Motorcycle" means any motorcycle as defined in RCW 46.04.330 which has an engine displacement of at least seven hundred fifty cubic centimeters.

(9) "New motor vehicle" means any new self-propelled vehicle, including a new motorcycle, primarily designed for the transportation of persons or property over the public highways that was originally purchased or leased at retail from a new motor vehicle dealer or leasing company in this state, and that was initially registered in this state or for which a temporary motor vehicle license was issued pursuant to RCW 46.16.460, but does not include vehicles purchased or leased by a business as part of a fleet of ten or more vehicles at one time or under a single purchase or lease agreement. If the motor vehicle is a motor home, this chapter shall apply to the self-propelled vehicle and chassis, but does not include those portions of the vehicle designated, used, or maintained primarily as a mobile dwelling, office, or commercial space. The term "new motor vehicle" does not include trucks with nineteen thousand pounds or more gross vehicle weight rating. The term "new motor vehicle" includes a demonstrator or lease-purchase vehicle as long as a manufacturer's warranty was issued as a condition of sale.

(10) "New motor vehicle dealer" means a person who holds a dealer agreement with a manufacturer for the sale of new motor vehicles, who is engaged in the business of purchasing, selling, servicing, exchanging, or dealing in new motor vehicles, and who is licensed or required to be licensed as a vehicle dealer by the state of Washington.

(11) "Nonconformity" means a defect, serious safety defect, or condition that substantially impairs the use, value, or safety of a new motor vehicle, but does not include a defect or condition that is the result of abuse, neglect, or unauthorized modification or alteration of the new motor vehicle.

(12) "Purchase price" means the cash price of the new motor vehicle appearing in the sales agreement or contract.

(a) "Purchase price" in the instance of a lease means the actual written capitalized cost disclosed to the consumer

contained in the lease agreement. If there is no disclosed capitalized cost in the lease agreement the "purchase price" is the manufacturer's suggested retail price including manufacturer installed accessories or items of optional equipment displayed on the manufacturer label, required by 15 U.S.C. Sec. 1232.

(b) "Purchase price" in the instance of both a vehicle purchase or lease agreement includes any allowance for a trade-in vehicle but does not include any manufacturer-to-consumer rebate appearing in the agreement or contract that the consumer received or that was applied to reduce the purchase or lease cost.

Where the consumer is a subsequent transferee and the consumer selects repurchase of the motor vehicle, "purchase price" means the consumer's subsequent purchase price. Where the consumer is a subsequent transferee and the consumer selects replacement of the motor vehicle, "purchase price" means the original purchase price.

(13) "Reasonable offset for use" means the definition provided in RCW 19.118.041(1)(c) for a new motor vehicle other than a new motorcycle. The reasonable offset for use for a new motorcycle shall be computed by the number of miles that the vehicle traveled before the manufacturer's acceptance of the vehicle upon repurchase or replacement multiplied by the purchase price, and divided by twenty-five thousand.

(14) "Reasonable number of attempts" means the definition provided in RCW 19.118.041.

(15) "Replacement motor vehicle" means a new motor vehicle that is identical or reasonably equivalent to the motor vehicle to be replaced, as the motor vehicle to be replaced existed at the time of original purchase or lease, including any service contract, undercoating, rustproofing, and factory or dealer installed options.

(16) "Serious safety defect" means a life-threatening malfunction or nonconformity that impedes the consumer's ability to control or operate the new motor vehicle for ordinary use or reasonable intended purposes or creates a risk of fire or explosion.

(17) "Subsequent transferee" means a consumer who acquires a motor vehicle, within the warranty period, as defined in this section, with an applicable manufacturer's written warranty and where the vehicle otherwise met the definition of a new motor vehicle at the time of original retail sale or lease.

(18) "Substantially impair" means to render the new motor vehicle unreliable, or unsafe for ordinary use, or to diminish the resale value of the new motor vehicle below the average resale value for comparable motor vehicles.

(19) "Warranty" means any implied warranty, any written warranty of the manufacturer, or any affirmation of fact or promise made by the manufacturer in connection with the sale of a new motor vehicle that becomes part of the basis of the bargain. The term "warranty" pertains to the obligations of the manufacturer in relation to materials, workmanship, and fitness of a new motor vehicle for ordinary use or reasonably intended purposes throughout the duration of the warranty period as defined under this section.

(20) "Warranty period" means the period ending two years after the date of the original delivery to the consumer of a new motor vehicle, or the first twenty-four thousand

miles of operation, whichever occurs first. [1995 c 254 § 1; 1990 c 239 § 1; 1989 c 347 § 1; 1987 c 344 § 2.]

**Effective date—1995 c 254:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 5, 1995]." [1995 c 254 § 11.]

**Severability—1995 c 254:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1995 c 254 § 12.]

**19.118.031 Manufacturers and new motor vehicle dealers—Responsibilities to consumers—Extension of warranty period.** (1) The manufacturer shall publish an owner's manual and provide it to the new motor vehicle dealer or leasing company. The owner's manual shall include a list of the addresses and phone numbers for the manufacturer's customer assistance division, or zone or regional offices. A manufacturer shall provide to the new motor vehicle dealer or leasing company all applicable manufacturer's written warranties. The dealer or leasing company shall transfer to the consumer, at the time of original retail sale or lease, the owner's manual and applicable written warranties as provided by a manufacturer.

(2) At the time of purchase, the new motor vehicle dealer shall provide the consumer with a written statement that explains the consumer's rights under this chapter. The written statement shall be prepared and supplied by the attorney general and shall contain a toll-free number that the consumer can contact for information regarding the procedures and remedies under this chapter.

(3) For the purposes of this chapter, if a new motor vehicle does not conform to the warranty and the consumer reports the nonconformity during the term of the warranty period or the period of coverage of the applicable manufacturer's written warranty, whichever is less, to the manufacturer, its agent, or the new motor vehicle dealer who sold the new motor vehicle, the manufacturer, its agent, or the new motor vehicle dealer shall make repairs as are necessary to conform the vehicle to the warranty, regardless of whether such repairs are made after the expiration of the warranty period. Any corrections or attempted repairs undertaken by a new motor vehicle dealer under this chapter shall be treated as warranty work and billed by the dealer to the manufacturer in the same manner as other work under the manufacturer's written warranty is billed. For purposes of this subsection, the manufacturer's written warranty shall be at least one year after the date of the original delivery to the consumer of the vehicle or the first twelve thousand miles of operation, whichever occurs first.

(4) Upon request from the consumer, the manufacturer or new motor vehicle dealer shall provide a copy of any report or computer reading compiled by the manufacturer's field or zone representative regarding inspection, diagnosis, or test-drive of the consumer's new motor vehicle, or shall provide a copy of any technical service bulletin issued by the manufacturer regarding the year and model of the consumer's new motor vehicle as it pertains to any material, feature, component, or the performance thereof.

(5) The new motor vehicle dealer shall provide to the consumer each time the consumer's vehicle is returned from being diagnosed or repaired under the warranty, a fully

itemized, legible statement or repair order indicating any diagnosis made, and all work performed on the vehicle including but not limited to, a general description of the problem reported by the consumer or an identification of the defect or condition, parts and labor, the date and the odometer reading when the vehicle was submitted for repair, and the date when the vehicle was made available to the consumer.

(6) No manufacturer, its agent, or the new motor vehicle dealer may refuse to diagnose or repair any nonconformity covered by the warranty for the purpose of avoiding liability under this chapter.

(7) For purposes of this chapter, consumers shall have the rights and remedies, including a cause of action, against manufacturers as provided in this chapter.

(8) The warranty period and thirty-day out-of-service period shall be extended by any time that repair services are not available to the consumer as a direct result of a strike, war, invasion, fire, flood, or other natural disaster. [1995 c 254 § 2; 1987 c 344 § 3.]

**Effective date—Severability—1995 c 254:** See notes following RCW 19.118.021.

**19.118.041 Replacement or repurchase of nonconforming new motor vehicle—Reasonable number of attempts—Liabilities and rights of parties—Application of consumer protection act.** (1) If the manufacturer, its agent, or the new motor vehicle dealer is unable to conform the new motor vehicle to the warranty by repairing or correcting any nonconformity after a reasonable number of attempts, the manufacturer, within forty calendar days of a consumer's written request to the manufacturer's corporate, dispute resolution, zone, or regional office address shall, at the option of the consumer, replace or repurchase the new motor vehicle.

(a) The replacement motor vehicle shall be identical or reasonably equivalent to the motor vehicle to be replaced as the motor vehicle to be replaced existed at the time of original purchase or lease, including any service contract, undercoating, rustproofing, and factory or dealer installed options. Where the manufacturer supplies a replacement motor vehicle, the manufacturer shall be responsible for sales tax, license, registration fees, and refund of any incidental costs. Compensation for a reasonable offset for use shall be paid by the consumer to the manufacturer in the event that the consumer accepts a replacement motor vehicle.

(b) When repurchasing the new motor vehicle, the manufacturer shall refund to the consumer the purchase price, all collateral charges, and incidental costs, less a reasonable offset for use. When repurchasing the new motor vehicle, in the instance of a lease, the manufacturer shall refund to the consumer all payments made by the consumer under the lease including but not limited to all lease payments, trade-in value or inception payment, security deposit, all collateral charges and incidental costs less a reasonable offset for use. The manufacturer shall make such payment to the lessor and/or lienholder of record as necessary to obtain clear title to the motor vehicle and upon the lessor's and/or lienholder's receipt of that payment and payment by the consumer of any late payment charges, the consumer

shall be relieved of any future obligation to the lessor and/or lienholder.

(c) The reasonable offset for use shall be computed by multiplying the number of miles that the vehicle traveled directly attributable to use by the consumer times the purchase price, and dividing the product by one hundred twenty thousand. Where the consumer is a second or subsequent purchaser, lessee, or transferee of the motor vehicle and the consumer selects repurchase of the motor vehicle, "the number of miles that the vehicle traveled" shall be calculated from the date of purchase or lease by the consumer. Where the consumer is a second or subsequent purchaser, lessee, or transferee of the motor vehicle and the consumer selects replacement of the motor vehicle, "the number of miles that the vehicle traveled" shall be calculated from the original purchase, lease, or in-service date.

(2) Reasonable number of attempts shall be deemed to have been undertaken by the manufacturer, its agent, or the new motor vehicle dealer to conform the new motor vehicle to the warranty within the warranty period, if: (a) The same serious safety defect has been subject to diagnosis or repair two or more times, at least one of which is during the period of coverage of the applicable manufacturer's written warranty, and the serious safety defect continues to exist; (b) the same nonconformity has been subject to diagnosis or repair four or more times, at least one of which is during the period of coverage of the applicable manufacturer's written warranty, and the nonconformity continues to exist; or (c) the vehicle is out-of-service by reason of diagnosis or repair of one or more nonconformities for a cumulative total of thirty calendar days, at least fifteen of them during the period of the applicable manufacturer's written warranty. For purposes of this subsection, the manufacturer's written warranty shall be at least one year after the date of the original delivery to the consumer of the vehicle or the first twelve thousand miles of operation, whichever occurs first.

(3) No new motor vehicle dealer may be held liable by the manufacturer for any collateral charges, incidental costs, purchase price refunds, or vehicle replacements. Manufacturers shall not have a cause of action against dealers under this chapter. Consumers shall not have a cause of action against dealers under this chapter, but a violation of any responsibilities imposed upon dealers under this chapter is a per se violation of chapter 19.86 RCW. Consumers may pursue rights and remedies against dealers under any other law, including chapters 46.70 and 46.71 RCW. Manufacturers and consumers may not make dealers parties to arbitration board proceedings under this chapter. [1995 c 254 § 3; 1989 c 347 § 2; 1987 c 344 § 4.]

**Effective date—Severability—1995 c 254:** See notes following RCW 19.118.021.

**19.118.061 Vehicle with nonconformities or out of service—Notification of correction—Resale or transfer of title—Issuance of new title—Disclosure to buyer—Intervening transferor.** (1) A manufacturer shall be prohibited from reselling any motor vehicle determined or adjudicated as having a serious safety defect unless the serious safety defect has been corrected and the manufacturer warrants upon the first subsequent resale that the defect has been corrected.

(2) Before any sale or transfer of a vehicle that has been replaced or repurchased by the manufacturer that was determined or adjudicated as having a nonconformity or to have been out of service for thirty or more calendar days under this chapter, the manufacturer shall:

(a) Notify the attorney general and the department of licensing, by certified mail or by personal service, upon receipt of the motor vehicle;

(b) Attach a resale disclosure notice to the vehicle in a manner and form to be specified by the attorney general. Only the retail purchaser may remove the resale disclosure notice after execution of the disclosure form required under subsection (3) of this section; and

(c) Notify the attorney general and the department of licensing if the nonconformity in the motor vehicle is corrected.

(3) Upon the first subsequent resale, either at wholesale or retail, or transfer of title of a motor vehicle and which was previously returned after a final determination, adjudication, or settlement under this chapter or under a similar statute of any other state, the manufacturer, its agent, or the new motor vehicle dealer who has actual knowledge of said final determination, adjudication or settlement, shall execute and deliver to the buyer before sale an instrument in writing setting forth information identifying the nonconformity in a manner to be specified by the attorney general, and the department of licensing shall place on the certificate of title information indicating the vehicle was returned under this chapter.

(4) Upon receipt of the manufacturer's notification under subsection (2) of this section that the nonconformity has been corrected and upon the manufacturer's request and payment of any fees, the department of licensing shall issue a new title with information indicating the vehicle was returned under this chapter and that the nonconformity has been corrected. Upon the first subsequent resale, either at wholesale or retail, or transfer of title of a motor vehicle, as provided under subsection (2)(c) of this section, the manufacturer shall warrant upon the resale that the nonconformity has been corrected, and the manufacturer, its agent, or the new motor vehicle dealer who has actual knowledge of the corrected nonconformity, shall execute and deliver to the buyer before sale an instrument in writing setting forth information identifying the nonconformity and indicating that it has been corrected in a manner to be specified by the attorney general.

(5) After repurchase or replacement and following a manufacturer's receipt of a vehicle under this section and prior to a vehicle's first subsequent retail transfer by resale or lease, any intervening transferor of a vehicle subject to the requirements of this section who has received the disclosure, correction and warranty documents, as specified by the attorney general and required under this chapter, shall deliver the documents with the vehicle to the next transferor, purchaser or lessee to ensure proper and timely notice and disclosure. Any intervening transferor who fails to comply with this subsection shall, at the option of the subsequent transferor or first subsequent retail purchaser or lessee: (a) Indemnify and [any] subsequent transferor or first subsequent retail purchaser for all damages caused by such violation; or (b) repurchase the vehicle at the full purchase price including all fees, taxes and costs incurred for goods and services

which were included in the subsequent transaction. [1995 c 254 § 4; 1989 c 347 § 3; 1987 c 344 § 5.]

**Effective date—Severability—1995 c 254:** See notes following RCW 19.118.021.

**19.118.080 New motor vehicle arbitration boards—Board proceedings—Prerequisite to filing action in superior court.** (1) Except as provided in RCW 19.118.160, the attorney general shall contract with one or more private entities to conduct arbitration proceedings in order to settle disputes between consumers and manufacturers as provided in this chapter, and each private entity shall constitute a new motor vehicle arbitration board for purposes of this chapter. The entities shall not be affiliated with any manufacturer or new motor vehicle dealer and shall have available the services of persons with automotive technical expertise to assist in resolving disputes under this chapter. No private entity or its officers or employees conducting board proceedings and no arbitrator presiding at such proceedings shall be directly involved in the manufacture, distribution, sale, or warranty service of any motor vehicle. Payment to the entities for the arbitration services shall be made from the new motor vehicle arbitration account.

(2) The attorney general shall adopt rules for the uniform conduct of the arbitrations by the boards whether conducted by a private entity or by the attorney general pursuant to RCW 19.118.160, which rules shall include but not be limited to the following procedures:

(a) At all arbitration proceedings, the parties are entitled to present oral and written testimony, to present witnesses and evidence relevant to the dispute, to cross-examine witnesses, and to be represented by counsel.

(b) A dealer, manufacturer, or other persons shall produce records and documents requested by a party which are reasonably related to the dispute. If a dealer, manufacturer, or other person refuses to comply with such a request, a party may present a request to the board for the attorney general to issue a subpoena on behalf of the board.

The subpoena shall be issued only for the production of records and documents which the board has determined are reasonably related to the dispute, including but not limited to documents described in RCW 19.118.031 (4) or (5).

If a party fails to comply with the subpoena, the arbitrator may at the outset of the arbitration hearing impose any of the following sanctions: (i) Find that the matters which were the subject of the subpoena, or any other designated facts, shall be taken to be established for purposes of the hearing in accordance with the claim of the party which requested the subpoena; (ii) refuse to allow the disobedient party to support or oppose the designated claims or defenses, or prohibit that party from introducing designated matters into evidence; (iii) strike claims or defenses, or parts thereof; or (iv) render a decision by default against the disobedient party.

If a nonparty fails to comply with a subpoena and upon an arbitrator finding that without such compliance there is insufficient evidence to render a decision in the dispute, the attorney general shall enforce such subpoena in superior court and the arbitrator shall continue the arbitration hearing until such time as the nonparty complies with the subpoena or the subpoena is quashed.

(c) A party may obtain written affidavits from employees and agents of a dealer, a manufacturer or other party, or from other potential witnesses, and may submit such affidavits for consideration by the board.

(d) Records of the board proceedings shall be open to the public. The hearings shall be open to the public to the extent practicable.

(e) Where the board proceedings are conducted by one or more private entities, a single arbitrator may be designated to preside at such proceedings.

(3) A consumer shall exhaust the new motor vehicle arbitration board remedy or informal dispute resolution settlement procedure under RCW 19.118.150 before filing any superior court action.

(4) The attorney general shall maintain records of each dispute submitted to the new motor vehicle arbitration board, including an index of new motor vehicles by year, make, and model.

(5) The attorney general shall compile aggregate annual statistics for all disputes submitted to, and decided by, the new motor vehicle arbitration board, as well as annual statistics for each manufacturer that include, but shall not be limited to, the number and percent of: (a) Replacement motor vehicle requests; (b) purchase price refund requests; (c) replacement motor vehicles obtained in prehearing settlements; (d) purchase price refunds obtained in prehearing settlements; (e) replacement motor vehicles awarded in arbitration; (f) purchase price refunds awarded in arbitration; (g) board decisions neither complied with during the forty calendar day period nor petitioned for appeal within the thirty calendar day period; (h) board decisions appealed categorized by consumer or manufacturer; (i) the nature of the court decisions and who the prevailing party was; (j) appeals that were held by the court to be brought without good cause; and (k) appeals that were held by the court to be brought solely for the purpose of harassment. The statistical compilations shall be public information.

(6) The attorney general shall submit biennial reports of the information in this section to the senate and house of representatives committees on commerce and labor, with the first report due January 1, 1990.

(7) The attorney general shall adopt rules to implement this chapter. Such rules shall include uniform standards by which the boards shall make determinations under this chapter, including but not limited to rules which provide:

(a) A board shall find that a nonconformity exists if it determines that the consumer's new motor vehicle has a defect, serious safety defect, or condition that substantially impairs the use, value, or safety of the vehicle.

(b) A board shall find that a reasonable number of attempts to repair a nonconformity have been undertaken if: (i) The same serious safety defect has been subject to diagnosis or repair two or more times, at least one of which is during the period of coverage of the applicable manufacturer's written warranty, and the serious safety defect continues to exist; (ii) the same nonconformity has been subject to diagnosis or repair four or more times, at least one of which is during the period of coverage of the applicable manufacturer's written warranty, and the nonconformity continues to exist; or (iii) the vehicle is out-of-service by reason of diagnosis or repair of one or more

nonconformities for a cumulative total of thirty calendar days, at least fifteen of them during the period of the applicable manufacturer's written warranty. For purposes of this subsection, the manufacturer's written warranty shall be at least one year after the date of the original delivery to the consumer of the vehicle or the first twelve thousand miles of operation, whichever occurs first.

(c) A board shall find that a manufacturer has failed to comply with RCW 19.118.041 if it finds that the manufacturer, its agent, or the new motor vehicle dealer has failed to correct a nonconformity after a reasonable number of attempts and the manufacturer has failed, within forty days of the consumer's written request, to repurchase the vehicle or replace the vehicle with a vehicle identical or reasonably equivalent to the vehicle being replaced.

(8) The attorney general shall provide consumers with information regarding the procedures and remedies under this chapter. [1995 c 254 § 5; 1989 c 347 § 4; 1987 c 344 § 6.]

**Effective date—Severability—1995 c 254:** See notes following RCW 19.118.021.

**19.118.090 Request for arbitration—Eligibility—Rejection—Manufacturer's response—Remedies—Defenses—Acceptance or appeal.** (1) A consumer may request arbitration under this chapter by submitting the request to the attorney general. Within ten days after receipt of an arbitration request, the attorney general shall make a reasonable determination of the cause of the request for arbitration and provide necessary information to the consumer regarding the consumer's rights and remedies under this chapter. The attorney general shall assign the dispute to a board, except that if it clearly appears from the materials submitted by the consumer that the dispute is not eligible for arbitration, the attorney general may refuse to assign the dispute and shall explain any required procedures to the consumer.

(2) Manufacturers shall submit to arbitration if such arbitration is requested by the consumer within thirty months from the date of the original delivery of the new motor vehicle to a consumer at retail and if the consumer's dispute is deemed eligible for arbitration by the board.

(3) The new motor vehicle arbitration board may reject for arbitration any dispute that it determines to be frivolous, fraudulent, filed in bad faith, res judicata or beyond its authority. Any dispute deemed by the board to be ineligible for arbitration due to insufficient evidence may be reconsidered by the board upon the submission of other information or documents regarding the dispute that would allegedly qualify for relief under this chapter. Following a second review, the board may reject the dispute for arbitration if evidence is still clearly insufficient to qualify the dispute for relief under this chapter. A rejection by the board is subject to review by the attorney general or may be appealed under RCW 19.118.100.

A decision to reject any dispute for arbitration shall be sent by certified mail to the consumer and the manufacturer, and shall contain a brief explanation as to the reason therefor.

(4) The manufacturer shall complete a written manufacturer response to the consumer's request for arbitration. The manufacturer shall provide a response to the consumer and

the board within ten calendar days from the date of the manufacturer's receipt of the board's notice of acceptance of a dispute for arbitration. The manufacturer response shall include all issues and affirmative defenses related to the nonconformities identified in the consumer's request for arbitration that the manufacturer intends to raise at the arbitration hearing.

(5) The arbitration board shall award the remedies under RCW 19.118.041 if it finds a nonconformity and that a reasonable number of attempts have been undertaken to correct the nonconformity. The board shall award reasonable costs and attorneys' fees incurred by the consumer where the manufacturer has been directly represented by counsel: (a) In dealings with the consumer in response to a request to repurchase or replace under RCW 19.118.041; (b) in settlement negotiations; (c) in preparation of the manufacturer's statement; or (d) at an arbitration board hearing or other board proceeding.

(6) It is an affirmative defense to any claim under this chapter that: (a) The alleged nonconformity does not substantially impair the use, value, or safety of the new motor vehicle; or (b) the alleged nonconformity is the result of abuse, neglect, or unauthorized modifications or alterations of the new motor vehicle.

(7) The board shall have forty-five calendar days from the date the board receives the consumer's request for arbitration to hear the dispute. If the board determines that additional information is necessary, the board may continue the arbitration proceeding on a subsequent date within ten calendar days of the initial hearing. The board shall decide the dispute within sixty calendar days from the date the board receives the consumer's request for arbitration.

The decision of the board shall be delivered by certified mail or personal service to the consumer and the manufacturer, and shall contain a written finding of whether the new motor vehicle meets the standards set forth under this chapter.

(8) The consumer may accept the arbitration board decision or appeal to superior court, pursuant to RCW 19.118.100. Upon acceptance by the consumer, the arbitration board decision shall become final. The consumer shall send written notification of acceptance or rejection to the arbitration board within sixty days of receiving the decision and the arbitration board shall immediately deliver a copy of the consumer's acceptance to the manufacturer by certified mail, return receipt requested, or by personal service. Failure of the consumer to respond to the arbitration board within sixty calendar days of receiving the decision shall be considered a rejection of the decision by the consumer. The consumer shall have one hundred twenty calendar days from the date of rejection to file a petition of appeal in superior court. At the time the petition of appeal is filed, the consumer shall deliver, by certified mail or personal service, a conformed copy of such petition to the attorney general.

(9) Upon receipt of the consumer's acceptance, the manufacturer shall have forty calendar days to comply with the arbitration board decision or thirty calendar days to file a petition of appeal in superior court. At the time the petition of appeal is filed, the manufacturer shall deliver, by certified mail or personal service, a conformed copy of such petition to the attorney general. If the attorney general receives no notice of petition of appeal after forty calendar

days, the attorney general shall contact the consumer to verify compliance. [1995 c 254 § 6; 1989 c 347 § 5; 1987 c 344 § 7.]

**Effective date—Severability—1995 c 254:** See notes following RCW 19.118.021.

**19.118.095 Arbitration decision—Compliance—Accomplishment—Dispute—Failure—Fine—Costs—Attorneys' fees.** (1) Compliance with an arbitration board decision under this chapter must be accomplished at a time, place, and in a manner to be determined by the mutual agreement of the consumer and manufacturer.

(a) The consumer shall make the motor vehicle available to the manufacturer free of damage other than that related to any nonconformity, defect, or condition to which a warranty applied, or that can reasonably be expected in the use of the vehicle for ordinary or reasonably intended purposes and in consideration of the mileage attributable to the consumer's use. Any insurance claims or settlement proceeds for repair of damage to the vehicle due to fire, theft, vandalism, or collision must be assigned to the manufacturer or, at the consumer's option, the repair must be completed before return of the vehicle to the manufacturer.

The consumer may not remove any equipment or option that was included in the original purchase or lease of the vehicle or that is otherwise included in the repurchase or replacement award. In removing any equipment not included in the original purchase or lease, the consumer shall exercise reasonable care to avoid further damage to the vehicle but is not required to return the vehicle to original condition.

(b) At the time of compliance with an arbitration board decision that awards repurchase, the manufacturer shall make full payment to the consumers and either the lessor or lienholder, or both, or provide verification to the consumer of prior payment to either the lessor or lienholder, or both.

At the time of compliance with an arbitration board decision that awards replacement, the manufacturer shall provide the replacement vehicle together with any refund of incidental costs.

(c) At any time before compliance a party may request the board to resolve disputes regarding compliance with the arbitration board decision including but not limited to time and place for compliance, condition of the vehicle to be returned, clarification or recalculation of refund amounts under the award, or a determination if an offered vehicle is reasonably equivalent to the vehicle being replaced. In resolving compliance disputes the board may not review, alter, or otherwise change the findings of a decision or extend the time for compliance beyond the time necessary for the board to resolve the dispute.

(d) Failure of the consumer to make the vehicle available within sixty calendar days in response to a manufacturer's unconditional tender of compliance is considered a rejection of the arbitration decision by the consumer, except as provided in (c) of this subsection or subsection (2) of this section.

(2) If, at the end of the forty calendar day period, neither compliance with nor a petition to appeal the board's decision has occurred, the attorney general may impose a fine of up to one thousand dollars per day until compliance occurs or a maximum penalty of one hundred thousand dollars accrues unless the manufacturer can provide clear and



convincing evidence that any delay or failure was beyond its control or was acceptable to the consumer as evidenced by a written statement signed by the consumer. If the manufacturer fails to provide the evidence or fails to pay the fine, the attorney general may initiate proceedings against the manufacturer for failure to pay any fine that accrues until compliance with the board's decision occurs or the maximum penalty of one hundred thousand dollars results. If the attorney general prevails in an enforcement action regarding any fine imposed under this subsection, the attorney general is entitled to reasonable costs and attorneys' fees. Fines and recovered costs and fees shall be returned to the new motor vehicle arbitration account. [1995 c 254 § 8.]

**Effective date—Severability—1995 c 254:** See notes following RCW 19.118.021.

**19.118.110 Arbitration fee—New motor vehicle arbitration account—Report by attorney general.** A three-dollar arbitration fee shall be collected by either the new motor vehicle dealer or vehicle lessor from the consumer upon execution of a retail sale or lease agreement. The fee shall be forwarded to the department of licensing at the time of title application for deposit in the new motor vehicle arbitration account hereby created in the state treasury. Moneys in the account shall be used for the purposes of this chapter, subject to appropriation. During the 1995-97 fiscal biennium, the legislature may transfer moneys from the account to the extent that the moneys are not necessary for the purposes of this chapter.

At the end of each fiscal year, the attorney general shall prepare a report listing the annual revenue generated and the expenses incurred in implementing and operating the arbitration program under this chapter. [1995 2nd sp.s. c 18 § 910; 1995 c 254 § 7; 1989 c 347 § 7; 1987 c 344 § 9.]

**Severability—1995 2nd sp.s. c 18:** "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." [1995 2nd sp.s. c 18 § 926.]

**Effective date—1995 2nd sp.s. c 18:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions. Section 807 of this act shall take effect immediately [June 16, 1995]. The remainder of the act shall take effect July 1, 1995." [1995 2nd sp.s. c 18 § 927.]

**Effective date—Severability—1995 c 254:** See notes following RCW 19.118.021.

**19.118.170 History of vehicle—Availability to owner.** Notwithstanding RCW 46.12.380, the department of licensing shall make available to the registered owner all title history information regarding the vehicle upon request of the registered owner and receipt of a statement that he or she is investigating or pursuing rights under this chapter. [1995 c 254 § 9.]

**Effective date—Severability—1995 c 254:** See notes following RCW 19.118.021.

## Chapter 19.166

### INTERNATIONAL STUDENT EXCHANGE

#### Sections

19.166.030	Organization registration.
19.166.040	Organization application for registration.

**19.166.030 Organization registration.** (1) All international student exchange visitor placement organizations that place students in public schools in the state shall register with the secretary of state.

(2) Failure to register is a violation of this chapter.

(3) Information provided to the secretary of state under this chapter is a public record.

(4) Registration shall not be considered or be represented as an endorsement of the organization by the secretary of state or the state of Washington.

(5) On a date established by rule by the secretary of state, the secretary of state shall provide annually to the superintendent of public instruction a list of all currently registered international student placement organizations. The superintendent of public instruction shall distribute annually the list of all currently registered international student placement organizations to all Washington state school districts. [1995 c 60 § 1; 1991 c 128 § 3.]

**19.166.040 Organization application for registration.** (1) An application for registration as an international student exchange visitor placement organization shall be submitted in the form prescribed by the secretary of state. The application shall include:

(a) Evidence that the organization meets the standards established by the secretary of state under RCW 19.166.050;

(b) The name, address, and telephone number of the organization, its chief executive officer, and the person within the organization who has primary responsibility for supervising placements within the state;

(c) The organization's unified business identification number, if any;

(d) The organization's United States Information Agency number, if any;

(e) Evidence of council on standards for international educational travel listing, if any;

(f) Whether the organization is exempt from federal income tax; and

(g) A list of the organization's placements in Washington for the previous academic year including the number of students placed, their home countries, the school districts in which they were placed, and the length of their placements.

(2) The application shall be signed by the chief executive officer of the organization and the person within the organization who has primary responsibility for supervising placements within Washington. If the secretary of state determines that the application is complete, the secretary of state shall file the application and the applicant is registered.

(3) International student exchange visitor placement organizations that have registered shall inform the secretary of state of any changes in the information required under subsection (1) of this section within thirty days of the change.

(4) Registration shall be renewed annually as established by rule by the office of the secretary of state. [1995 c 60 § 2; 1991 c 128 § 5.]

**Chapter 19.184**  
**WHEELCHAIRS**

## Sections

19.184.010	Definitions.
19.184.020	Warranty—Implied.
19.184.030	Failure to conform with warranty—Remedy— Disclosure of returned wheelchair.

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

(1) "Collateral costs" means expenses incurred by a consumer in connection with the repair of a nonconformity, including the costs of obtaining an alternative wheelchair or other device assisting mobility.

(2) "Consumer" means any of the following:

(a) The purchaser of a wheelchair, if the wheelchair was purchased from a wheelchair dealer or manufacturer for purposes other than resale;

(b) A person to whom a wheelchair is transferred for purposes other than resale, if the transfer occurs before the expiration of an express warranty applicable to the wheelchair;

(c) A person who may enforce a warranty on a wheelchair; or

(d) A person who leases a wheelchair from a wheelchair lessor under a written lease.

(3) "Demonstrator" means a wheelchair used primarily for the purpose of demonstration to the public.

(4) "Early termination cost" means an expense or obligation that a wheelchair lessor incurs as a result of both the termination of a written lease before the termination date set forth in the lease and the return of a wheelchair to a manufacturer under RCW 19.184.030(2)(b). "Early termination cost" includes a penalty for prepayment under a finance arrangement.

(5) "Early termination savings" means an expense or obligation that a wheelchair lessor avoids as a result of both the termination of a written lease before the termination date set forth in the lease and the return of a wheelchair to a manufacturer under RCW 19.184.030(2)(b). "Early termination savings" includes an interest charge that the wheelchair lessor would have paid to finance the wheelchair or, if the wheelchair lessor does not finance the wheelchair, the difference between the total amount for which the lease obligates the consumer during the period of the lease term remaining after the early termination and the present value of that amount at the date of the early termination.

(6) "Manufacturer" means a person who manufactures or assembles wheelchairs and agents of the person, including an importer, a distributor, factory branch, distributor branch, and a warrantor of the manufacturer's wheelchairs, but does not include a wheelchair dealer.

(7) "Nonconformity" means a condition or defect that substantially impairs the use, value, or safety of a wheelchair, and that is covered by an express warranty applicable to the wheelchair or to a component of the wheelchair, but does not include a condition or defect that is the result of abuse, neglect, or unauthorized modification or alteration of the wheelchair by a consumer.

(8) "Reasonable attempt to repair" means any of the following occurring within the term of an express warranty applicable to a new wheelchair or within one year after first delivery of a wheelchair to a consumer, whichever is sooner:

(a) An attempted repair by the manufacturer, wheelchair lessor, or the manufacturer's authorized dealer is made to the same warranty nonconformity at least four times and the nonconformity continues; or

(b) The wheelchair is out of service for an aggregate of at least thirty days because of warranty nonconformity.

(9) "Wheelchair" means a wheelchair, including a demonstrator, that a consumer purchases or accepts transfer of in this state.

(10) "Wheelchair dealer" means a person who is in the business of selling wheelchairs.

(11) "Wheelchair lessor" means a person who leases a wheelchair to a consumer, or who holds the lessor's rights, under a written lease. [1995 c 14 § 1; 1994 c 104 § 1.]

**19.184.020 Warranty—Implied.** A manufacturer who sells a wheelchair to a consumer, either directly or through a wheelchair dealer, shall furnish the consumer with an express warranty for the wheelchair. The duration of the express warranty must be for at least one year after the first delivery of the wheelchair to the consumer. If the manufacturer fails to furnish an express warranty as required under this section, the wheelchair is covered by an implied warranty as if the manufacturer had furnished an express warranty to the consumer as required under this section. [1995 c 14 § 2; 1994 c 104 § 2.]

**19.184.030 Failure to conform with warranty—Remedy—Disclosure of returned wheelchair.** (1) If a new wheelchair does not conform to an applicable express warranty and the consumer reports the nonconformity to the manufacturer, the wheelchair lessor, or any of the manufacturer's authorized wheelchair dealers and makes the wheelchair available for repair before one year after first delivery of the wheelchair to the consumer, the nonconformity must be repaired.

(2) If, after a reasonable attempt to repair, the nonconformity is not repaired, the manufacturer shall do one of the following, whichever is appropriate:

(a) At the direction of a consumer described under RCW 19.184.010(2) (a), (b), or (c), do one of the following:

(i) Accept return of the wheelchair and replace the wheelchair with a comparable new wheelchair and refund any collateral costs; or

(ii) Accept return of the wheelchair and refund to the consumer and to a holder of a perfected security interest in the consumer's wheelchair, as their interest may appear, the full purchase price plus any finance charge, amount paid by the consumer at the point of sale, and collateral costs, less a reasonable allowance for use. Under this subsection (2)(a)(ii), a reasonable allowance for use may not exceed the amount obtained by multiplying the full purchase price of the wheelchair by a fraction, the denominator of which is one thousand eight hundred twenty-five and the numerator of which is the number of days that the wheelchair was driven before the consumer first reported the nonconformity to the wheelchair dealer; or

(b)(i) For a consumer described in RCW 19.184.010(2)(d), accept return of the wheelchair, refund to the wheelchair lessor and to a holder of a perfected security interest in the wheelchair, as their interest may appear, the current value of the written lease and refund to the consumer the amount that the consumer paid under the written lease plus any collateral costs, less a reasonable allowance for use.

(ii) Under this subsection (2)(b), the current value of the written lease equals the total amount for which the lease obligates the consumer during the period of the lease remaining after its early termination, plus the wheelchair dealer's early termination costs and the value of the wheelchair at the lease expiration date if the lease sets forth the value, less the wheelchair lessor's early termination savings.

(iii) Under this subsection (2)(b), a reasonable allowance for use may not exceed the amount obtained by multiplying the total amount for which the written lease obligates the consumer by a fraction, the denominator of which is one thousand eight hundred twenty-five and the numerator of which is the number of days that the consumer drove the wheelchair before first reporting the nonconformity to the manufacturer, wheelchair lessor, or wheelchair dealer.

(3) To receive a comparable new wheelchair or a refund due under subsection (2)(a) of this section, a consumer described under RCW 19.184.010(2) (a), (b), or (c) shall offer to the manufacturer of the wheelchair having the nonconformity to transfer possession of the wheelchair to the manufacturer. Within thirty days after the offer, the manufacturer shall provide the consumer with a comparable new wheelchair or a refund. When the manufacturer provides a new wheelchair or refund under this subsection, the consumer shall return to the manufacturer the wheelchair having the nonconformity.

(4)(a) To receive a refund due under subsection (2)(b) of this section, a consumer described under RCW 19.184.010(2)(d) shall offer to return the wheelchair having the nonconformity to its manufacturer. Within thirty days after the offer, the manufacturer shall provide the refund to the consumer. When the manufacturer provides the refund, the consumer shall return to the manufacturer the wheelchair having the nonconformity.

(b) To receive a refund due under subsection (2)(b) of this section, a wheelchair lessor shall offer to transfer possession of the wheelchair having the nonconformity to the manufacturer. Within thirty days after the offer, the manufacturer shall provide a refund to the wheelchair lessor. When the manufacturer provides the refund, the wheelchair lessor shall provide to the manufacturer the endorsements necessary to transfer legal possession to the manufacturer.

(c) A person may not enforce the lease against the consumer after the consumer receives a refund due under subsection (2)(b) of this section.

(5) A person may not sell or lease again in this state a wheelchair returned by a consumer or wheelchair lessor in this state under subsection (2) of this section or by a consumer or wheelchair lessor in another state under a similar law of that state, unless full disclosure of the reasons for return is made to a prospective buyer or lessee. [1995 c 14 § 3; 1994 c 104 § 3.]

Title 21

SECURITIES AND INVESTMENTS

Chapters

21.17 Uniform act for simplification of fiduciary security transfers.

21.20 Securities act of Washington.

Chapter 21.17

UNIFORM ACT FOR SIMPLIFICATION OF FIDUCIARY SECURITY TRANSFERS

Sections

21.17.010 through 21.17.090 Repealed.

21.17.900 Repealed.

21.17.910 Repealed.

**21.17.010 through 21.17.090 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**21.17.900 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**21.17.910 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 21.20

SECURITIES ACT OF WASHINGTON

Sections

21.20.060 Contents of application for registration—Capital requirements.

21.20.090 Renewal of registration—Financial reports—Application for a successor.

21.20.270 Reports by filer of statement—Annual financial statements.

21.20.310 Securities exempt from registration.

21.20.340 Fees—Disposition.

21.20.380 Oaths—Subpoenas—Assisting another state—Compelling obedience—Punishment.

21.20.390 Injunction, cease and desist order, restraining order, mandamus—Appointment of receiver or conservator for insolvent—Restitution or damages.

**21.20.060 Contents of application for registration—Capital requirements.** The application shall contain whatever information the director requires concerning such matters as:

- (1) The applicant's form and place of organization;
- (2) The applicant's proposed method of doing business;
- (3) The qualifications and business history of the applicant and in the case of a broker-dealer or investment adviser, any partner, officer, or director;
- (4) Any injunction or administrative order or conviction of a misdemeanor involving a security or any aspect of the securities business and any conviction of a felony;
- (5) The applicant's financial condition and history; and
- (6) The address of the principal place of business of the applicant and the addresses of all branch offices of the applicant in this state.

The director may by rule require a minimum capital for registered broker-dealers and investment advisers or prescribe a ratio between net capital and aggregate indebtedness by type or classification and may by rule allow registrants to maintain a surety bond of appropriate amount as an alternative method of compliance with minimum capital or net capital requirements. [1995 c 46 § 1; 1994 c 256 § 7; 1965 c 17 § 1; 1959 c 282 § 6.]

**Findings—Construction—1994 c 256:** See RCW 43.320.007.

**21.20.090 Renewal of registration—Financial reports—Application for a successor.** Registration of a broker-dealer, salesperson, investment adviser representative, or investment adviser may be renewed by filing with the director or his or her authorized agent prior to the expiration thereof an application containing such information as the director may require to indicate any material change in the information contained in the original application or any renewal application for registration as a broker-dealer, salesperson, investment adviser representative, or investment adviser filed with the director or his or her authorized agent by the applicant, payment of the prescribed fee, and, in the case of a broker-dealer or investment adviser such financial reports as the director may by rule prescribe. A registered broker-dealer or investment adviser may file an application for registration of a successor, and the administrator may at his or her discretion grant or deny the application. [1995 c 46 § 2; 1994 c 256 § 9; 1981 c 272 § 4; 1979 ex.s. c 68 § 6; 1975 1st ex.s. c 84 § 6; 1961 c 37 § 3; 1959 c 282 § 9.]

**Findings—Construction—1994 c 256:** See RCW 43.320.007.

**21.20.270 Reports by filer of statement—Annual financial statements.** (1) The director may require the person who filed the registration statement to file reports, not more often than quarterly to keep reasonably current the information contained in the registration statement and to disclose the progress of the offering with respect to registered securities which (a) are issued by a face-amount certificate company or a redeemable security issued by an open-end management company or unit investment trust as those terms are defined in the investment company act of 1940, or (b) are being offered and sold directly by or for the account of the issuer.

(2) During the period of public offering of securities registered under the provisions of this chapter by qualification financial data or statements corresponding to those required under the provisions of RCW 21.20.210 and to the issuer's fiscal year shall be filed with the director annually, not more than one hundred twenty days after the end of each such year. Such statements at the discretion of the director or administrator shall be certified by a certified public accountant who is not an employee of the issuer, and the director may verify them by examining the issuer's books and records. The certificate of such independent certified public accountant shall be based upon an audit of not less in scope or procedures followed than that which independent public accountants would ordinarily make for the purpose of presenting comprehensive and dependable financial statements, and shall contain such information as the director may prescribe, by rules in the public interest or for the protection of investors, as to the nature and scope of the

audit and the findings and opinions of the accountants. Each such report shall state that such independent certified public accountant has verified securities owned, either by actual examination, or by receipt of a certificate from the custodian, as the director may prescribe by rules. [1995 c 46 § 3; 1975 1st ex.s. c 84 § 14; 1965 c 17 § 3; 1961 c 37 § 7; 1959 c 282 § 27.]

**21.20.310 Securities exempt from registration.** RCW 21.20.140 through 21.20.300, inclusive, do not apply to any of the following securities:

(1) Any security (including a revenue obligation) issued or guaranteed by the United States, any state, any political subdivision of a state, or any agency or corporate or other instrumentality of one or more of the foregoing; or any certificate of deposit for any of the foregoing; but this exemption does not include any security payable solely from revenues to be received from a nongovernmental industrial or commercial enterprise unless such payments are made or unconditionally guaranteed by a person whose securities are exempt from registration by subsections (7) or (8) of this section: PROVIDED, That the director, by rule or order, may exempt any security payable solely from revenues to be received from a nongovernmental industrial or commercial enterprise if the director finds that registration with respect to such securities is not necessary in the public interest and for the protection of investors.

(2) Any security issued or guaranteed by Canada, any Canadian province, any political subdivision of any such province, any agency or corporate or other instrumentality of one or more of the foregoing, or any other foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor; but this exemption does not include any security payable solely from revenues to be received from a nongovernmental industrial or commercial enterprise unless such payments shall be made or unconditionally guaranteed by a person whose securities are exempt from registration by subsections (7) or (8) of this section.

(3) Any security issued by and representing an interest in or a debt of, or guaranteed by, any bank organized under the laws of the United States, or any bank or trust company organized or supervised under the laws of any state.

(4) Any security issued by and representing an interest in or a debt of, or guaranteed by, any federal savings and loan association, or any building and loan or similar association organized under the laws of any state and authorized to do business in this state.

(5) Any security issued by and representing an interest in or a debt of, or guaranteed by, any insurance company organized under the laws of this state and authorized to do and actually doing business in this state.

(6) Any security issued or guaranteed by any federal credit union or any credit union, industrial loan association, or similar association organized and supervised under the laws of this state.

(7) Any security issued or guaranteed by any railroad, other common carrier, public utility, or holding company which is (a) subject to the jurisdiction of the interstate commerce commission; (b) a registered holding company

under the public utility holding company act of 1935 or a subsidiary of such a company within the meaning of that act; (c) regulated in respect of its rates and charges by a governmental authority of the United States or any state or municipality; or (d) regulated in respect of the issuance or guarantee of the security by a governmental authority of the United States, any state, Canada, or any Canadian province; also equipment trust certificates in respect of equipment conditionally sold or leased to a railroad or public utility, if other securities issued by such railroad or public utility would be exempt under this subsection.

(8) Any security which meets the criteria for investment grade securities that the director may adopt by rule.

(9) Any prime quality negotiable commercial paper not intended to be marketed to the general public and not advertised for sale to the general public that is of a type eligible for discounting by federal reserve banks, that arises out of a current transaction or the proceeds of which have been or are to be used for a current transaction, and that evidences an obligation to pay cash within nine months of the date of issuance, exclusive of days of grace, or any renewal of such paper which is likewise limited, or any guarantee of such paper or of any such renewal.

(10) Any security issued in connection with an employee's stock purchase, savings, pension, profit-sharing, or similar benefit plan if: (a) The plan meets the requirements for qualification as a pension, profit sharing, or stock bonus plan under section 401 of the internal revenue code, as an incentive stock option plan under section 422 of the internal revenue code, or as an employee stock purchase plan under section 423 of the internal revenue code; or (b) the director is notified in writing with a copy of the plan thirty days before offering the plan to employees in this state. In the event of late filing of notification the director may upon application, for good cause excuse such late filing if he or she finds it in the public interest to grant such relief.

(11) Any security issued by any person organized and operated as a nonprofit organization as defined in RCW 84.36.800(4) exclusively for religious, educational, fraternal, or charitable purposes and which nonprofit organization also possesses a current tax exempt status under the laws of the United States, which security is offered or sold only to persons who, prior to their solicitation for the purchase of said securities, were members of, contributors to, or listed as participants in, the organization, or their relatives, if such nonprofit organization first files a notice specifying the terms of the offering and the director does not by order disallow the exemption within the next ten full business days: PROVIDED, That no offerings may be made until expiration of the ten full business days. Every such nonprofit organization which files a notice of exemption of such securities shall pay a filing fee as set forth in RCW 21.20.340(11) as now or hereafter amended.

The notice shall consist of the following:

- (a) The name and address of the issuer;
- (b) The names, addresses, and telephone numbers of the current officers and directors of the issuer;
- (c) A short description of the security, price per security, and the number of securities to be offered;
- (d) A statement of the nature and purposes of the organization as a basis for the exemption under this section;

(e) A statement of the proposed use of the proceeds of the sale of the security; and

(f) A statement that the issuer shall provide to a prospective purchaser written information regarding the securities offered prior to consummation of any sale, which information shall include the following statements: (i) "ANY PROSPECTIVE PURCHASER IS ENTITLED TO REVIEW FINANCIAL STATEMENTS OF THE ISSUER WHICH SHALL BE FURNISHED UPON REQUEST."; (ii) "RECEIPT OF NOTICE OF EXEMPTION BY THE WASHINGTON ADMINISTRATOR OF SECURITIES DOES NOT SIGNIFY THAT THE ADMINISTRATOR HAS APPROVED OR RECOMMENDED THESE SECURITIES, NOR HAS THE ADMINISTRATOR PASSED UPON THE OFFERING. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE."; and (iii) "THE RETURN OF THE FUNDS OF THE PURCHASER IS DEPENDENT UPON THE FINANCIAL CONDITION OF THE ORGANIZATION."

(12) Any charitable gift annuities issued by a board of a state university, regional university, or of the state college.

(13) Any charitable gift annuity issued by an insurer or institution holding a certificate of exemption under RCW 48.38.010. [1995 c 46 § 4; 1994 c 256 § 18; 1981 c 272 § 5; 1979 ex.s. c 68 § 20; 1979 c 130 § 4; 1979 c 8 § 1. Prior: 1977 ex.s. c 188 § 2; 1977 ex.s. c 172 § 1; 1975 1st ex.s. c 84 § 16; 1959 c 282 § 31.]

**Findings—Construction—1994 c 256:** See RCW 43.320.007.

**Severability—1979 c 130:** See note following RCW 28B.10.485.

**21.20.340 Fees—Disposition.** The following fees shall be paid in advance under the provisions of this chapter:

(1) For registration of securities by qualification, the fee shall be one hundred dollars for the first one hundred thousand dollars of initial issue, or portion thereof in this state, based on offering price, plus one-twentieth of one percent for any excess over one hundred thousand dollars which are to be offered during that year: PROVIDED, HOWEVER, That an issuer may upon the payment of a fifty dollar fee renew for one additional twelve-month period only the unsold portion for which the registration fee has been paid.

(2) For registration by coordination of securities issued by an investment company, other than a closed-end company, as those terms are defined in the Investment Company Act of 1940, the fee shall be one hundred dollars for the first one hundred thousand dollars of initial issue, or portion thereof in this state, based on offering price, plus one-twentieth of one percent for any excess over one hundred thousand dollars which are to be offered in this state during that year: PROVIDED, HOWEVER, That an issuer may upon the payment of a fifty dollar fee renew for an additional twelve-month period the unsold portion for which the registration fee has been paid.

(3) For registration by coordination of securities not covered by subsection (2) of this section, the initial filing fee shall be one hundred dollars for the first one hundred thousand dollars of initial issue, or portion thereof in this state, based on offering price, plus one-fortieth of one percent for any excess over one hundred thousand dollars for the first twelve-month period plus one hundred dollars for

each additional twelve months in which the same offering is continued.

(4) For filing annual financial statements, the fee shall be twenty-five dollars.

(5)(a) For filing an amended offering circular after the initial registration permit has been granted the fee shall be ten dollars.

(b) For filing a report under RCW 21.20.270(1) the fee shall be ten dollars.

(6) For registration of a broker-dealer or investment adviser, the fee shall be one hundred fifty dollars for original registration and seventy-five dollars for each annual renewal. When an application is denied or withdrawn the director shall retain one-half of the fee.

(7) For registration of a salesperson or investment adviser representative, the fee shall be forty dollars for original registration with each employer and twenty dollars for each annual renewal. When an application is denied or withdrawn the director shall retain one-half of the fee.

(8) If a registration of a broker-dealer, salesperson, investment adviser, or investment adviser representative is not renewed on or before December 31st of each year the renewal is delinquent. The director by rule or order may set and assess a fee for delinquency not to exceed two hundred dollars. Acceptance by the director of an application for renewal after December 31st is not a waiver of delinquency. A delinquent application for renewal will not be accepted for filing after March 1st.

(9)(a) For the transfer of a broker-dealer license to a successor, the fee shall be fifty dollars.

(b) For the transfer of a salesperson license from a broker-dealer or issuer to another broker-dealer or issuer, the transfer fee shall be twenty-five dollars.

(c) For the transfer of an investment adviser representative license from an investment adviser to another investment adviser, the transfer fee shall be twenty-five dollars.

(d) For the transfer of an investment adviser license to a successor, the fee shall be fifty dollars.

(10) The director may provide by rule for the filing of notice of claim of exemption under RCW 21.20.320 (1), (9), and (17) and set fees accordingly not to exceed three hundred dollars.

(11) For filing of notification of claim of exemption from registration pursuant to RCW 21.20.310(11), as now or hereafter amended, the fee shall be fifty dollars for each filing.

(12) For rendering interpretative opinions, the fee shall be thirty-five dollars.

(13) For certified copies of any documents filed with the director, the fee shall be the cost to the department.

(14) For a duplicate license the fee shall be five dollars.

All fees collected under this chapter shall be turned in to the state treasury and are not refundable, except as herein provided. [1995 c 46 § 5; 1994 c 256 § 20; 1988 c 244 § 17; 1986 c 90 § 2; 1981 c 272 § 7; 1979 ex.s. c 68 § 24. Prior: 1977 ex.s. c 188 § 4; 1977 ex.s. c 172 § 3; 1975 1st ex.s. c 84 § 20; 1974 ex.s. c 77 § 8; 1965 c 17 § 4; 1961 c 37 § 9; 1959 c 282 § 34.]

**Findings—Construction—1994 c 256:** See RCW 43.320.007.

**Severability—Effective date—Implementation—Application—1988 c 244:** See notes following RCW 21.20.700.

**Effective date—1986 c 90:** See note following RCW 21.20.320.

**Effective date—1974 ex.s. c 77:** See note following RCW 21.20.040.

**Effective date—1965 c 17:** "Section 4 of this amendatory act shall take effect July 1, 1965." [1965 c 17 § 6.]

**21.20.380 Oaths—Subpoenas—Assisting another state—Compelling obedience—Punishment.** (1) For the purpose of any investigation or proceeding under this chapter, the director or any officer designated by the director may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the director deems relevant or material to the inquiry.

(2) If the activities constituting an alleged violation for which the information is sought would be a violation of this chapter had the activities occurred in this state, the director may issue and apply to enforce subpoenas in this state at the request of a securities agency or administrator of another state.

(3) In case of disobedience on the part of any person to comply with any subpoena lawfully issued by the director, or on the refusal of any witness to testify to any matters regarding which the witness may be lawfully interrogated, a court of competent jurisdiction of any county or the judge thereof, on application of the director, and after satisfactory evidence of wilful disobedience, may compel obedience by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such a court on a refusal to testify therein. [1995 c 46 § 6; 1994 c 256 § 22; 1979 ex.s. c 68 § 26; 1975 1st ex.s. c 84 § 22; 1974 ex.s. c 77 § 9; 1959 c 282 § 38.]

**Findings—Construction—1994 c 256:** See RCW 43.320.007.

**Effective date—1974 ex.s. c 77:** See note following RCW 21.20.040.

**21.20.390 Injunction, cease and desist order, restraining order, mandamus—Appointment of receiver or conservator for insolvent—Restitution or damages.** Whenever it appears to the director that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this chapter or any rule or order hereunder, the director may in his or her discretion:

(1) Issue an order directing the person to cease and desist from continuing the act or practice and to take appropriate affirmative action within a reasonable period of time, as prescribed by the director, to correct conditions resulting from the act or practice including, without limitation, a requirement to provide restitution: PROVIDED, That reasonable notice of and opportunity for a hearing shall be given: PROVIDED, FURTHER, That the director may issue a temporary order pending the hearing which shall remain in effect until ten days after the hearing is held and which shall become final if the person to whom notice is addressed does not request a hearing within fifteen days after the receipt of notice; or

(2) The director may without issuing a cease and desist order, bring an action in any court of competent jurisdiction to enjoin any such acts or practices and to enforce compliance with this chapter or any rule or order hereunder. The court may grant such ancillary relief as it deems appropriate. Upon a proper showing a permanent or temporary injunction, restraining order, or writ of mandamus shall be granted and

a receiver or conservator may be appointed for the defendant or the defendant's assets. The director may not be required to post a bond. If the director prevails, the director shall be entitled to a reasonable attorney's fee to be fixed by the court.

(3) Whenever it appears to the director that any person who has received a permit to issue, sell, or otherwise dispose of securities under this chapter, whether current or otherwise, has become insolvent, the director may petition a court of competent jurisdiction to appoint a receiver or conservator for the defendant or the defendant's assets. The director may not be required to post a bond.

(4) The director may bring an action for restitution or damages on behalf of the persons injured by a violation of this chapter, if the court finds that private civil action would be so burdensome or expensive as to be impractical. [1995 c 46 § 7; 1994 c 256 § 23; 1981 c 272 § 8; 1979 ex.s. c 68 § 27; 1975 1st ex.s. c 84 § 23; 1974 ex.s. c 77 § 10; 1959 c 282 § 39.]

**Findings—Construction—1994 c 256:** See RCW 43.320.007.

**Effective date—1974 ex.s. c 77:** See note following RCW 21.20.040.

## Title 23B

### WASHINGTON BUSINESS CORPORATION ACT

#### Chapters

- 23B.01** General provisions.
- 23B.07** Shareholders.
- 23B.08** Directors and officers.
- 23B.14** Dissolution.

#### Chapter 23B.01

#### GENERAL PROVISIONS

##### Sections

23B.01.400 Definitions.

**23B.01.400 Definitions.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this title.

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

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

(3) "Conspicuous" means so written that a reasonable person against whom the writing is to operate should have noticed it. For example, printing in italics or boldface or contrasting color, or typing in capitals or underlined, is conspicuous.

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

(5) "Deliver" includes (a) mailing and (b) for purposes of delivering a demand, consent, or waiver to the corporation or one of its officers, transmission by facsimile equipment.

(6) "Distribution" means a direct or indirect transfer of money or other property, except its own shares, or

incurrence of indebtedness by a corporation to or for the benefit of its shareholders in respect to any of its shares. A distribution may be in the form of a declaration or payment of a dividend; a distribution in partial or complete liquidation, or upon voluntary or involuntary dissolution; a purchase, redemption, or other acquisition of shares; a distribution of indebtedness; or otherwise.

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

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

(9) "Entity" includes a corporation and foreign corporation, not-for-profit corporation, profit and not-for-profit unincorporated association, business trust, estate, partnership, trust, and two or more persons having a joint or common economic interest, and the state, United States, and a foreign government.

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

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

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

(13) "Includes" denotes a partial definition.

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

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

(16) "Means" denotes an exhaustive definition.

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

(18) "Person" includes an individual and an entity.

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

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

(21) "Public company" means a corporation that has a class of shares registered with the federal securities and exchange commission pursuant to section 12 of the securities exchange act of 1934, or section 8 of the investment company act of 1940, or any successor statute, and that has more than three hundred holders of record of its shares.

(22) "Record date" means the date established under chapter 23B.07 RCW on which a corporation determines the identity of its shareholders and their shareholdings for purposes of this title. The determinations shall be made as of the close of business on the record date unless another time for doing so is specified when the record date is fixed.

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

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

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

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

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

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

(29) "Voting group" means all shares of one or more classes or series that under the articles of incorporation or this title are entitled to vote and be counted together collectively on a matter at a meeting of shareholders. All shares entitled by the articles of incorporation or this title to vote generally on the matter are for that purpose a single voting group. [1995 c 47 § 1. Prior: 1991 c 269 § 35; 1991 c 72 § 28; 1989 c 165 § 14.]

## Chapter 23B.07 SHAREHOLDERS

### Sections

23B.07.320      Agreements among shareholders—Acquisition of shares after agreement.

**23B.07.320 Agreements among shareholders—Acquisition of shares after agreement.** (1) An agreement among the shareholders of a corporation that is not contrary to public policy and that complies with this section is effective among the shareholders and the corporation even though it is inconsistent with one or more other provisions of this title in that it:

(a) Eliminates the board of directors or restricts the discretion or powers of the board of directors;

(b) Governs the authorization or making of distributions whether or not in proportion to ownership of shares, subject to the limitations in RCW 23B.06.400;

(c) Establishes who shall be directors or officers of the corporation, or their terms of office or manner of selection or removal;

(d) Governs, in general or in regard to specific matters, the exercise or division of voting power by or between the shareholders and directors or by or among any of them, including use of weighted voting rights or director proxies;

(e) Establishes the terms and conditions of any agreement for the transfer or use of property or the provision of services between the corporation and any shareholder, director, officer, or employee of the corporation or among any of them;

(f) Transfers to one or more shareholders or other persons all or part of the authority to exercise the corporate powers or to manage the business and affairs of the corporation;

(g) Provides a process by which a deadlock among directors or shareholders may be resolved;

(h) Requires dissolution of the corporation at the request of one or more shareholders or upon the occurrence of a specified event or contingency; or

(i) Otherwise governs the exercise of the corporate powers or the management of the business and affairs of the corporation or the relationship among the shareholders, the directors, and the corporation, or among any of them.

(2) An agreement authorized by this section shall be:

(a) Set forth in a written agreement that is signed by all persons who are shareholders at the time of the agreement and is made known to the corporation;

(b) Subject to amendment only by all persons who are shareholders at the time of the amendment, unless the agreement provides otherwise; and

(c) Valid for ten years, unless the agreement provides otherwise.

(3) The existence of an agreement authorized by this section shall be noted conspicuously on the front or back of each certificate for outstanding shares or on the information statement required by RCW 23B.06.260(2). If at the time of the agreement the corporation has shares outstanding represented by certificates, the corporation shall recall the outstanding certificates and issue substitute certificates that comply with this subsection. The failure to note the existence of the agreement on the certificate or information statement shall not affect the validity of the agreement or any action taken pursuant to it. Unless the agreement provides otherwise, any person who acquires outstanding or newly issued shares in the corporation after an agreement authorized by this section has been effected, whether by purchase, gift, operation of law, or otherwise, is deemed to have assented to the agreement and to be a party to the agreement. A purchaser of shares who is aggrieved because he or she at the time of purchase did not have actual or constructive knowledge of the existence of the agreement may either: (a) Bring an action to rescind the purchase within the earlier of ninety days after discovery of the existence of the agreement or two years after the purchase of the shares; or (b) continue to hold the shares subject to the agreement but with a right of action for any damages resulting from nondisclosure of the existence of the agreement. A purchaser shall be deemed to have constructive knowledge of the existence of the agreement if its existence is noted on the certificate or information statement for the shares in compliance with this subsection and, if the shares are not represented by a certificate, the information statement is delivered to the purchaser at or prior to the time of purchase of the shares.

(4) An agreement authorized by this section shall cease to be effective when shares of the corporation are listed on a national securities exchange or regularly traded in a market maintained by one or more members of a national or affiliated securities association.

(5) An agreement authorized by this section that limits the discretion or powers of the board of directors shall relieve the directors of, and impose upon the person or persons in whom such discretion or powers are vested, liability for acts or omissions imposed by law on directors to the extent that the discretion or powers of the directors are limited by the agreement.



(6) The existence or performance of an agreement authorized by this section shall not be a ground for imposing personal liability on any shareholder for the acts or debts of the corporation even if the agreement or its performance treats the corporation as if it were a partnership or results in failure to observe the corporate formalities otherwise applicable to the matters governed by the agreement.

(7) Incorporators or subscribers for shares may act as shareholders with respect to an agreement authorized by this section if no shares have been issued when the agreement is made. [1995 c 47 § 6; 1993 c 290 § 4.]

### Chapter 23B.08

#### DIRECTORS AND OFFICERS

##### Sections

23B.08.080 Removal of directors by shareholders.

##### **23B.08.080 Removal of directors by shareholders.**

(1) The shareholders may remove one or more directors with or without cause unless the articles of incorporation provide that directors may be removed only for cause.

(2) If a director is elected by holders of one or more authorized classes or series of shares, only the holders of those classes or series of shares may participate in the vote to remove the director.

(3) If cumulative voting is authorized, and if less than the entire board is to be removed, no director may be removed if the number of votes sufficient to elect the director under cumulative voting is voted against the director's removal. If cumulative voting is not authorized, a director may be removed only if the number of votes cast to remove the director exceeds the number of votes cast not to remove the director.

(4) A director may be removed by the shareholders only at a special meeting called for the purpose of removing the director and the meeting notice must state that the purpose, or one of the purposes, of the meeting is removal of the director. [1995 c 47 § 7; 1989 c 165 § 87.]

### Chapter 23B.14

#### DISSOLUTION

##### Sections

23B.14.220 Reinstatement following administrative dissolution—Application.  
 23B.14.300 Judicial dissolution—Grounds.  
 23B.14.330 Decree of dissolution—Other orders, decrees, and injunctions—Revenue clearance certificate.  
 23B.14.340 Survival of remedy after dissolution.  
 23B.14.390 Secretary of state—List of dissolved corporations.

**23B.14.220 Reinstatement following administrative dissolution—Application.** (1) A corporation administratively dissolved under RCW 23B.14.210 may apply to the secretary of state for reinstatement within five years after the effective date of dissolution. The application must:

(a) Recite the name of the corporation and the effective date of its administrative dissolution;

(b) State that the ground or grounds for dissolution either did not exist or have been eliminated; and

(c) State that the corporation's name satisfies the requirements of RCW 23B.04.010.

(2) If the secretary of state determines that the application contains the information required by subsection (1) of this section and that the name is available, the secretary of state shall reinstate the corporation and give the corporation written notice of the reinstatement that recites the effective date of reinstatement. If the name is not available, the corporation must file articles of amendment changing its name with its application for reinstatement.

(3) When the reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative dissolution and the corporation resumes carrying on its business as if the administrative dissolution had never occurred.

(4) The application must be authorized either by action of the shareholders, or of the corporation's board of directors, membership in both groups determined as of the date of administrative dissolution. If vacancies in the board of directors occur after the date of dissolution, the shareholders, or the remaining directors, even if less than a quorum of the board, may fill the vacancies. A special meeting of the shareholders for purposes of authorizing the application for reinstatement, or for purposes of electing directors, may be called by any person who was an officer, director, or shareholder of the corporation at the time of administrative dissolution. [1995 c 47 § 2; 1989 c 165 § 162.]

**23B.14.300 Judicial dissolution—Grounds.** The superior courts may dissolve a corporation:

(1) In a proceeding by the attorney general if it is established that:

(a) The corporation obtained its articles of incorporation through fraud; or

(b) The corporation has continued to exceed or abuse the authority conferred upon it by law;

(2) In a proceeding by a shareholder if it is established that:

(a) The directors are deadlocked in the management of the corporate affairs, the shareholders are unable to break the deadlock, and irreparable injury to the corporation is threatened or being suffered, or the business and affairs of the corporation can no longer be conducted to the advantage of the shareholders generally, because of the deadlock;

(b) The directors or those in control of the corporation have acted, are acting, or will act in a manner that is illegal, oppressive, or fraudulent;

(c) The shareholders are deadlocked in voting power and have failed, for a period that includes at least two consecutive annual meeting dates, to elect successors to directors whose terms have expired, and irreparable injury to the corporation is threatened or being suffered, or the business and affairs of the corporation can no longer be conducted to the advantage of the shareholders generally, because of the deadlock;

(d) The corporate assets are being misapplied or wasted; or

(e) The corporation has ceased all business activity and has failed, within a reasonable time, to dissolve, to liquidate its assets, or to distribute its remaining assets among its shareholders;

(3) In a proceeding by a creditor if it is established that:

(a) The creditor's claim has been reduced to judgment, the execution on the judgment was returned unsatisfied, and the corporation is insolvent; or

(b) The corporation has admitted in writing that the creditor's claim is due and owing and the corporation is insolvent; or

(4) In a proceeding by the corporation to have its voluntary dissolution continued under court supervision. [1995 c 47 § 3; 1993 c 290 § 3; 1989 c 165 § 163.]

**23B.14.330 Decree of dissolution—Other orders, decrees, and injunctions—Revenue clearance certificate.**

(1) If after a hearing the court determines that one or more grounds for judicial dissolution described in RCW 23B.14.300 exist, it may enter a decree dissolving the corporation and specifying the effective date of the dissolution, or, with or without ordering dissolution, may make such other orders and decrees and issue such injunctions in the case as justice and equity require.

(2) The court shall not enter or sign any decree of dissolution until it receives a copy of a revenue clearance certificate for the corporation issued pursuant to RCW 82.32.260.

(3) If the court enters a decree of dissolution, the petitioner or moving party shall deliver a certified copy of the decree and a copy of the revenue clearance certificate to the secretary of state, who shall file them. The court shall then direct the winding up and liquidation of the corporation's business and affairs in accordance with RCW 23B.14.050. [1995 c 47 § 4; 1989 c 165 § 166.]

**23B.14.340 Survival of remedy after dissolution.**

The dissolution of a corporation either: (1) By the filing by the secretary of state of its articles of dissolution, (2) by administrative dissolution by the secretary of state, (3) by a decree of court, or (4) by expiration of its period of duration shall not take away or impair any remedy available against such corporation, its directors, officers, or shareholders, for any right or claim existing, or any liability incurred, prior to such dissolution if action or other proceeding thereon is commenced within two years after the date of such dissolution. Any such action or proceeding against the corporation may be defended by the corporation in its corporate name. [1995 c 47 § 5; 1990 c 178 § 6; 1989 c 165 § 167.]

**Effective date—1990 c 178:** See note following RCW 23B.01.220.

**23B.14.390 Secretary of state—List of dissolved corporations.** On the first day of each month, the secretary of state shall prepare a list of corporations dissolved during the preceding month pursuant to RCW 23B.14.030, 23B.14.210, and 23B.14.330. [1995 c 47 § 8.]

## Title 24

### CORPORATIONS AND ASSOCIATIONS (NONPROFIT)

## Chapters

**24.06 Nonprofit miscellaneous and mutual corporations act.**

**24.46 Foreign trade zones.**

### Chapter 24.06

#### NONPROFIT MISCELLANEOUS AND MUTUAL CORPORATIONS ACT

##### Sections

24.06.045 Corporate name.

**24.06.045 Corporate name.** The corporate name:

(1) Shall not contain any word or phrase which indicates or implies that it is organized for any purpose other than one or more of the purposes contained in its articles of incorporation.

(2) Shall not be the same as, or deceptively similar to, the name of any corporation existing under any act of this state, or any foreign corporation authorized to transact business or conduct affairs in this state under any act of this state, or the name of any limited liability company organized or authorized to transact business under any act of this state, the name of a domestic or foreign limited partnership on file with the secretary, or a corporate name reserved or registered as permitted by the laws of this state. This subsection shall not apply if the applicant files with the secretary of state either of the following: (a) The written consent of the other corporation, limited liability company, limited partnership, or holder of a reserved name to use the same or deceptively similar name and one or more words are added or deleted to make the name distinguishable from the other name as determined by the secretary of state, or (b) a certified copy of a final decree of a court of competent jurisdiction establishing the prior right of the applicant to the use of the name in this state.

(3) Shall be transliterated into letters of the English alphabet if it is not in English.

(4) The name of any corporation formed under this section shall not include nor end with "incorporated", "company", or "corporation" or any abbreviation thereof, but may use "club", "league", "association", "services", "committee", "fund", "society", "foundation", ". . . . .", a nonprofit mutual corporation", or any name of like import. [1995 c 337 § 22; 1994 c 211 § 1307; 1987 c 55 § 41; 1982 c 35 § 121; 1973 c 113 § 1; 1969 ex.s. c 120 § 9.]

**Effective date—1995 c 337:** See note following RCW 25.04.700.

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

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

*Corporate name of foreign corporation: RCW 24.06.350.*

### Chapter 24.46

#### FOREIGN TRADE ZONES

##### Sections

24.46.010 Legislative finding—Intent.

**24.46.010 Legislative finding—Intent.** It is the finding of the legislature that foreign trade zones serve an important public purpose by the creation of employment opportunities within the state and that the establishment of zones designed to accomplish this purpose is to be encouraged. It is the further intent of the legislature that the department of community, trade, and economic development provide assistance to entities planning to apply to the United States for permission to establish such zones. [1995 c 399 § 12; 1985 c 466 § 39; 1977 ex.s. c 196 § 1.]

**Effective date—Severability—1985 c 466:** See notes following RCW 43.31.085.

**Effective date—1977 ex.s. c 196:** "This 1977 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1977." [1977 ex.s. c 196 § 8.]

## Title 25 PARTNERSHIPS

### Chapters

- 25.04 General partnerships.**  
**25.15 Limited liability companies.**

### Chapter 25.04 GENERAL PARTNERSHIPS

#### Sections

#### LIMITED LIABILITY PARTNERSHIPS

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| 25.04.700 | Subchapter application.  |
| 25.04.705 | Definitions.   |
| 25.04.710 | Registration—Application—Fee—Forms.  |
| 25.04.715 | Name.  |
| 25.04.720 | Rendering professional services.   |
| 25.04.725 | Formation under this chapter—Formation under the laws of another jurisdiction—Intent.                            |
| 25.04.730 | Nature of partner's liability—Legal proceedings—Financial responsibility for providers of professional services. |
| 25.04.735 | Rights and duties of the partners.   |
| 25.04.740 | Dissolution—Caused by the act, death, or bankruptcy of a partner—Liability of partners.                          |
| 25.04.745 | Dissolution—Discharge of existing liabilities—Property of deceased partner.                                      |
| 25.04.750 | Dissolution—Settling accounts—Order of liabilities—Partner's contribution—Deceased partner—Bankrupt partner.     |

#### LIMITED LIABILITY PARTNERSHIPS

**25.04.700 Subchapter application.** This subchapter applies to limited liability partnerships. All other provisions of this chapter, not in conflict with this subchapter, also apply. [1995 c 337 § 1.]

**Effective date—1995 c 337:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995." [1995 c 337 § 23.]

**25.04.705 Definitions.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this subchapter.

(1) "Limited liability partnership" or "partnership" means a partnership formed pursuant to an agreement governed by the laws of this state, registered under RCW 25.04.725.

(2) "Foreign limited liability partnership" means a limited liability partnership formed pursuant to an agreement governed by the laws of another jurisdiction. [1995 c 337 § 2.]

**Effective date—1995 c 337:** See note following RCW 25.04.700.

#### 25.04.710 Registration—Application—Fee—Forms.

(1) To become and to continue as a limited liability partnership, a partnership shall file with the secretary of state an application stating the name of the partnership; the address of its principal office; if the partnership's principal office is not located in this state, the address of a registered office and the name and address of a registered agent for service of process in this state which the partnership will be required to maintain; the number of partners; a brief statement of the business in which the partnership engages; any other matters that the partnership determines to include; and that the partnership thereby applies for status as a limited liability partnership.

(2) The application shall be executed by a majority in interest of the partners or by one or more partners authorized to execute an application.

(3) The application shall be accompanied by a fee of one hundred seventy-five dollars for each partnership.

(4) The secretary of state shall register as a limited liability partnership any partnership that submits a completed application with the required fee.

(5) A partnership registered under this section shall pay an annual fee, in each year following the year in which its application is filed, on a date and in an amount specified by the secretary of state. The fee must be accompanied by a notice, on a form provided by the secretary of state, of the number of partners currently in the partnership and of any material changes in the information contained in the partnership's application for registration.

(6) Registration is effective immediately after the date an application is filed, and remains effective until: (a) It is voluntarily withdrawn by filing with the secretary of state a written withdrawal notice executed by a majority in interest of the partners or by one or more partners authorized to execute a withdrawal notice; or (b) thirty days after receipt by the partnership of a notice from the secretary of state, which notice shall be sent by certified mail, return receipt requested, that the partnership has failed to make timely payment of the annual fee specified in subsection (5) of this section, unless the fee is paid within such a thirty-day period.

(7) The status of a partnership as a limited liability partnership, and the liability of the partners thereof, shall not be affected by: (a) Errors in the information stated in an application under subsection (1) of this section or a notice under subsection (5) of this section; or (b) changes after the filing of such an application or notice in the information stated in the application or notice.

(8) The secretary of state may provide forms for the application under subsection (1) of this section or a notice under subsection (5) of this section. [1995 c 337 § 3.]

**Effective date—1995 c 337:** See note following RCW 25.04.700.

**25.04.715 Name.** The name of a limited liability partnership shall contain the words "limited liability partnership" or the abbreviation "L.L.P." or "LLP" as the last words or letters of its name. [1995 c 337 § 4.]

**Effective date—1995 c 337:** See note following RCW 25.04.700.

**25.04.720 Rendering professional services.** A person or group of persons licensed or otherwise legally authorized to render professional services, as defined in RCW 18.100.030, within this state may organize and become a member or members of a limited liability partnership under the provisions of this chapter for the purposes of rendering professional service. Nothing in this section prohibits a person duly licensed or otherwise legally authorized to render professional services in any jurisdiction other than this state from becoming a member of a limited liability partnership organized for the purpose of rendering the same professional services. Nothing in this section prohibits a limited liability partnership from rendering professional services outside this state through individuals who are not duly licensed or otherwise legally authorized to render such professional services within this state. [1995 c 337 § 5.]

**Effective date—1995 c 337:** See note following RCW 25.04.700.

**25.04.725 Formation under this chapter—Formation under the laws of another jurisdiction—Intent.** (1) A limited liability partnership formed and existing under this chapter, may conduct its business, carry on its operations, and have and exercise the powers granted by this chapter in any state, territory, district, or possession of the United States or in any foreign country.

(2) It is the intent of the legislature that the legal existence of a limited liability partnership formed and existing under this chapter be recognized outside the boundaries of this state and that the laws of this state governing a limited liability partnership transacting business outside this state be granted the protection of full faith and credit under the Constitution of the United States.

(3) The internal affairs of a partnership, including a limited liability partnership formed and existing under this chapter, including the liability of partners for debts, obligations, and liabilities of or chargeable to the partnership, shall be subject to and governed by the laws of this state.

(4) Subject to any statutes for the regulation and control of specific types of business, a foreign limited liability partnership, formed and existing under the laws of another jurisdiction, may do business in this state provided it registers with the secretary of state under this chapter in the same manner as a limited liability partnership.

(5) It is the policy of this state that the internal affairs of a foreign limited liability partnership, including the liability of partners for debts, obligations, and liabilities of or chargeable to partnerships, shall be subject to and governed by the laws of such other jurisdiction. However, a foreign limited liability partnership formed and existing under the laws of another jurisdiction is subject to RCW 25.04.730 if it renders professional services, as defined in RCW 18.100.030, in this state. [1995 c 337 § 6.]

**Effective date—1995 c 337:** See note following RCW 25.04.700.

**25.04.730 Nature of partner's liability—Legal proceedings—Financial responsibility for providers of professional services.** (1) Except as provided in subsection (2) of this section, all partners are liable:

(a) Jointly and severally for everything chargeable to the partnership under RCW 25.04.130 and 25.04.140; and

(b) Jointly for all other debts and obligations of the partnership; but any partner may enter into a separate obligation to perform a partnership contract;

(c) Except that:

(i) In no event shall a trustee or personal representative, a fiduciary, acting as a partner have personal liability except as provided in RCW 11.98.110 (2) and (4);

(ii) Any such liability under this section shall be satisfied first from the partnership assets and second from the trust or estate; and

(iii) If a fiduciary is liable, the fiduciary is entitled to indemnification first from the partnership assets and second from the trust or estate.

(2) Subject to subsections (3) and (5) of this section, a partner in a limited liability partnership is not liable directly or indirectly, including by way of indemnification, contribution, assessment, or otherwise for debts, obligations, and liabilities of or chargeable to the partnership, whether in tort, contract or otherwise, arising from omissions, negligence, wrongful acts, misconduct, or malpractice committed in the course of the partnership business by another partner or an employee, agent, or representative of the partnership.

(3) Subsection (2) of this section shall not affect the liability of a partner in a limited liability partnership for his or her own omissions, negligence, wrongful acts, misconduct, or malpractice or that of any person under his or her direct supervision and control.

(4) A partner in a limited liability partnership is not a proper party to a proceeding by or against a limited liability partnership, the object of which is to recover damages or enforce the obligations arising from omissions, negligence, wrongful acts, misconduct, or malpractice described in subsection (2) of this section, unless such partner is personally liable under subsection (3) or (5) of this section.

(5) If the partners of a limited liability partnership or foreign limited liability partnership are required to be licensed to provide professional services, as defined in RCW 18.100.030, and the partnership fails to maintain for itself and for its members practicing in this state a policy of professional liability insurance, bond, deposit in trust, bank escrow of cash, bank certificates of deposit, United States Treasury obligations, bank letter of credit, insurance company bond, or other evidence of financial responsibility of a kind designated by rule by the state insurance commissioner and in the amount of at least one million dollars or such greater amount, not to exceed three million dollars, as the state insurance commissioner may establish by rule for a licensed profession or for any specialty within a profession, taking into account the nature and size of the businesses within the profession or specialty, then the partners shall be personally liable to the extent that, had such insurance, bond, deposit in trust, bank escrow of cash, bank certificates of deposit, United States Treasury obligations, bank letter of credit, insurance company bond, or other evidence of responsibility been maintained, it would have covered the liability in question. [1995 c 337 § 7.]

**Effective date—1995 c 337:** See note following RCW 25.04.700.

**25.04.735 Rights and duties of the partners.** The rights and duties of the partners in relation to the partnership shall be determined, subject to any agreement between them, by the following rules:

(1) Each partner shall be repaid his or her contributions, whether by way of capital or advances to the partnership property and share equally in the profits and surplus remaining after all liabilities, including those to partners, are satisfied; and except as provided in RCW 25.04.730(2), each partner must contribute toward the losses, whether of capital or otherwise, sustained by the partnership according to his or her share in the profits.

(2) The partnership must indemnify every partner in respect of payments made and personal liabilities reasonably incurred by him or her in the ordinary and proper conduct of its business, or for the preservation of its business or property.

(3) A partner, who in aid of the partnership makes any payment or advance beyond the amount of capital which he or she agreed to contribute, shall be paid interest from the date of the payment or advance.

(4) A partner shall receive interest on the capital contributed by him or her only from the date when repayment should be made.

(5) All partners have equal rights in the management and conduct of the partnership business.

(6) No partner is entitled to remuneration for acting in the partnership business, except that a surviving partner is entitled to reasonable compensation for his or her services in winding up the partnership affairs.

(7) No person can become a member of a partnership without the consent of all the partners.

(8) Any difference arising as to ordinary matters connected with the partnership business may be decided by a majority of the partners; but no act in contravention of any agreement between the partners may be done rightfully without the consent of all the partners. [1995 c 337 § 8.]

**Effective date—1995 c 337:** See note following RCW 25.04.700.

**25.04.740 Dissolution—Caused by the act, death, or bankruptcy of a partner—Liability of partners.** Where a dissolution is caused by the act, death, or bankruptcy of a partner, each partner is liable to his or her copartners for his or her share of any liability created by any partner acting for the partnership as if the partnership had not been dissolved unless:

(1) The dissolution being by [the] act of any partner, the partner acting for the partnership had knowledge of the dissolution; or

(2) The dissolution being by the death or bankruptcy of a partner, the partner acting for the partnership had knowledge or notice of the death or bankruptcy; or

(3) The liability is for a debt, obligation, or liability for which the partner is not liable as provided in RCW 25.04.730(2). [1995 c 337 § 9.]

**Effective date—1995 c 337:** See note following RCW 25.04.700.

**25.04.745 Dissolution—Discharge of existing liabilities—Property of deceased partner.** (1) The dissolu-

tion of the partnership does not of itself discharge the existing liability of any partner.

(2) A partner is discharged from any existing liability upon dissolution of the partnership by an agreement to that effect between himself or herself, the partnership creditor and the person or partnership continuing the business; and such agreement may be inferred from the course of dealing between the creditor having knowledge of the dissolution and the person or partnership continuing the business.

(3) Where a person agrees to assume the existing obligations of a dissolved partnership, the partners whose obligations have been assumed shall be discharged from any liability to any creditor of the partnership who, knowing of the agreement, consents to a material alteration in the nature or time of payment of such obligations.

(4) The individual property of a deceased partner shall be liable for those obligations of the partnership incurred while he or she was a partner and for which he or she was liable under RCW 25.04.730, but subject to the prior payment of his or her separate debts. [1995 c 337 § 10.]

**Effective date—1995 c 337:** See note following RCW 25.04.700.

**25.04.750 Dissolution—Settling accounts—Order of liabilities—Partner's contribution—Deceased partner—Bankrupt partner.** In settling accounts between the partners after dissolution, the following rules shall be observed, subject to any agreement to the contrary:

(1) The assets of the partnership are:

(a) The partnership property;

(b) The contributions of the partners specified in subsection (4) of this section.

(2) The liabilities of the partnership shall rank in order of payment, as follows:

(a) Those owing to creditors other than partners;

(b) Those owing to partners other than for capital and profits;

(c) Those owing to partners in respect of capital;

(d) Those owing to partners in respect of profits.

(3) The assets shall be applied in the order of their declaration in subsection (1) of this section to the satisfaction of the liabilities.

(4) Except as provided in RCW 25.04.730(2): (a) The partners shall contribute, as provided by RCW 25.04.735(1) the amount necessary to satisfy the liabilities; and (b) if any, but not all, of the partners are insolvent, or, not being subject to process, refuse to contribute, the other partners shall contribute their share of the liabilities, and, in the relative proportions in which they share the profits, the additional amount necessary to pay the liabilities.

(5) An assignee for the benefit of creditors or any person appointed by the court shall have the right to enforce the contribution specified in subsection (4) of this section.

(6) Any partner or his or her legal representative shall have the right to enforce the contributions specified in subsection (4) of this section, to the extent of the amount which he or she has paid in excess of his or her share of the liability.

(7) The individual property of a deceased partner shall be liable for the contributions specified in subsection (4) of this section.

(8) When partnership property and the individual properties of the partners are in possession of a court for distribution, partnership creditors shall have priority on partnership property and separate creditors on individual property, saving the rights of lien or secured creditors as heretofore.

(9) Where a partner has become bankrupt or his or her estate is insolvent the claims against his or her separate property shall rank in the following order:

- (a) Those owing to separate creditors;
- (b) Those owing to partnership creditors;
- (c) Those owing to partners by way of contribution.

[1995 c 337 § 11.]

Effective date—1995 c 337: See note following RCW 25.04.700.

### Chapter 25.15

#### LIMITED LIABILITY COMPANIES

##### Sections

25.15.005	Definitions.
25.15.045	Professional limited liability companies.
25.15.060	Piercing the veil.
25.15.085	Execution.
25.15.130	Events of dissociation.
25.15.220	Distribution on event of dissociation.
25.15.250	Assignment of limited liability company interest.
25.15.280	Administrative dissolution—Commencement of proceeding.
25.15.310	Law governing.

Limited liability partnerships: Chapter 25.04 RCW.

**25.15.005 Definitions.** As used in this chapter, unless the context otherwise requires:

(1) "Certificate of formation" means the certificate referred to in RCW 25.15.070, and the certificate as amended.

(2) "Event of dissociation" means an event that causes a person to cease to be a member as provided in RCW 25.15.130.

(3) "Foreign limited liability company" means an entity that is formed under:

(a) The limited liability company laws of any state other than this state; or

(b) The laws of any foreign country that is: (A)[(i)] An unincorporated association, (B)[(ii)] formed under a statute pursuant to which an association may be formed that affords to each of its members limited liability with respect to the liabilities of the entity, and (C)[(iii)] not required, in order to transact business or conduct affairs in this state, to be registered or qualified under Title 23B or 24 RCW, or any other chapter of the Revised Code of Washington authorizing the formation of a domestic entity and the registration or qualification in this state of similar entities formed under the laws of a jurisdiction other than this state.

(4) "Limited liability company" and "domestic limited liability company" means a limited liability company organized and existing under this chapter.

(5) "Limited liability company agreement" means any written agreement as to the affairs of a limited liability company and the conduct of its business which is binding upon all of the members.

(6) "Limited liability company interest" means a member's share of the profits and losses of a limited liability

company and a member's right to receive distributions of the limited liability company's assets.

(7) "Manager" or "managers" means, with respect to a limited liability company that has set forth in its certificate of formation that it is to be managed by managers, the person, or persons designated in accordance with RCW 25.15.150(2).

(8) "Member" means a person who has been admitted to a limited liability company as a member as provided in RCW 25.15.115 and who has not been dissociated from the limited liability company.

(9) "Person" means a natural person, partnership (whether general or limited and whether domestic or foreign), limited liability company, foreign limited liability company, trust, estate, association, corporation, custodian, nominee, or any other individual or entity in its own or any representative capacity.

(10) "Professional limited liability company" means a limited liability company which is organized for the purpose of rendering professional service and whose certificate of formation sets forth that it is a professional limited liability company subject to RCW 25.15.045.

(11) "Professional service" means the same as defined under RCW 18.100.030.

(12) "State" means the District of Columbia or the Commonwealth of Puerto Rico or any state, territory, possession, or other jurisdiction of the United States other than the state of Washington. [1995 c 337 § 13; 1994 c 211 § 101.]

Effective date—1995 c 337: See note following RCW 25.04.700.

#### **25.15.045 Professional limited liability companies.**

(1) A person or group of persons licensed or otherwise legally authorized to render professional services within this state may organize and become a member or members of a professional limited liability company under the provisions of this chapter for the purposes of rendering professional service. A "professional limited liability company" is subject to all the provisions of chapter 18.100 RCW that apply to a professional corporation, and its managers, members, agents, and employees shall be subject to all the provisions of chapter 18.100 RCW that apply to the directors, officers, shareholders, agents, or employees of a professional corporation, except as provided otherwise in this section. Nothing in this section prohibits a person duly licensed or otherwise legally authorized to render professional services in any jurisdiction other than this state from becoming a member of a professional limited liability company organized for the purpose of rendering the same professional services. Nothing in this section prohibits a professional limited liability company from rendering professional services outside this state through individuals who are not duly licensed or otherwise legally authorized to render such professional services within this state. Notwithstanding RCW 18.100.065, persons engaged in a profession and otherwise meeting the requirements of this chapter may operate under this chapter as a professional limited liability company so long as each member personally engaged in the practice of the profession in this state is duly licensed or otherwise legally authorized to practice the profession in this state and:

(a) At least one manager of the company is duly licensed or otherwise legally authorized to practice the profession in this state; or

(b) Each member in charge of an office of the company in this state is duly licensed or otherwise legally authorized to practice the profession in this state.

(2) If the company's members are required to be licensed to practice such profession, and the company fails to maintain for itself and for its members practicing in this state a policy of professional liability insurance, bond, or other evidence of financial responsibility of a kind designated by rule by the state insurance commissioner and in the amount of at least one million dollars or such greater amount as the state insurance commissioner may establish by rule for a licensed profession or for any specialty within a profession, taking into account the nature and size of the business, then the company's members shall be personally liable to the extent that, had such insurance, bond, or other evidence of responsibility been maintained, it would have covered the liability in question.

(3) For purposes of applying the provisions of chapter 18.100 RCW to a professional limited liability company, the terms "director" or "officer" shall mean manager, "shareholder" shall mean member, "corporation" shall mean professional limited liability company, "articles of incorporation" shall mean certificate of formation, "shares" or "capital stock" shall mean a limited liability company interest, "incorporator" shall mean the person who executes the certificate of formation, and "bylaws" shall mean the limited liability company agreement.

(4) The name of a professional limited liability company must contain either the words "Professional Limited Liability Company," or the words "Professional Limited Liability" and the abbreviation "Co.," or the abbreviation "P.L.L.C." provided that the name of a professional limited liability company organized to render dental services shall contain the full names or surnames of all members and no other word than "chartered" or the words "professional services" or the abbreviation "P.L.L.C."

(5) Subject to the provisions in article VII of this chapter, the following may be a member of a professional limited liability company and may be the transferee of the interest of an ineligible person or deceased member of the professional limited liability company:

(a) A professional corporation, if its shareholders, directors, and its officers other than the secretary and the treasurer, are licensed or otherwise legally authorized to render the same specific professional services as the professional limited liability company; and

(b) Another professional limited liability company, if the managers and members of both professional limited liability companies are licensed or otherwise legally authorized to render the same specific professional services. [1995 c 337 § 14; 1994 c 211 § 109.]

**Effective date—1995 c 337:** See note following RCW 25.04.700.

**25.15.060 Piercing the veil.** Members of a limited liability company shall be personally liable for any act, debt, obligation, or liability of the limited liability company to the extent that shareholders of a Washington business corporation would be liable in analogous circumstances. In this

regard, the court may consider the factors and policies set forth in established case law with regard to piercing the corporate veil, except that the failure to hold meetings of members or managers or the failure to observe formalities pertaining to the calling or conduct of meetings shall not be considered a factor tending to establish that the members have personal liability for any act, debt, obligation, or liability of the limited liability company if the certificate of formation and limited liability company agreement do not expressly require the holding of meetings of members or managers. [1995 c 337 § 15; 1994 c 211 § 112.]

**Effective date—1995 c 337:** See note following RCW 25.04.700.

**25.15.085 Execution.** (1) Each document required by this chapter to be filed in the office of the secretary of state shall be executed in the following manner:

(a) Each original certificate of formation must be signed by the person or persons forming the limited liability company;

(b) A reservation of name may be signed by any person;

(c) A transfer of reservation of name must be signed by, or on behalf of, the applicant for the reserved name;

(d) A registration of name must be signed by any member or manager of the foreign limited liability company;

(e) A certificate of amendment or restatement must be signed by at least one manager, or by a member if management of the limited liability company is reserved to the members;

(f) A certificate of cancellation must be signed by the person or persons authorized to wind up the limited liability company's affairs pursuant to RCW 25.15.295(1);

(g) If a surviving domestic limited liability company is filing articles of merger, the articles of merger must be signed by at least one manager, or by a member if management of the limited liability company is reserved to the members, or if the articles of merger are being filed by a surviving foreign limited liability company, limited partnership, or corporation, the articles of merger must be signed by a person authorized by such foreign limited liability company, limited partnership, or corporation; and

(h) A foreign limited liability company's application for registration as a foreign limited liability company doing business within the state must be signed by any member or manager of the foreign limited liability company.

(2) Any person may sign a certificate, articles of merger, limited liability company agreement, or other document by an attorney-in-fact or other person acting in a valid representative capacity, so long as each document signed in such manner identifies the capacity in which the signator signed.

(3) The person executing the document shall sign it and state beneath or opposite the signature the name of the person and capacity in which the person signs. The document must be typewritten or printed, and must meet such legibility or other standards as may be prescribed by the secretary of state.

(4) The execution of a certificate or articles of merger by any person constitutes an affirmation under the penalties of perjury that the facts stated therein are true. [1995 c 337 § 16; 1994 c 211 § 204.]

**Effective date—1995 c 337:** See note following RCW 25.04.700.

**25.15.130 Events of dissociation.** (1) A person ceases to be a member of a limited liability company upon the occurrence of one or more of the following events:

(a) The member dies or withdraws by voluntary act from the limited liability company as provided in subsection (3) of this section;

(b) The member ceases to be a member as provided in RCW 25.15.250(2)(b) following an assignment of all the member's limited liability company interest;

(c) The member is removed as a member in accordance with the limited liability company agreement;

(d) Unless otherwise provided in the limited liability company agreement, or with the written consent of all other members at the time, the member (i) makes a general assignment for the benefit of creditors; (ii) files a voluntary petition in bankruptcy; (iii) becomes the subject of an order for relief in bankruptcy proceedings; (iv) files a petition or answer seeking for himself or herself any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation; (v) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against him or her in any proceeding of the nature described in (d) (i) through (iv) of this subsection; or (vi) seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the member or of all or any substantial part of the member's properties;

(e) Unless otherwise provided in the limited liability company agreement, or with the consent of all other members at the time, one hundred twenty days after the commencement of any proceeding against the member seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation, the proceeding has not been dismissed, or if within ninety days after the appointment without his or her consent or acquiescence of a trustee, receiver, or liquidator of the member or of all or any substantial part of the member's properties, the appointment is not vacated or stayed, or within ninety days after the expiration of any stay, the appointment is not vacated;

(f) Unless otherwise provided in the limited liability company agreement, or with written consent of all other members at the time, in the case of a member who is an individual, the entry of an order by a court of competent jurisdiction adjudicating the member incapacitated, as used and defined under chapter 11.88 RCW, as to his or her estate;

(g) Unless otherwise provided in the limited liability company agreement, or with written consent of all other members at the time, in the case of a member that is another limited liability company, the dissolution and commencement of winding up of such limited liability company;

(h) Unless otherwise provided in the limited liability company agreement, or with written consent of all other members at the time, in the case of a member that is a corporation, the filing of articles of dissolution or the equivalent for the corporation or the administrative dissolution of the corporation and the lapse of any period authorized for application for reinstatement; or

(i) Unless otherwise provided in the limited liability company agreement, or with written consent of all other members at the time, in the case of a member that is a

limited partnership, the dissolution and commencement of winding up of such limited partnership.

(2) The limited liability company agreement may provide for other events the occurrence of which result in a person ceasing to be a member of the limited liability company.

(3) A member may withdraw from a limited liability company at the time or upon the happening of events specified in and in accordance with the limited liability company agreement. If the limited liability company agreement does not specify the time or the events upon the happening of which a member may withdraw, a member may not withdraw prior to the time for the dissolution and commencement of winding up of the limited liability company, without the written consent of all other members at the time. [1995 c 337 § 17; 1994 c 211 § 304.]

**Effective date—1995 c 337:** See note following RCW 25.04.700.

**25.15.220 Distribution on event of dissociation.** Unless otherwise provided in the limited liability company agreement, upon the occurrence of an event of dissociation under RCW 25.15.130 which does not cause dissolution (other than an event of dissociation specified in RCW 25.15.130(1)(b) where the dissociating member's assignee is admitted as a member), a dissociating member (or the member's assignee) is entitled to receive any distribution to which an assignee would be entitled. [1995 c 337 § 18; 1994 c 211 § 602.]

**Effective date—1995 c 337:** See note following RCW 25.04.700.

**25.15.250 Assignment of limited liability company interest.** (1) A limited liability company interest is assignable in whole or in part except as provided in a limited liability company agreement. The assignee of a member's limited liability company interest shall have no right to participate in the management of the business and affairs of a limited liability company except:

(a) Upon the approval of all of the members of the limited liability company other than the member assigning his or her limited liability company interest; or

(b) As provided in a limited liability company agreement.

(2) Unless otherwise provided in a limited liability company agreement:

(a) An assignment entitles the assignee to share in such profits and losses, to receive such distributions, and to receive such allocation of income, gain, loss, deduction, or credit or similar item to which the assignor was entitled, to the extent assigned; and

(b) A member ceases to be a member and to have the power to exercise any rights or powers of a member upon assignment of all of his or her limited liability company interest.

(3) For the purposes of this chapter, unless otherwise provided in a limited liability company agreement:

(a) The pledge of, or granting of a security interest, lien, or other encumbrance in or against, any or all of the limited liability company interest of a member shall not be deemed to be an assignment of the member's limited liability company interest, but a foreclosure or execution sale or exercise of similar rights with respect to all of a member's



limited liability company interest shall be deemed to be an assignment of the member's limited liability company interest to the transferee pursuant to such foreclosure or execution sale or exercise of similar rights;

(b) Where a limited liability company interest is held in a trust or estate, or is held by a trustee, personal representative, or other fiduciary, the transfer of the limited liability company interest, whether to a beneficiary of the trust or estate or otherwise, shall be deemed to be an assignment of such limited liability company interest, but the mere substitution or replacement of the trustee, personal representative, or other fiduciary shall not constitute an assignment of any portion of such limited liability company interest.

(4) Unless otherwise provided in a limited liability company agreement and except to the extent assumed by agreement, until an assignee of a limited liability company interest becomes a member, the assignee shall have no liability as a member solely as a result of the assignment. [1995 c 337 § 19; 1994 c 211 § 702.]

**Effective date—1995 c 337:** See note following RCW 25.04.700.

**25.15.280 Administrative dissolution—Commencement of proceeding.** The secretary of state may commence a proceeding under RCW 25.15.285 to administratively dissolve a limited liability company if:

(1) The limited liability company does not pay any license fees or penalties, imposed by this chapter, when they become due;

(2) The limited liability company does not deliver its completed initial report or annual report to the secretary of state when it is due;

(3) The limited liability company is without a registered agent or registered office in this state for sixty days or more; or

(4) The limited liability company does not notify the secretary of state within sixty days that its registered agent or registered office has been changed, that its registered agent has resigned, or that its registered office has been discontinued. [1995 c 337 § 20; 1994 c 211 § 803.]

**Effective date—1995 c 337:** See note following RCW 25.04.700.

**25.15.310 Law governing.** (1) Subject to the Constitution of the state of Washington:

(a) The laws of the state, territory, possession, or other jurisdiction or country under which a foreign limited liability company is organized govern its organization and internal affairs and the liability of its members and managers; and

(b) A foreign limited liability company may not be denied registration by reason of any difference between those laws and the laws of this state.

(2) A foreign limited liability company is subject to RCW 25.15.030 and, notwithstanding subsection (1)(a) of this section, a foreign limited liability company rendering professional services in this state is also subject to RCW 25.15.045(2).

(3) A foreign limited liability company and its members and managers doing business in this state thereby submit to personal jurisdiction of the courts of this state and are subject to RCW 25.15.125. [1995 c 337 § 21; 1994 c 211 § 901.]

**Effective date—1995 c 337:** See note following RCW 25.04.700.

## Title 26

### DOMESTIC RELATIONS

#### Chapters

- 26.04** Marriage.
- 26.09** Dissolution of marriage—Legal separation—Declarations concerning validity of marriage.
- 26.10** Nonparental actions for child custody.
- 26.18** Child support enforcement.
- 26.26** Uniform parentage act.
- 26.28** Age of majority.
- 26.33** Adoption.
- 26.44** Abuse of children and adult dependent or developmentally disabled persons—Protection—Procedure.
- 26.50** Domestic violence prevention.

#### Chapter 26.04

#### MARRIAGE

#### Sections

- 26.04.210 Affidavits required for issuance of license.

#### 26.04.210 Affidavits required for issuance of license.

(1) The county auditor, before a marriage license is issued, upon the payment of a license fee as fixed in RCW 36.18.010 shall require each applicant therefor to make and file in the auditor's office upon blanks to be provided by the county for that purpose, an affidavit showing that if an applicant is afflicted with any contagious sexually transmitted disease, the condition is known to both applicants, and that the applicants are the age of eighteen years or over. If the consent in writing is obtained of the father, mother, or legal guardian of the person for whom the license is required, the license may be granted in cases where the female has attained the age of seventeen years or the male has attained the age of seventeen years. Such affidavit may be subscribed and sworn to before any person authorized to administer oaths. Anyone knowingly swearing falsely to any of the statements contained in the affidavits mentioned in this section shall be deemed guilty of perjury and punished as provided by the laws of the state of Washington.

(2) The affidavit form shall be designed to require a statement that no contagious sexually transmitted disease is present or that the condition is known to both applicants, without requiring the applicants to state whether or not either or both of them are afflicted by such disease. [1995 c 301 § 78; 1985 c 82 § 5; 1979 ex.s. c 128 § 2; 1973 1st ex.s. c 154 § 29; 1970 ex.s. c 17 § 5; 1963 c 230 § 4; 1959 c 149 § 3; 1909 ex.s. c 16 § 3; 1909 c 174 § 3; Code 1881 §§ 2391, 2392; 1867 p 104 § 1; 1866 p 83 §§ 13, 14; RRS § 8451.]

**Severability—1973 1st ex.s. c 154:** See note following RCW 2.12.030.

*Penalty for violation of marriage requirements:* RCW 26.04.230.

**Chapter 26.09**  
**DISSOLUTION OF MARRIAGE—**  
**LEGAL SEPARATION**

## Sections

- 26.09.050 Decrees—Contents—Restraining orders—Enforcement.  
26.09.060 Temporary maintenance or child support—Temporary restraining order—Preliminary injunction—Domestic violence or antiharassment protection order—Support debts, notice.  
26.09.300 Restraining orders—Notice—Refusal to comply—Arrest—Penalty—Defense—Peace officers, immunity.

**26.09.050 Decrees—Contents—Restraining orders—Enforcement.** (1) In entering a decree of dissolution of marriage, legal separation, or declaration of invalidity, the court shall determine the marital status of the parties, make provision for a parenting plan for any minor child of the marriage, make provision for the support of any child of the marriage entitled to support, consider or approve provision for the maintenance of either spouse, make provision for the disposition of property and liabilities of the parties, make provision for the allocation of the children as federal tax exemptions, make provision for any necessary continuing restraining orders including the provisions contained in RCW 9.41.800, make provision for the issuance within this action of the restraint provisions of a domestic violence protection order under chapter 26.50 RCW or an antiharassment protection order under chapter 10.14 RCW, and make provision for the change of name of any party.

(2) Restraining orders issued under this section restraining the person from molesting or disturbing another party or from going onto the grounds of or entering the home, workplace, or school of the other party or the day care or school of any child shall prominently bear on the front page of the order the legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.09 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

(3) The court shall order that any restraining order bearing a criminal offense legend, any domestic violence protection order, or any antiharassment protection order granted under this section, in addition to the law enforcement information sheet or proof of service of the order, be forwarded by the clerk of the court on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the order, the law enforcement agency shall forthwith enter the order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. The order is fully enforceable in any county in the state. [1995 c 93 § 2; 1994 sp.s. c 7 § 451; 1989 c 375 § 29; 1987 c 460 § 5; 1973 1st ex.s. c 157 § 5.]

**Finding—Intent—Severability—1994 sp.s. c 7:** See notes following RCW 43.70.540.

**Effective date—1994 sp.s. c 7 §§ 401-410, 413-416, 418-437, and 439-460:** See note following RCW 9.41.010.

**26.09.060 Temporary maintenance or child support—Temporary restraining order—Preliminary injunction—Domestic violence or antiharassment protection order—Support debts, notice.** (1) In a proceeding for:

(a) Dissolution of marriage, legal separation, or a declaration of invalidity; or

(b) Disposition of property or liabilities, maintenance, or support following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse; either party may move for temporary maintenance or for temporary support of children entitled to support. The motion shall be accompanied by an affidavit setting forth the factual basis for the motion and the amounts requested.

(2) As a part of a motion for temporary maintenance or support or by independent motion accompanied by affidavit, either party may request the court to issue a temporary restraining order or preliminary injunction, providing relief proper in the circumstances, and restraining or enjoining any person from:

(a) Transferring, removing, encumbering, concealing, or in any way disposing of any property except in the usual course of business or for the necessities of life, and, if so restrained or enjoined, requiring him or her to notify the moving party of any proposed extraordinary expenditures made after the order is issued;

(b) Molesting or disturbing the peace of the other party or of any child;

(c) Going onto the grounds of or entering the home, workplace, or school of the other party or the day care or school of any child upon a showing of the necessity therefor;

(d) Removing a child from the jurisdiction of the court.

(3) Either party may request a domestic violence protection order under chapter 26.50 RCW or an antiharassment protection order under chapter 10.14 RCW on a temporary basis. The court may grant any of the relief provided in RCW 26.50.060 except relief pertaining to residential provisions for the children which provisions shall be provided for under this chapter, and any of the relief provided in RCW 10.14.080. Ex parte orders issued under this subsection shall be effective for a fixed period not to exceed fourteen days, or upon court order, not to exceed twenty-four days if necessary to ensure that all temporary motions in the case can be heard at the same time.

(4) In issuing the order, the court shall consider the provisions of RCW 9.41.800.

(5) The court may issue a temporary restraining order without requiring notice to the other party only if it finds on the basis of the moving affidavit or other evidence that irreparable injury could result if an order is not issued until the time for responding has elapsed.

(6) The court may issue a temporary restraining order or preliminary injunction and an order for temporary maintenance or support in such amounts and on such terms as are just and proper in the circumstances. The court may in its discretion waive the filing of the bond or the posting of security.

(7) Restraining orders issued under this section restraining the person from molesting or disturbing another party or from going onto the grounds of or entering the home, workplace, or school of the other party or the day care or school of any child shall prominently bear on the front page of the order the legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.09 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

(8) The court shall order that any temporary restraining order bearing a criminal offense legend, any domestic violence protection order, or any antiharassment protection order granted under this section be forwarded by the clerk of the court on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the order, the law enforcement agency shall forthwith enter the order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. Entry into the law enforcement information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any county in the state.

(9) A temporary order, temporary restraining order, or preliminary injunction:

(a) Does not prejudice the rights of a party or any child which are to be adjudicated at subsequent hearings in the proceeding;

(b) May be revoked or modified;

(c) Terminates when the final decree is entered, except as provided under subsection (10) of this section, or when the petition for dissolution, legal separation, or declaration of invalidity is dismissed;

(d) May be entered in a proceeding for the modification of an existing decree.

(10) Delinquent support payments accrued under an order for temporary support remain collectible and are not extinguished when a final decree is entered unless the decree contains specific language to the contrary. A support debt under a temporary order owed to the state for public assistance expenditures shall not be extinguished by the final decree if:

(a) The obligor was given notice of the state's interest under chapter 74.20A RCW; or

(b) The temporary order directs the obligor to make support payments to the office of support enforcement or the Washington state support registry. [1995 c 246 § 26; 1994 sp.s. c 7 § 452; 1992 c 229 § 9; 1989 c 360 § 37; 1984 c 263 § 26; 1983 1st ex.s. c 41 § 1; 1983 c 232 § 10; 1975 c 32 § 3; 1973 1st ex.s. c 157 § 6.]

**Severability—1995 c 246:** See note following RCW 26.50.010.

**Finding—Intent—Severability—1994 sp.s. c 7:** See notes following RCW 43.70.540.

**Effective date—1994 sp.s. c 7 §§ 401-410, 413-416, 418-437, and 439-460:** See note following RCW 9.41.010.

**Effective date—Severability—1984 c 263:** See RCW 26.50.901 and 26.50.902.

**Severability—1983 1st ex.s. c 41:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1983 1st ex.s. c 41 § 46.]

**Severability—1983 c 232:** See note following RCW 9.41.010.

*Arrest without warrant in domestic violence cases:* RCW 10.31.100(2).

*Child abuse, temporary restraining order:* RCW 26.44.063.

*Ex parte temporary order for protection:* RCW 26.50.070.

*Orders for protection in cases of domestic violence:* RCW 26.50.030.

*Orders prohibiting contact:* RCW 10.99.040.

**26.09.300 Restraining orders—Notice—Refusal to comply—Arrest—Penalty—Defense—Peace officers, immunity.** (1) Whenever a restraining order is issued under this chapter, and the person to be restrained knows of the

order, a violation of the provisions restricting the person from acts or threats of violence or of a provision excluding the person from the residence, workplace, school, or day care of another is a misdemeanor.

(2) A person is deemed to have notice of a restraining order if:

(a) The person to be restrained or the person's attorney signed the order;

(b) The order recites that the person to be restrained or the person's attorney appeared in person before the court;

(c) The order was served upon the person to be restrained; or

(d) The peace officer gives the person oral or written evidence of the order by reading from it or handing to the person a certified copy of the original order, certified to be an accurate copy of the original by a notary public or by the clerk of the court.

(3) A peace officer shall verify the existence of a restraining order by:

(a) Obtaining information confirming the existence and terms of the order from a law enforcement agency; or

(b) Obtaining a certified copy of the order, certified to be an accurate copy of the original by a notary public or by the clerk of the court.

(4) A peace officer shall arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that:

(a) A restraining order has been issued under this chapter;

(b) The respondent or person to be restrained knows of the order; and

(c) The person to be arrested has violated the terms of the order restraining the person from acts or threats of violence or excluding the person from the residence.

(5) It is a defense to prosecution under subsection (1) of this section that the court order was issued contrary to law or court rule.

(6) No peace officer may be held criminally or civilly liable for making an arrest under subsection (4) of this section if the officer acts in good faith and without malice. [1995 c 246 § 27; 1984 c 263 § 28; 1974 ex.s. c 99 § 1.]

**Severability—1995 c 246:** See note following RCW 26.50.010.

**Effective date—Severability—1984 c 263:** See RCW 26.50.901 and 26.50.902.

## Chapter 26.10

### NONPARENTAL ACTIONS FOR CHILD CUSTODY

#### Sections

- 26.10.040 Provisions for child support, custody, and visitation—  
Federal tax exemption—Continuing restraining orders—  
Domestic violence or antiharassment protection orders.
- 26.10.115 Temporary orders—Support—Restraining orders—Domestic  
violence or antiharassment protection orders—  
Preservation of support debt.
- 26.10.220 Restraining orders—Notice—Refusal to comply—Arrest—  
Penalty—Defense—Peace officers, immunity.

**26.10.040 Provisions for child support, custody, and visitation—Federal tax exemption—Continuing restraining orders—Domestic violence or antiharassment protec-**

**tion orders.** In entering an order under this chapter, the court shall consider, approve, or make provision for:

(1) Child custody, visitation, and the support of any child entitled to support;

(2) The allocation of the children as a federal tax exemption;

(3) Any necessary continuing restraining orders, including the provisions contained in RCW 9.41.800;

(4) A domestic violence protection order under chapter 26.50 RCW or an antiharassment protection order under chapter 10.14 RCW. The court may grant any of the relief provided in RCW 26.50.060 except relief pertaining to residential provisions for the children which provisions shall be provided for under this chapter, and any of the relief provided in RCW 10.14.080;

(5) Restraining orders issued under this section restraining the person from molesting or disturbing another party or from going onto the grounds of or entering the home, workplace, or school of the other party or the day care or school of any child shall prominently bear on the front page of the order the legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.10 RCW AND WILL SUBJECT A VIOLATOR TO ARREST;

(6) The court shall order that any restraining order bearing a criminal offense legend, any domestic violence protection order, or any antiharassment protection order granted under this section, in addition to the law enforcement information sheet or proof of service of the order, be forwarded by the clerk of the court on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the order, the law enforcement agency shall forthwith enter the order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. The order is fully enforceable in any county in the state. [1995 c 93 § 3; 1994 sp.s. c 7 § 453; 1989 c 375 § 31; 1987 c 460 § 28.]

**Finding—Intent—Severability—1994 sp.s. c 7:** See notes following RCW 43.70.540.

**Effective date—1994 sp.s. c 7 §§ 401-410, 413-416, 418-437, and 439-460:** See note following RCW 9.41.010.

**Severability—1989 c 375:** See RCW 26.09.914.

**26.10.115 Temporary orders—Support—Restraining orders—Domestic violence or antiharassment protection orders—Preservation of support debt.** (1) In a proceeding under this chapter either party may file a motion for temporary support of children entitled to support. The motion shall be accompanied by an affidavit setting forth the factual basis for the motion and the amount requested.

(2) In a proceeding under this chapter either party may file a motion for a temporary restraining order or preliminary injunction, providing relief proper in the circumstances, and restraining or enjoining any person from:

(a) Molesting or disturbing the peace of the other party or of any child;

(b) Entering the family home or the home of the other party upon a showing of the necessity therefor;

(c) Removing a child from the jurisdiction of the court.

(3) Either party may request a domestic violence protection order under chapter 26.50 RCW or an antiharassment protection order under chapter 10.14 RCW on a temporary basis. The court may grant any of the relief provided in RCW 26.50.060 except relief pertaining to residential provisions for the children which provisions shall be provided for under this chapter, and any of the relief provided in RCW 10.14.080. Ex parte orders issued under this subsection shall be effective for a fixed period not to exceed fourteen days, or upon court order, not to exceed twenty-four days if necessary to ensure that all temporary motions in the case can be heard at the same time.

(4) In issuing the order, the court shall consider the provisions of RCW 9.41.800.

(5) The court may issue a temporary restraining order without requiring notice to the other party only if it finds on the basis of the moving affidavit or other evidence that irreparable injury could result if an order is not issued until the time for responding has elapsed.

(6) The court may issue a temporary restraining order or preliminary injunction and an order for temporary support in such amounts and on such terms as are just and proper in the circumstances.

(7) Restraining orders issued under this section restraining the person from molesting or disturbing another party or from going onto the grounds of or entering the home, workplace, or school of the other party or the day care or school of any child shall prominently bear on the front page of the order the legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.10 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

(8) The court shall order that any temporary restraining order bearing a criminal offense legend, any domestic violence protection order, or any antiharassment protection order granted under this section be forwarded by the clerk of the court on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the order, the law enforcement agency shall forthwith enter the order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. Entry into the law enforcement information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any county in the state.

(9) A temporary order, temporary restraining order, or preliminary injunction:

(a) Does not prejudice the rights of a party or any child which are to be adjudicated at subsequent hearings in the proceeding;

(b) May be revoked or modified;

(c) Terminates when the final order is entered or when the motion is dismissed;

(d) May be entered in a proceeding for the modification of an existing order.

(10) A support debt owed to the state for public assistance expenditures which has been charged against a party pursuant to RCW 74.20A.040 and/or 74.20A.055 shall not be merged in, or otherwise extinguished by, the final decree or order, unless the office of support enforcement has been given notice of the final proceeding and an opportunity to present its claim for the support debt to the court and has

failed to file an affidavit as provided in this subsection. Notice of the proceeding shall be served upon the office of support enforcement personally, or by certified mail, and shall be given no fewer than thirty days prior to the date of the final proceeding. An original copy of the notice shall be filed with the court either before service or within a reasonable time thereafter. The office of support enforcement may present its claim, and thereby preserve the support debt, by filing an affidavit setting forth the amount of the debt with the court, and by mailing a copy of the affidavit to the parties or their attorney prior to the date of the final proceeding. [1995 c 246 § 29; 1994 sp.s. c 7 § 454; 1989 c 375 § 32.]

**Severability—1995 c 246:** See note following RCW 26.50.010.

**Finding—Intent—Severability—1994 sp.s. c 7:** See notes following RCW 43.70.540.

**Effective date—1994 sp.s. c 7 §§ 401-410, 413-416, 418-437, and 439-460:** See note following RCW 9.41.010.

**Severability—1989 c 375:** See RCW 26.09.914.

**26.10.220 Restraining orders—Notice—Refusal to comply—Arrest—Penalty—Defense—Peace officers, immunity.** (1) Whenever a restraining order is issued under this chapter, and the person to be restrained knows of the order, a violation of the provisions restricting the person from acts or threats of violence or of a provision excluding the person from the residence, workplace, school, or day care of another is a misdemeanor.

(2) A person is deemed to have notice of a restraining order if:

(a) The person to be restrained or the person's attorney signed the order;

(b) The order recites that the person to be restrained or the person's attorney appeared in person before the court;

(c) The order was served upon the person to be restrained; or

(d) The peace officer gives the person oral or written evidence of the order by reading from it or handing to the person a certified copy of the original order, certified to be an accurate copy of the original by a notary public or by the clerk of the court.

(3) A peace officer shall verify the existence of a restraining order by:

(a) Obtaining information confirming the existence and terms of the order from a law enforcement agency; or

(b) Obtaining a certified copy of the order, certified to be an accurate copy of the original by a notary public or by the clerk of the court.

(4) A peace officer shall arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that:

(a) A restraining order has been issued under this chapter;

(b) The respondent or person to be restrained knows of the order; and

(c) The person to be arrested has violated the terms of the order restraining the person from acts or threats of violence or excluding the person from the residence.

(5) It is a defense to prosecution under subsection (1) of this section that the court order was issued contrary to law or court rule.

(6) No peace officer may be held criminally or civilly liable for making an arrest under subsection (4) of this section if the officer acts in good faith and without malice. [1995 c 246 § 30; 1987 c 460 § 50.]

**Severability—1995 c 246:** See note following RCW 26.50.010.

## Chapter 26.18

### CHILD SUPPORT ENFORCEMENT

#### Sections

26.18.170 Health insurance coverage—Enforcement.  
26.18.190 Compensation paid by agency, self-insurer, or social security administration on behalf of child.

#### 26.18.170 Health insurance coverage—Enforcement.

(1) Whenever an obligor parent who has been ordered to provide health insurance coverage for a dependent child fails to provide such coverage or lets it lapse, the department or the obligee may seek enforcement of the coverage order as provided under this section.

(2)(a) If the obligor parent's order to provide health insurance coverage contains language notifying the obligor that failure to provide such coverage or proof that such coverage is unavailable may result in direct enforcement of the order and orders payments through, or has been submitted to, the Washington state support registry for enforcement, then the department may, without further notice to the obligor, send a notice of enrollment to the obligor's employer or union by certified mail, return receipt requested.

The notice shall require the employer or union to enroll the child in the health insurance plan as provided in subsection (3) of this section.

(b) If the obligor parent's order to provide health insurance coverage does not order payments through, and has not been submitted to, the Washington state support registry for enforcement:

(i) The obligee may, without further notice to the obligor send a certified copy of the order requiring health insurance coverage to the obligor's employer or union by certified mail, return receipt requested; and

(ii) The obligee shall attach a notarized statement to the order declaring that the order is the latest order addressing coverage entered by the court and require the employer or union to enroll the child in the health insurance plan as provided in subsection (3) of this section.

(3) Upon receipt of an order that provides for health insurance coverage, or a notice of enrollment:

(a) The obligor's employer or union shall answer the party who sent the order or notice within thirty-five days and confirm that the child:

(i) Has been enrolled in the health insurance plan;

(ii) Will be enrolled; or

(iii) Cannot be covered, stating the reasons why such coverage cannot be provided;

(b) The employer or union shall withhold any required premium from the obligor's income or wages;

(c) If more than one plan is offered by the employer or union, and each plan may be extended to cover the child,

then the child shall be enrolled in the obligor's plan. If the obligor's plan does not provide coverage which is accessible to the child, the child shall be enrolled in the least expensive plan otherwise available to the obligor parent;

(d) The employer or union shall provide information about the name of the health insurance coverage provider or issuer and the extent of coverage available to the obligee or the department and shall make available any necessary claim forms or enrollment membership cards.

(4) If the order for coverage contains no language notifying the obligor that failure to provide health insurance coverage or proof that such coverage is unavailable may result in direct enforcement of the order, the department or the obligee may serve a written notice of intent to enforce the order on the obligor by certified mail, return receipt requested, or by personal service. If the obligor fails to provide written proof that such coverage has been obtained or applied for or fails to provide proof that such coverage is unavailable within twenty days of service of the notice, the department or the obligee may proceed to enforce the order directly as provided in subsection (2) of this section.

(5) If the obligor ordered to provide health insurance coverage elects to provide coverage that will not be accessible to the child because of geographic or other limitations when accessible coverage is otherwise available, the department or the obligee may serve a written notice of intent to purchase health insurance coverage on the obligor by certified mail, return receipt requested. The notice shall also specify the type and cost of coverage.

(6) If the department serves a notice under subsection (5) of this section the obligor shall, within twenty days of the date of service:

- (a) File an application for an adjudicative proceeding; or
- (b) Provide written proof to the department that the obligor has either applied for, or obtained, coverage accessible to the child.

(7) If the obligee serves a notice under subsection (5) of this section, within twenty days of the date of service the obligor shall provide written proof to the obligee that the obligor has either applied for, or obtained, coverage accessible to the child.

(8) If the obligor fails to respond to a notice served under subsection (5) of this section to the party who served the notice, the party who served the notice may purchase the health insurance coverage specified in the notice directly. The amount of the monthly premium shall be added to the support debt and be collectible without further notice. The amount of the monthly premium may be collected or accrued until the obligor provides proof of the required coverage.

(9) The signature of the obligee or of a department employee shall be a valid authorization to the coverage provider or issuer for purposes of processing a payment to the child's health services provider. An order for health insurance coverage shall operate as an assignment of all benefit rights to the obligee or to the child's health services provider, and in any claim against the coverage provider or issuer, the obligee or the obligee's assignee shall be subrogated to the rights of the obligor. Notwithstanding the provisions of this section regarding assignment of benefits, this section shall not require a health care service contractor authorized under chapter 48.44 RCW or a health maintenance organization authorized under chapter 48.46 RCW to

deviate from their contractual provisions and restrictions regarding reimbursement for covered services. If the coverage is terminated, the employer shall mail a notice of termination to the department or the obligee at the obligee's last known address within thirty days of the termination date.

(10) This section shall not be construed to limit the right of the obligor or the obligee to bring an action in superior court at any time to enforce, modify, or clarify the original support order.

(11) Where a child does not reside in the issuer's service area, an issuer shall cover no less than urgent and emergent care. Where the issuer offers broader coverage, whether by policy or reciprocal agreement, the issuer shall provide such coverage to any child otherwise covered that does not reside in the issuer's service area.

(12) If an obligor fails to pay his or her portion of any deductible required under the health insurance coverage or fails to pay his or her portion of medical expenses incurred in excess of the coverage provided under the plan, the department or the obligee may enforce collection of the obligor's portion of the deductible or the additional medical expenses through a wage assignment order. The amount of the deductible or additional medical expenses shall be added to the support debt and be collectible without further notice if the obligor's share of the amount of the deductible or additional expenses is reduced to a sum certain in a court order. [1995 c 34 § 7; 1994 c 230 § 7; 1993 c 426 § 14; 1989 c 416 § 5.]

#### **26.18.190 Compensation paid by agency, self-insurer, or social security administration on behalf of child.**

(1) When the department of labor and industries or a self-insurer pays compensation under chapter 51.32 RCW on behalf of or on account of the child or children of the injured worker for whom the injured worker owes a duty of child support, the amount of compensation the department or self-insurer pays on behalf of the child or children shall be treated for all purposes as if the injured worker paid the compensation toward satisfaction of the injured worker's child support obligations.

(2) When the social security administration pays social security disability dependency benefits, retirement benefits, or survivors insurance benefits on behalf of or on account of the child or children of a disabled person, a retired person, or a deceased person, the amount of benefits paid for the child or children shall be treated for all purposes as if the disabled person, the retired person, or the deceased person paid the benefits toward the satisfaction of that person's child support obligation for that period for which benefits are paid.

(3) Under no circumstances shall the person who has the obligation to make the transfer payment have a right to reimbursement of any compensation paid under subsection (1) or (2) of this section. [1995 c 236 § 1; 1990 1st ex.s. c 2 § 17.]

**Effective dates—Severability—1990 1st ex.s. c 2:** See notes following RCW 26.09.100.

**Chapter 26.26**  
**UNIFORM PARENTAGE ACT**

## Sections

- 26.26.130 Judgment or order determining parent and child relationship—Support judgment and orders—Residential provisions—Custody—Restraining orders.
- 26.26.137 Temporary support—Temporary restraining order—Preliminary injunction—Domestic violence or antiharassment protection order—Support debts, notice.
- 26.26.138 Restraining order—Knowing violation—Penalty—Law enforcement immunity.

**26.26.130 Judgment or order determining parent and child relationship—Support judgment and orders—Residential provisions—Custody—Restraining orders.**

(1) The judgment and order of the court determining the existence or nonexistence of the parent and child relationship shall be determinative for all purposes.

(2) If the judgment and order of the court is at variance with the child's birth certificate, the court shall order that an amended birth certificate be issued.

(3) The judgment and order shall contain other appropriate provisions directed to the appropriate parties to the proceeding, concerning the duty of current and future support, the extent of any liability for past support furnished to the child if that issue is before the court, the furnishing of bond or other security for the payment of the judgment, or any other matter in the best interest of the child. The judgment and order may direct the father to pay the reasonable expenses of the mother's pregnancy and confinement. The judgment and order may include a continuing restraining order or injunction. In issuing the order, the court shall consider the provisions of RCW 9.41.800.

(4) Support judgment and orders shall be for periodic payments which may vary in amount. The court may limit the father's liability for the past support to the child to the proportion of the expenses already incurred as the court deems just. The court shall not limit or affect in any manner the right of nonparties including the state of Washington to seek reimbursement for support and other services previously furnished to the child.

(5) After considering all relevant factors, the court shall order either or both parents to pay an amount determined pursuant to the schedule and standards contained in chapter 26.19 RCW.

(6) On the same basis as provided in chapter 26.09 RCW, the court shall make residential provisions with regard to minor children of the parties, except that a parenting plan shall not be required unless requested by a party.

(7) In any dispute between the natural parents of a child and a person or persons who have (a) commenced adoption proceedings or who have been granted an order of adoption, and (b) pursuant to a court order, or placement by the department of social and health services or by a licensed agency, have had actual custody of the child for a period of one year or more before court action is commenced by the natural parent or parents, the court shall consider the best welfare and interests of the child, including the child's need for situation stability, in determining the matter of custody, and the parent or person who is more fit shall have the superior right to custody.

(8) In entering an order under this chapter, the court may issue any necessary continuing restraining orders, including the restraint provisions of domestic violence protection orders under chapter 26.50 RCW or antiharassment protection orders under chapter 10.14 RCW.

(9) Restraining orders issued under this section restraining the person from molesting or disturbing another party or from going onto the grounds of or entering the home, workplace, or school of the other party or the day care or school of any child shall prominently bear on the front page of the order the legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.26 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

(10) The court shall order that any restraining order bearing a criminal offense legend, any domestic violence protection order, or any antiharassment protection order granted under this section be forwarded by the clerk of the court on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the order, the law enforcement agency shall forthwith enter the order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. The order is fully enforceable in any county in the state. [1995 c 246 § 31; 1994 sp.s. c 7 § 455. Prior: 1989 c 375 § 23; 1989 c 360 § 18; 1987 c 460 § 56; 1983 1st ex.s. c 41 § 8; 1975-'76 2nd ex.s. c 42 § 14.]

**Severability—1995 c 246:** See note following RCW 26.50.010.

**Finding—Intent—Severability—1994 sp.s. c 7:** See notes following RCW 43.70.540.

**Effective date—1994 sp.s. c 7 §§ 401-410, 413-416, 418-437, and 439-460:** See note following RCW 9.41.010.

**Severability—1989 c 375:** See RCW 26.09.914.

**Short title—Section captions—Effective date—Severability—1987 c 460:** See RCW 26.09.910 through 26.09.913.

**Severability—1983 1st ex.s. c 41:** See note following RCW 26.09.060.

**26.26.137 Temporary support—Temporary restraining order—Preliminary injunction—Domestic violence or antiharassment protection order—Support debts, notice.**

(1) If the court has made a finding as to the paternity of a child, or if a party's acknowledgment of paternity has been filed with the court, or a party alleges he is the father of the child, any party may move for temporary support for the child prior to the date of entry of the final order. The motion shall be accompanied by an affidavit setting forth the factual basis for the motion and the amounts requested.

(2) Any party may request the court to issue a temporary restraining order or preliminary injunction, providing relief proper in the circumstances, and restraining or enjoining any party from:

- (a) Molesting or disturbing the peace of another party;
- (b) Going onto the grounds of or entering the home, workplace, or school of another party or the day care or school of any child; or
- (c) Removing a child from the jurisdiction of the court.

(3) Either party may request a domestic violence protection order under chapter 26.50 RCW or an antiharassment protection order under chapter 10.14 RCW on

a temporary basis. The court may grant any of the relief provided in RCW 26.50.060 except relief pertaining to residential provisions for the children which provisions shall be provided for under this chapter, and any of the relief provided in RCW 10.14.080. Ex parte orders issued under this subsection shall be effective for a fixed period not to exceed fourteen days, or upon court order, not to exceed twenty-four days if necessary to ensure that all temporary motions in the case can be heard at the same time.

(4) Restraining orders issued under this section restraining the person from molesting or disturbing another party or from going onto the grounds of or entering the home, workplace, or school of the other party or the day care or school of any child shall prominently bear on the front page of the order the legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.26 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

(5) The court shall order that any temporary restraining order bearing a criminal offense legend, any domestic violence protection order, or any antiharassment protection order granted under this section be forwarded by the clerk of the court on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the order, the law enforcement agency shall forthwith enter the order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. The order is fully enforceable in any county in the state.

(6) The court may issue a temporary restraining order without requiring notice to the other party only if it finds on the basis of the moving affidavit or other evidence that irreparable injury could result if an order is not issued until the time for responding has elapsed.

(7) The court may issue a temporary restraining order or preliminary injunction and an order for temporary support in such amounts and on such terms as are just and proper in the circumstances. In issuing the order, the court shall consider the provisions of RCW 9.41.800.

(8) A temporary order, temporary restraining order, or preliminary injunction:

(a) Does not prejudice the rights of a party or any child which are to be adjudicated at subsequent hearings in the proceeding;

(b) May be revoked or modified;

(c) Terminates when the final order is entered or when the petition is dismissed; and

(d) May be entered in a proceeding for the modification of an existing order.

(9) A support debt owed to the state for public assistance expenditures which has been charged against a party pursuant to RCW 74.20A.040 and/or 74.20A.055 shall not be merged in, or otherwise extinguished by, the final decree or order, unless the office of support enforcement has been given notice of the final proceeding and an opportunity to present its claim for the support debt to the court and has failed to file an affidavit as provided in this subsection. Notice of the proceeding shall be served upon the office of support enforcement personally, or by certified mail, and shall be given no fewer than thirty days prior to the date of the final proceeding. An original copy of the notice shall be filed with the court either before service or within a

reasonable time thereafter. The office of support enforcement may present its claim, and thereby preserve the support debt, by filing an affidavit setting forth the amount of the debt with the court, and by mailing a copy of the affidavit to the parties or their attorney prior to the date of the final proceeding. [1995 c 246 § 32; 1994 sp.s. c 7 § 456; 1983 1st ex.s. c 41 § 12.]

**Severability—1995 c 246:** See note following RCW 26.50.010.

**Finding—Intent—Severability—1994 sp.s. c 7:** See notes following RCW 43.70.540.

**Effective date—1994 sp.s. c 7 §§ 401-410, 413-416, 418-437, and 439-460:** See note following RCW 9.41.010.

**Severability—1983 1st ex.s. c 41:** See note following RCW 26.09.060.

**26.26.138 Restraining order—Knowing violation—Penalty—Law enforcement immunity.** (1) Whenever a restraining order is issued under this chapter, and the person to be restrained knows of the order, a violation of the provisions restricting the person from acts or threats of violence or of a provision excluding the person from the residence, workplace, school, or day care of another is a misdemeanor.

(2) A person is deemed to have notice of a restraining order if:

(a) The person to be restrained or the person's attorney signed the order;

(b) The order recites that the person to be restrained or the person's attorney appeared in person before the court;

(c) The order was served upon the person to be restrained; or

(d) The peace officer gives the person oral or written evidence of the order by reading from it or handing to the person a certified copy of the original order, certified to be an accurate copy of the original by a notary public or by the clerk of the court.

(3) A peace officer shall verify the existence of a restraining order by:

(a) Obtaining information confirming the existence and terms of the order from a law enforcement agency; or

(b) Obtaining a certified copy of the order, certified to be an accurate copy of the original by a notary public or by the clerk of the court.

(4) A peace officer shall arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that:

(a) A restraining order has been issued under this chapter;

(b) The respondent or person to be restrained knows of the order; and

(c) The person to be arrested has violated the terms of the order restraining the person from acts or threats of violence or excluding the person from the residence.

(5) It is a defense to prosecution under subsection (1) of this section that the court order was issued contrary to law or court rule.

(6) No peace officer may be held criminally or civilly liable for making an arrest under subsection (4) of this section if the officer acts in good faith and without malice. [1995 c 246 § 33.]

**Severability—1995 c 246:** See note following RCW 26.50.010.



**Chapter 26.28**  
**AGE OF MAJORITY**  
 (Formerly: Infants)

## Sections

26.28.085 Applying tattoo to a minor—Penalty.

**26.28.085 Applying tattoo to a minor—Penalty.**

Every person who applies a tattoo to any minor under the age of eighteen is guilty of a misdemeanor. It is not a defense to a violation of this section that the person applying the tattoo did not know the minor's age unless the person applying the tattoo establishes by a preponderance of the evidence that he or she made a reasonable, bona fide attempt to ascertain the true age of the minor by requiring production of a driver's license or other picture identification card or paper and did not rely solely on the oral allegations or apparent age of the minor.

For the purposes of this section, "tattoo" includes any permanent marking or coloring of the skin with any pigment, ink, or dye, or any procedure that leaves a visible scar on the skin. Medical procedures performed by a licensed physician are exempted from this section. [1995 c 373 § 1.]

**Chapter 26.33**  
**ADOPTION**

## Sections

26.33.045 Delay or denial of adoption on basis of race, color, or national origin prohibited—Consideration in placement—Exception.  
 26.33.110 Petition for termination—Time and place of hearing—Notice of hearing and petition—Contents.  
 26.33.260 Decree of adoption—Effect—Accelerated appeal—Limited grounds to challenge—Intent.  
 26.33.310 Notice—Requirements—Waiver.

**26.33.045 Delay or denial of adoption on basis of race, color, or national origin prohibited—Consideration in placement—Exception.** An adoption shall not be delayed or denied on the basis of the race, color, or national origin of the adoptive parent or the child involved. However, when the department or an agency considers whether a placement option is in a child's best interests, the department or agency may consider the cultural, ethnic, or racial background of the child and the capacity of prospective adoptive parents to meet the needs of a child of this background. This provision shall not apply to or affect the application of the Indian Child Welfare Act of 1978, 25 U.S.C. Sec. 1901 et seq. [1995 c 270 § 8.]

**Finding—1995 c 270:** See note following RCW 74.13.118.

**26.33.110 Petition for termination—Time and place of hearing—Notice of hearing and petition—Contents.**

(1) The court shall set a time and place for a hearing on the petition for termination of the parent-child relationship, which shall not be held sooner than forty-eight hours after the child's birth. However, if the child is an Indian child, the hearing shall not be held sooner than ten days after the child's birth and the time of the hearing shall be extended up to twenty additional days from the date of the scheduled

hearing upon the motion of the parent, Indian custodian, or the child's tribe.

(2) Notice of the hearing shall be served on the petitioner, the nonconsenting parent or alleged father, the legal guardian of a party, and the guardian ad litem of a party, in the manner prescribed by RCW 26.33.310. If the child is an Indian child, notice of the hearing shall also be served on the child's tribe in the manner prescribed by 25 U.S.C. Sec. 1912(a).

(3) Except as otherwise provided in this section, the notice of the petition shall:

(a) State the date and place of birth. If the petition is filed prior to birth, the notice shall state the approximate date and location of conception of the child and the expected date of birth, and shall identify the mother;

(b) Inform the nonconsenting parent or alleged father that: (i) He or she has a right to be represented by counsel and that counsel will be appointed for an indigent person who requests counsel; and (ii) failure to respond to the termination action within twenty days of service if served within the state or thirty days if served outside of this state, will result in the termination of his or her parent-child relationship with respect to the child;

(c) Inform an alleged father that failure to file a claim of paternity under chapter 26.26 RCW or to respond to the petition, within twenty days of the date of service of the petition is grounds to terminate his parent-child relationship with respect to the child;

(d) Inform an alleged father of an Indian child that if he acknowledges paternity of the child or if his paternity of the child is established prior to the termination of the parent-child relationship, that his parental rights may not be terminated unless he: (i) Gives valid consent to termination, or (ii) his parent-child relationship is terminated involuntarily pursuant to chapter 26.33 or 13.34 RCW. [1995 c 270 § 5; 1987 c 170 § 5; 1985 c 421 § 4; 1984 c 155 § 11.]

**Finding—1995 c 270:** See note following RCW 74.13.118.

**Severability—1987 c 170:** See note following RCW 13.04.030.

**26.33.260 Decree of adoption—Effect—Accelerated appeal—Limited grounds to challenge—Intent.** (1) The entry of a decree of adoption divests any parent or alleged father who is not married to the adoptive parent or who has not joined in the petition for adoption of all legal rights and obligations in respect to the adoptee, except past-due child support obligations. The adoptee shall be free from all legal obligations of obedience and maintenance in respect to the parent. The adoptee shall be, to all intents and purposes, and for all legal incidents, the child, legal heir, and lawful issue of the adoptive parent, entitled to all rights and privileges, including the right of inheritance and the right to take under testamentary disposition, and subject to all the obligations of a natural child of the adoptive parent.

(2) Any appeal of an adoption decree shall be decided on an accelerated review basis.

(3) Except as otherwise provided in RCW 26.33.160(3) and (4)(h), no person may challenge an adoption decree on the grounds of:

(a) A person claiming or alleging paternity subsequently appears and alleges lack of prior notice of the proceeding; or

(b) The adoption proceedings were in any other manner defective.

(4) It is the intent of the legislature that this section provide finality for adoptive placements and stable homes for children. [1995 c 270 § 7; 1984 c 155 § 26.]

**Finding—1995 c 270:** See note following RCW 74.13.118.

*Inheritance by adopted child: RCW 11.04.085.*

**26.33.310 Notice—Requirements—Waiver.** (1) Petitions governed by this chapter shall be served in the manner as set forth in the superior court civil rules. Subsequent notice, papers, and pleadings may be served in the manner provided in superior court civil rules.

(2) If personal service on any parent or alleged father who has not consented to the termination of his or her parental rights can be given, the summons and notice of hearing on the petition to terminate parental rights shall be served at least twenty days before the hearing date if served within the state or thirty days if served outside of this state.

(3) If personal service on the parent or any alleged father, either within or without this state, cannot be given, notice shall be given: (a) By first class and registered mail, mailed at least thirty days before the hearing to the person's last known address; and (b) by publication at least once a week for three consecutive weeks with the first publication date at least thirty days before the hearing. Publication shall be in a legal newspaper in the city or town of the last known address within the United States and its territories of the parent or alleged father, whether within or without this state, or, if no address is known to the petitioner, publication shall be in the city or town of the last known whereabouts within the United States and its territories; or if no address or whereabouts are known to the petitioner or the last known address is not within the United States and its territories, in the city or town where the proceeding has been commenced.

(4) Notice and appearance may be waived by the department, an agency, a parent, or an alleged father before the court or in a writing signed under penalty of perjury. The waiver shall contain the current address of the department, agency, parent, or alleged father. The face of the waiver for a hearing on termination of the parent-child relationship shall contain language explaining the meaning and consequences of the waiver and the meaning and consequences of termination of the parent-child relationship. A person or agency who has executed a waiver shall not be required to appear except in the case of an Indian child where consent to termination or adoption must be certified before a court of competent jurisdiction pursuant to 25 U.S.C. Sec. 1913(a).

(5) If a person entitled to notice is known to the petitioner to be unable to read or understand English, all notices, if practicable, shall be given in that person's native language or through an interpreter.

(6) Where notice to an Indian tribe is to be provided pursuant to this chapter and the department is not a party to the proceeding, notice shall be given to the tribe at least ten business days prior to the hearing by registered mail return receipt requested. [1995 c 270 § 6; 1987 c 170 § 9; 1985 c 421 § 6; 1984 c 155 § 31.]

**Finding—1995 c 270:** See note following RCW 74.13.118.

**Severability—1987 c 170:** See note following RCW 13.04.030.

## Chapter 26.44

### ABUSE OF CHILDREN AND ADULT DEPENDENT PERSONS

#### Sections

26.44.030 Reports—Duty and authority to make—Duty of receiving agency—Duty to notify—Case planning and consultation—Penalty for unauthorized exchange of information—Filing dependency petitions—Interviews of children—Records—Risk assessment process—Reports to legislature.

**26.44.030 Reports—Duty and authority to make—Duty of receiving agency—Duty to notify—Case planning and consultation—Penalty for unauthorized exchange of information—Filing dependency petitions—Interviews of children—Records—Risk assessment process—Reports to legislature.** (1)(a) When any practitioner, county coroner or medical examiner, law enforcement officer, professional school personnel, registered or licensed nurse, social service counselor, psychologist, pharmacist, licensed or certified child care providers or their employees, employee of the department, or juvenile probation officer has reasonable cause to believe that a child or adult dependent or developmentally disabled person, has suffered abuse or neglect, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(b) The reporting requirement shall also apply to any adult who has reasonable cause to believe that a child or adult dependent or developmentally disabled person, who resides with them, has suffered severe abuse, and is able or capable of making a report. For the purposes of this subsection, "severe abuse" means any of the following: Any single act of abuse that causes physical trauma of sufficient severity that, if left untreated, could cause death; any single act of sexual abuse that causes significant bleeding, deep bruising, or significant external or internal swelling; or more than one act of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness.

(c) The report shall be made at the first opportunity, but in no case longer than forty-eight hours after there is reasonable cause to believe that the child or adult has suffered abuse or neglect. The report shall include the identity of the accused if known.

(2) The reporting requirement of subsection (1) of this section does not apply to the discovery of abuse or neglect that occurred during childhood if it is discovered after the child has become an adult. However, if there is reasonable cause to believe other children, dependent adults, or developmentally disabled persons are or may be at risk of abuse or neglect by the accused, the reporting requirement of subsection (1) of this section shall apply.

(3) Any other person who has reasonable cause to believe that a child or adult dependent or developmentally disabled person has suffered abuse or neglect may report such incident to the proper law enforcement agency or to the department of social and health services as provided in RCW 26.44.040.

(4) The department, upon receiving a report of an incident of abuse or neglect pursuant to this chapter, involv-

ing a child or adult dependent or developmentally disabled person who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means or who has been subjected to sexual abuse, shall report such incident to the proper law enforcement agency. In emergency cases, where the child, adult dependent, or developmentally disabled person's welfare is endangered, the department shall notify the proper law enforcement agency within twenty-four hours after a report is received by the department. In all other cases, the department shall notify the law enforcement agency within seventy-two hours after a report is received by the department. If the department makes an oral report, a written report shall also be made to the proper law enforcement agency within five days thereafter.

(5) Any law enforcement agency receiving a report of an incident of abuse or neglect pursuant to this chapter, involving a child or adult dependent or developmentally disabled person who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means, or who has been subjected to sexual abuse, shall report such incident in writing as provided in RCW 26.44.040 to the proper county prosecutor or city attorney for appropriate action whenever the law enforcement agency's investigation reveals that a crime may have been committed. The law enforcement agency shall also notify the department of all reports received and the law enforcement agency's disposition of them. In emergency cases, where the child, adult dependent, or developmentally disabled person's welfare is endangered, the law enforcement agency shall notify the department within twenty-four hours. In all other cases, the law enforcement agency shall notify the department within seventy-two hours after a report is received by the law enforcement agency.

(6) Any county prosecutor or city attorney receiving a report under subsection (5) of this section shall notify the victim, any persons the victim requests, and the local office of the department, of the decision to charge or decline to charge a crime, within five days of making the decision.

(7) The department may conduct ongoing case planning and consultation with those persons or agencies required to report under this section, with consultants designated by the department, and with designated representatives of Washington Indian tribes if the client information exchanged is pertinent to cases currently receiving child protective services or department case services for the developmentally disabled. Upon request, the department shall conduct such planning and consultation with those persons required to report under this section if the department determines it is in the best interests of the child or developmentally disabled person. Information considered privileged by statute and not directly related to reports required by this section shall not be divulged without a valid written waiver of the privilege.

(8) Any case referred to the department by a physician licensed under chapter 18.57 or 18.71 RCW on the basis of an expert medical opinion that child abuse, neglect, or sexual assault has occurred and that the child's safety will be seriously endangered if returned home, the department shall file a dependency petition unless a second licensed physician of the parents' choice believes that such expert medical opinion is incorrect. If the parents fail to designate a second

physician, the department may make the selection. If a physician finds that a child has suffered abuse or neglect but that such abuse or neglect does not constitute imminent danger to the child's health or safety, and the department agrees with the physician's assessment, the child may be left in the parents' home while the department proceeds with reasonable efforts to remedy parenting deficiencies.

(9) Persons or agencies exchanging information under subsection (7) of this section shall not further disseminate or release the information except as authorized by state or federal statute. Violation of this subsection is a misdemeanor.

(10) Upon receiving reports of abuse or neglect, the department or law enforcement agency may interview children. The interviews may be conducted on school premises, at day-care facilities, at the child's home, or at other suitable locations outside of the presence of parents. Parental notification of the interview shall occur at the earliest possible point in the investigation that will not jeopardize the safety or protection of the child or the course of the investigation. Prior to commencing the interview the department or law enforcement agency shall determine whether the child wishes a third party to be present for the interview and, if so, shall make reasonable efforts to accommodate the child's wishes. Unless the child objects, the department or law enforcement agency shall make reasonable efforts to include a third party in any interview so long as the presence of the third party will not jeopardize the course of the investigation.

(11) Upon receiving a report of child abuse and neglect, the department or investigating law enforcement agency shall have access to all relevant records of the child in the possession of mandated reporters and their employees.

(12) The department shall maintain investigation records and conduct timely and periodic reviews of all cases constituting abuse and neglect. The department shall maintain a log of screened-out nonabusive cases.

(13) The department shall use a risk assessment process when investigating child abuse and neglect referrals. The department shall present the risk factors at all hearings in which the placement of a dependent child is an issue. The department shall, within funds appropriated for this purpose, offer enhanced community-based services to persons who are determined not to require further state intervention.

The department shall provide annual reports to the legislature on the effectiveness of the risk assessment process.

(14) Upon receipt of a report of abuse or neglect the law enforcement agency may arrange to interview the person making the report and any collateral sources to determine if any malice is involved in the reporting. [1995 c 311 § 17. Prior: 1993 c 412 § 13; 1993 c 237 § 1; 1991 c 111 § 1; 1989 c 22 § 1; prior: 1988 c 142 § 2; 1988 c 39 § 1; prior: 1987 c 524 § 10; 1987 c 512 § 23; 1987 c 206 § 3; 1986 c 145 § 1; 1985 c 259 § 2; 1984 c 97 § 3; 1982 c 129 § 7; 1981 c 164 § 2; 1977 ex.s. c 80 § 26; 1975 1st ex.s. c 217 § 3; 1971 ex.s. c 167 § 1; 1969 ex.s. c 35 § 3; 1965 c 13 § 3.]

**Severability—1987 c 512:** See RCW 18.19.901.

**Legislative findings—1985 c 259:** "The Washington state legislature finds and declares:

The children of the state of Washington are the state's greatest resource and the greatest source of wealth to the state of Washington. Children of all ages must be protected from child abuse. Governmental authorities must give the prevention, treatment, and punishment of child abuse the highest priority, and all instances of child abuse must be reported to the proper authorities who should diligently and expeditiously take appropriate action, and child abusers must be held accountable to the people of the state for their actions.

The legislature recognizes the current heavy caseload of governmental authorities responsible for the prevention, treatment, and punishment of child abuse. The information obtained by child abuse reporting requirements, in addition to its use as a law enforcement tool, will be used to determine the need for additional funding to ensure that resources for appropriate governmental response to child abuse are available." [1985 c 259 § 1.]

**Severability—1984 c 97:** See RCW 74.34.900.

**Severability—1982 c 129:** See note following RCW 9A.04.080.

**Purpose—Intent—Severability—1977 ex.s. c 80:** See notes following RCW 4.16.190.

## Chapter 26.50

### DOMESTIC VIOLENCE PREVENTION

#### Sections

26.50.010	Definitions.
26.50.025	Orders under this chapter and chapter 26.09, 26.10, or 26.26 RCW—Enforcement—Consolidation.
26.50.030	Petition for an order for protection—Availability of forms and informational brochures—Bond not required.
26.50.035	Development of instructions, informational brochures, forms, and handbook by the administrator for the courts—Community resource list—Distribution of master copy.
26.50.040	Fees not permitted—Filing, service of process, certified copies.
26.50.050	Hearing—Service—Time.
26.50.055	Appointment of interpreter.
26.50.060	Relief—Duration—Realignment of designation of parties—Award of costs, service fees, and attorneys' fees.
26.50.070	Ex parte temporary order for protection.
26.50.080	Issuance of order—Assistance of peace officer—Designation of appropriate law enforcement agency.
26.50.090	Order—Service—Fees.
26.50.095	Order following service by publication.
26.50.100	Order—Transmittal to law enforcement agency—Record in law enforcement information system—Enforceability.
26.50.110	Violation of order—Penalties.
26.50.115	Enforcement of ex parte order—Knowledge of order prerequisite to penalties—Reasonable efforts to serve copy of order.
26.50.123	Service by mail.
26.50.125	Service by publication or mailing—Costs.
26.50.135	Residential placement or custody of a child—Prerequisite.
26.50.160	Judicial information system—Data base.

**26.50.010 Definitions.** As used in this chapter, the following terms shall have the meanings given them:

(1) "Domestic violence" means: (a) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members; (b) sexual assault of one family or household member by another; or (c) stalking as defined in RCW 9A.46.110 of one family or household member by another family or household member.

(2) "Family or household members" means spouses, former spouses, persons who have a child in common regardless of whether they have been married or have lived together at any time, adult persons related by blood or marriage, adult persons who are presently residing together or who have resided together in the past, persons sixteen

years of age or older who are presently residing together or who have resided together in the past and who have or have had a dating relationship, persons sixteen years of age or older with whom a respondent sixteen years of age or older has or has had a dating relationship, and persons who have a biological or legal parent-child relationship, including stepparents and stepchildren and grandparents and grandchildren.

(3) "Dating relationship" means a social relationship of a romantic nature. Factors that the court may consider in making this determination include: (a) The length of time the relationship has existed; (b) the nature of the relationship; and (c) the frequency of interaction between the parties.

(4) "Court" includes the superior, district, and municipal courts of the state of Washington.

(5) "Judicial day" does not include Saturdays, Sundays, or legal holidays.

(6) "Electronic monitoring" means a program in which a person's presence at a particular location is monitored from a remote location by use of electronic equipment.

(7) "Essential personal effects" means those items necessary for a person's immediate health, welfare, and livelihood. "Essential personal effects" includes but is not limited to clothing, cribs, bedding, documents, medications, and personal hygiene items. [1995 c 246 § 1. Prior: 1992 c 111 § 7; 1992 c 86 § 3; 1991 c 301 § 8; 1984 c 263 § 2.]

**Severability—1995 c 246:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1995 c 246 § 40.]

**Findings—1992 c 111:** See note following RCW 26.50.030.

**Finding—1991 c 301:** See note following RCW 10.99.020.

*Domestic violence offenses defined: RCW 10.99.020.*

**26.50.025 Orders under this chapter and chapter 26.09, 26.10, or 26.26 RCW—Enforcement—Consolidation.** (1) Any order available under this chapter may be issued in actions under chapter 26.09, 26.10, or 26.26 RCW. If an order for protection is issued in an action under chapter 26.09, 26.10, or 26.26 RCW, the order shall be issued on the forms mandated by RCW 26.50.035(1). An order issued in accordance with this subsection is fully enforceable and shall be enforced under the provisions of this chapter.

(2) If a party files an action under chapter 26.09, 26.10, or 26.26 RCW, an order issued previously under this chapter between the same parties may be consolidated by the court under that action and cause number. Any order issued under this chapter after consolidation shall contain the original cause number and the cause number of the action under chapter 26.09, 26.10, or 26.26 RCW. Relief under this chapter shall not be denied or delayed on the grounds that the relief is available in another action. [1995 c 246 § 2.]

**Severability—1995 c 246:** See note following RCW 26.50.010.

**26.50.030 Petition for an order for protection—Availability of forms and informational brochures—Bond not required.** There shall exist an action known as a petition for an order for protection in cases of domestic violence.

(1) A petition for relief shall allege the existence of domestic violence, and shall be accompanied by an affidavit made under oath stating the specific facts and circumstances from which relief is sought. Petitioner and respondent shall disclose the existence of any other litigation concerning the custody or residential placement of a child of the parties as set forth in RCW 26.27.090.

(2) A petition for relief may be made regardless of whether or not there is a pending lawsuit, complaint, petition, or other action between the parties except in cases where the court realigns petitioner and respondent in accordance with RCW 26.50.060(4).

(3) Within ninety days of receipt of the master copy from the administrator for the courts, all court clerk's offices shall make available the standardized forms, instructions, and informational brochures required by RCW 26.50.035 and shall fill in and keep current specific program names and telephone numbers for community resources. Any assistance or information provided by clerks under this section does not constitute the practice of law and clerks are not responsible for incorrect information contained in a petition.

(4) No filing fee may be charged for proceedings under this section. Forms and instructional brochures shall be provided free of charge.

(5) A person is not required to post a bond to obtain relief in any proceeding under this section. [1995 c 246 § 3; 1992 c 111 § 2; 1985 c 303 § 2; 1984 c 263 § 4.]

**Severability—1995 c 246:** See note following RCW 26.50.010.

**Findings—1992 c 111:** "The legislature finds that:

Domestic violence is a problem of immense proportions affecting individuals as well as communities. Domestic violence has long been recognized as being at the core of other major social problems: Child abuse, other crimes of violence against person or property, juvenile delinquency, and alcohol and drug abuse. Domestic violence costs millions of dollars each year in the state of Washington for health care, absence from work, services to children, and more. The crisis is growing.

While the existing protection order process can be a valuable tool to increase safety for victims and to hold batterers accountable, specific problems in its use have become evident. Victims have difficulty completing the paperwork required particularly if they have limited English proficiency; model forms have been modified to be inconsistent with statutory language; different forms create confusion for law enforcement agencies about the contents and enforceability of orders. Refinements are needed so that victims have the easy, quick, and effective access to the court system envisioned at the time the protection order process was first created.

When courts issue mutual protection orders without the filing of separate written petitions, notice to each respondent, and hearing on each petition, the original petitioner is deprived of due process. Mutual protection orders label both parties as violent and treat both as being equally at fault: Batterers conclude that the violence is excusable or provoked and victims who are not violent are confused and stigmatized. Enforcement may be ineffective and mutual orders may be used in other proceedings as evidence that the victim is equally at fault.

Valuable information about the reported incidents of domestic violence in the state of Washington is unobtainable without gathering data from all law enforcement agencies; without this information, it is difficult for policymakers, funders, and service providers to plan for the resources and services needed to address the issue.

Domestic violence must be addressed more widely and more effectively in our state: Greater knowledge by professionals who deal frequently with domestic violence is essential to enforce existing laws, to intervene in domestic violence situations that do not come to the attention of the law enforcement or judicial systems, and to reduce and prevent domestic violence by intervening before the violence becomes severe.

Adolescent dating violence is occurring at increasingly high rates: Preventing and confronting adolescent violence is important in preventing potential violence in future adult relationships." [1992 c 111 § 1.]

**Effective date—1985 c 303 §§ 1, 2:** See note following RCW 26.50.020.

*Child abuse, temporary restraining order:* RCW 26.44.063.

*Orders prohibiting contact:* RCW 10.99.040.

*Temporary restraining order:* RCW 26.09.060.

**26.50.035 Development of instructions, informational brochures, forms, and handbook by the administrator for the courts—Community resource list—Distribution of master copy.** (1) By July 1, 1994, the administrator for the courts shall develop and prepare instructions and informational brochures required under RCW 26.50.030(4), standard petition and order for protection forms, and a court staff handbook on domestic violence and the protection order process. The standard petition and order for protection forms must be used after September 1, 1994, for all petitions filed and orders issued under this chapter. The instructions, brochures, forms, and handbook shall be prepared in consultation with interested persons, including a representative of the state domestic violence coalition, judges, and law enforcement personnel.

(a) The instructions shall be designed to assist petitioners in completing the petition, and shall include a sample of standard petition and order for protection forms.

(b) The informational brochure shall describe the use of and the process for obtaining a protection order, a no-contact order as provided by RCW 10.99.040, a restraining order as provided by RCW 26.09.060, and an antiharassment protection order as provided by chapter 10.14 RCW.

(c) The order for protection form shall include, in a conspicuous location, notice of criminal penalties resulting from violation of the order, and the following statement: "You can be arrested even if the person or persons who obtained the order invite or allow you to violate the order's prohibitions. The respondent has the sole responsibility to avoid or refrain from violating the order's provisions. Only the court can change the order upon written application."

(d) The court staff handbook shall allow for the addition of a community resource list by the court clerk.

(2) All court clerks shall obtain a community resource list from a domestic violence program, defined in RCW 70.123.020, serving the county in which the court is located. The community resource list shall include the names and telephone numbers of domestic violence programs serving the community in which the court is located, including law enforcement agencies, domestic violence agencies, sexual assault agencies, legal assistance programs, interpreters, multicultural programs, and batterers' treatment programs. The court shall make the community resource list available as part of or in addition to the informational brochures described in subsection (1) of this section.

(3) The administrator for the courts shall distribute a master copy of the petition and order forms, instructions, and informational brochures to all court clerks and shall distribute a master copy of the petition and order forms to all superior, district, and municipal courts.

(4) For purposes of this section, "court clerks" means court administrators in courts of limited jurisdiction and elected court clerks.

(5) The administrator for the courts shall determine the significant non-English-speaking or limited English-speaking

populations in the state. The administrator shall then arrange for translation of the instructions and informational brochures required by this section, which shall contain a sample of the standard petition and order for protection forms, into the languages spoken by those significant non-English-speaking populations and shall distribute a master copy of the translated instructions and informational brochures to all court clerks by January 1, 1997.

(6) The administrator for the courts shall update the instructions, brochures, standard petition and order for protection forms, and court staff handbook when changes in the law make an update necessary. [1995 c 246 § 4; 1993 c 350 § 2; 1985 c 303 § 3; 1984 c 263 § 31.]

**Severability—1995 c 246:** See note following RCW 26.50.010.

**Findings—1993 c 350:** "The legislature finds that domestic violence is a problem of immense proportions affecting individuals as well as communities. Domestic violence has long been recognized as being at the core of other major social problems including child abuse, crimes of violence against person or property, juvenile delinquency, and alcohol and drug abuse. Domestic violence costs include the loss of lives as well as millions of dollars each year in the state of Washington for health care, absence from work, and services to children. The crisis is growing.

While the existing protection order process can be a valuable tool to increase safety for victims and to hold batterers accountable, specific problems in its use have become evident. Victims have difficulty completing the paperwork required; model forms have been modified to be inconsistent with statutory language; different forms create confusion for law enforcement agencies about the contents and enforceability of orders. Refinements are needed so that victims have the easy, quick, and effective access to the court system envisioned at the time the protection order process was first created.

Valuable information about the reported incidents of domestic violence in the state of Washington is unobtainable without gathering data from all law enforcement agencies. Without this information, it is difficult for policymakers, funders, and service providers to plan for the resources and services needed to address the issue." [1993 c 350 § 1.]

**Severability—1993 c 350:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1993 c 350 § 9.]

**26.50.040 Fees not permitted—Filing, service of process, certified copies.** No fees for filing or service of process may be charged by a public agency to petitioners seeking relief under this chapter. Petitioners shall be provided the necessary number of certified copies at no cost. [1995 c 246 § 5; 1985 c 303 § 4; 1984 c 263 § 5.]

**Severability—1995 c 246:** See note following RCW 26.50.010.

**26.50.050 Hearing—Service—Time.** Upon receipt of the petition, the court shall order a hearing which shall be held not later than fourteen days from the date of the order. The court may schedule a hearing by telephone pursuant to local court rule, to reasonably accommodate a disability, or in exceptional circumstances to protect a petitioner from further acts of domestic violence. The court shall require assurances of the petitioner's identity before conducting a telephonic hearing. Except as provided in RCW 26.50.085 and 26.50.123, personal service shall be made upon the respondent not less than five court days prior to the hearing. If timely personal service cannot be made, the court shall set a new hearing date and shall either require additional attempts at obtaining personal service or permit service by publication as provided in RCW 26.50.085 or service by mail as provided in RCW 26.50.123. If the court permits

service by publication or by mail, the court shall set the hearing date not later than twenty-four days from the date of the order. The court may issue an ex parte order for protection pending the hearing as provided in RCW 26.50.070, 26.50.085, and 26.50.123. [1995 c 246 § 6; 1992 c 143 § 1; 1984 c 263 § 6.]

**Severability—1995 c 246:** See note following RCW 26.50.010.

**26.50.055 Appointment of interpreter.** (1) Pursuant to chapter 2.42 RCW, an interpreter shall be appointed for any party who, because of a hearing or speech impairment, cannot readily understand or communicate in spoken language.

(2) Pursuant to chapter 2.43 RCW, an interpreter shall be appointed for any party who cannot readily speak or understand the English language.

(3) The interpreter shall translate or interpret for the party in preparing forms, participating in the hearing and court-ordered assessments, and translating any orders. [1995 c 246 § 11.]

**Severability—1995 c 246:** See note following RCW 26.50.010.

**26.50.060 Relief—Duration—Realignment of designation of parties—Award of costs, service fees, and attorneys' fees.** (1) Upon notice and after hearing, the court may provide relief as follows:

(a) Restrain the respondent from committing acts of domestic violence;

(b) Exclude the respondent from the dwelling which the parties share, from the residence, workplace, or school of the petitioner, or from the day care or school of a child;

(c) On the same basis as is provided in chapter 26.09 RCW, the court shall make residential provision with regard to minor children of the parties. However, parenting plans as specified in chapter 26.09 RCW shall not be required under this chapter;

(d) Order the respondent to participate in batterers' treatment;

(e) Order other relief as it deems necessary for the protection of the petitioner and other family or household members sought to be protected, including orders or directives to a peace officer, as allowed under this chapter;

(f) Require the respondent to pay the administrative court costs and service fees, as established by the county or municipality incurring the expense and to reimburse the petitioner for costs incurred in bringing the action, including a reasonable attorney's fee;

(g) Restrain the respondent from having any contact with the victim of domestic violence or the victim's children or members of the victim's household;

(h) Require the respondent to submit to electronic monitoring. The order shall specify who shall provide the electronic monitoring services and the terms under which the monitoring must be performed. The order also may include a requirement that the respondent pay the costs of the monitoring. The court shall consider the ability of the respondent to pay for electronic monitoring;

(i) Consider the provisions of RCW 9.41.800;

(j) Order possession and use of essential personal effects. The court shall list the essential personal effects

with sufficient specificity to make it clear which property is included; and

(k) Order use of a vehicle.

(2) If a restraining order restrains the respondent from contacting the respondent's minor children the restraint shall be for a fixed period not to exceed one year. This limitation is not applicable to orders for protection issued under chapter 26.09, 26.10, or 26.26 RCW. With regard to other relief, if the petitioner has petitioned for relief on his or her own behalf or on behalf of the petitioner's family or household members or minor children, and the court finds that the respondent is likely to resume acts of domestic violence against the petitioner or the petitioner's family or household members or minor children when the order expires, the court may either grant relief for a fixed period or enter a permanent order of protection.

If the petitioner has petitioned for relief on behalf of the respondent's minor children, the court shall advise the petitioner that if the petitioner wants to continue protection for a period beyond one year the petitioner may either petition for renewal pursuant to the provisions of this chapter or may seek relief pursuant to the provisions of chapter 26.09 or 26.26 RCW.

(3) If the court grants an order for a fixed time period, the petitioner may apply for renewal of the order by filing a petition for renewal at any time within the three months before the order expires. The petition for renewal shall state the reasons why the petitioner seeks to renew the protection order. Upon receipt of the petition for renewal the court shall order a hearing which shall be not later than fourteen days from the date of the order. Except as provided in RCW 26.50.085, personal service shall be made on the respondent not less than five days before the hearing. If timely service cannot be made the court shall set a new hearing date and shall either require additional attempts at obtaining personal service or permit service by publication as provided in RCW 26.50.085. If the court permits service by publication, the court shall set the new hearing date not later than twenty-four days from the date of the order. If the order expires because timely service cannot be made the court shall grant an ex parte order of protection as provided in RCW 26.50.070. The court shall grant the petition for renewal unless the respondent proves by a preponderance of the evidence that the respondent will not resume acts of domestic violence against the petitioner or the petitioner's children or family or household members when the order expires. The court may renew the protection order for another fixed time period or may enter a permanent order as provided in this section. The court may award court costs, service fees, and reasonable attorneys' fees as provided in subsection (1)(f) of this section.

(4) In providing relief under this chapter, the court may realign the designation of the parties as "petitioner" and "respondent" where the court finds that the original petitioner is the abuser and the original respondent is the victim of domestic violence and may issue an ex parte temporary order for protection in accordance with RCW 26.50.070 on behalf of the victim until the victim is able to prepare a petition for an order for protection in accordance with RCW 26.50.030.

(5) Except as provided in subsection (4) of this section, no order for protection shall grant relief to any party except

upon notice to the respondent and hearing pursuant to a petition or counter-petition filed and served by the party seeking relief in accordance with RCW 26.50.050.

(6) The court order shall specify the date the order expires if any. The court order shall also state whether the court issued the protection order following personal service or service by publication and whether the court has approved service by publication of an order issued under this section.

(7) If the court declines to issue an order for protection or declines to renew an order for protection, the court shall state in writing on the order the particular reasons for the court's denial. [1995 c 246 § 7; 1994 sp.s. c 7 § 457. Prior: 1992 c 143 § 2; 1992 c 111 § 4; 1992 c 86 § 4; 1989 c 411 § 1; 1987 c 460 § 55; 1985 c 303 § 5; 1984 c 263 § 7.]

**Severability—1995 c 246:** See note following RCW 26.50.010.

**Finding—Intent—Severability—1994 sp.s. c 7:** See notes following RCW 43.70.540.

**Effective date—1994 sp.s. c 7 §§ 401-410, 413-416, 418-437, and 439-460:** See note following RCW 9.41.010.

**Findings—1992 c 111:** See note following RCW 26.50.030.

**Short title—Section captions—Effective date—Severability—1987 c 460:** See RCW 26.09.910 through 26.09.913.

#### **26.50.070 Ex parte temporary order for protection.**

(1) Where an application under this section alleges that irreparable injury could result from domestic violence if an order is not issued immediately without prior notice to the respondent, the court may grant an ex parte temporary order for protection, pending a full hearing, and grant relief as the court deems proper, including an order:

(a) Restraining any party from committing acts of domestic violence;

(b) Excluding any party from the dwelling shared or from the residence of the other until further order of the court;

(c) Restraining any party from interfering with the other's custody of the minor children or from removing the children from the jurisdiction of the court;

(d) Restraining any party from having any contact with the victim of domestic violence or the victim's children or members of the victim's household; and

(e) Considering the provisions of RCW 9.41.800.

(2) Irreparable injury under this section includes but is not limited to situations in which the respondent has recently threatened petitioner with bodily injury or has engaged in acts of domestic violence against the petitioner.

(3) The court shall hold an ex parte hearing in person or by telephone on the day the petition is filed or on the following judicial day.

(4) An ex parte temporary order for protection shall be effective for a fixed period not to exceed fourteen days or twenty-four days if the court has permitted service by publication under RCW 26.50.085 or by mail under RCW 26.50.123. The ex parte order may be reissued. A full hearing, as provided in this chapter, shall be set for not later than fourteen days from the issuance of the temporary order or not later than twenty-four days if service by publication or by mail is permitted. Except as provided in RCW 26.50.050, 26.50.085, and 26.50.123, the respondent shall be personally served with a copy of the ex parte order along with a copy of the petition and notice of the date set for the hearing.

(5) Any order issued under this section shall contain the date and time of issuance and the expiration date and shall be entered into a state-wide judicial information system by the clerk of the court within one judicial day after issuance.

(6) If the court declines to issue an ex parte temporary order for protection the court shall state the particular reasons for the court's denial. The court's denial of a motion for an ex parte order of protection shall be filed with the court. [1995 c 246 § 8; 1994 sp.s. c 7 § 458; 1992 c 143 § 3; 1989 c 411 § 2; 1984 c 263 § 8.]

**Severability—1995 c 246:** See note following RCW 26.50.010.

**Finding—Intent—Severability—1994 sp.s. c 7:** See notes following RCW 43.70.540.

**Effective date—1994 sp.s. c 7 §§ 401-410, 413-416, 418-437, and 439-460:** See note following RCW 9.41.010.

*Child abuse, temporary restraining order:* RCW 26.44.063.

*Orders prohibiting contact:* RCW 10.99.040.

*Temporary restraining order:* RCW 26.09.060.

**26.50.080 Issuance of order—Assistance of peace officer—Designation of appropriate law enforcement agency.** (1) When an order is issued under this chapter upon request of the petitioner, the court may order a peace officer to accompany the petitioner and assist in placing the petitioner in possession of those items indicated in the order or to otherwise assist in the execution of the order of protection. The order shall list all items that are to be included with sufficient specificity to make it clear which property is included. Orders issued under this chapter shall include a designation of the appropriate law enforcement agency to execute, serve, or enforce the order.

(2) Upon order of a court, a peace officer shall accompany the petitioner in an order of protection and assist in placing the petitioner in possession of all items listed in the order and to otherwise assist in the execution of the order. [1995 c 246 § 9; 1984 c 263 § 9.]

**Severability—1995 c 246:** See note following RCW 26.50.010.

**26.50.090 Order—Service—Fees.** (1) An order issued under this chapter shall be personally served upon the respondent, except as provided in subsections (6) and (8) of this section.

(2) The sheriff of the county or the peace officers of the municipality in which the respondent resides shall serve the respondent personally unless the petitioner elects to have the respondent served by a private party.

(3) If service by a sheriff or municipal peace officer is to be used, the clerk of the court shall have a copy of any order issued under this chapter forwarded on or before the next judicial day to the appropriate law enforcement agency specified in the order for service upon the respondent. Service of an order issued under this chapter shall take precedence over the service of other documents unless they are of a similar emergency nature.

(4) If the sheriff or municipal peace officer cannot complete service upon the respondent within ten days, the sheriff or municipal peace officer shall notify the petitioner. The petitioner shall provide information sufficient to permit notification.

(5) Returns of service under this chapter shall be made in accordance with the applicable court rules.

(6) If an order entered by the court recites that the respondent appeared in person before the court, the necessity for further service is waived and proof of service of that order is not necessary.

(7) Municipal police departments serving documents as required under this chapter may collect from respondents ordered to pay fees under RCW 26.50.060 the same fees for service and mileage authorized by RCW 36.18.040 to be collected by sheriffs.

(8) If the court previously entered an order allowing service of the notice of hearing and temporary order of protection by publication pursuant to RCW 26.50.085 or by mail pursuant to RCW 26.50.123, the court may permit service by publication or by mail of the order of protection issued under RCW 26.50.060. Service by publication must comply with the requirements of RCW 26.50.085 and service by mail must comply with the requirements of RCW 26.50.123. The court order must state whether the court permitted service by publication or by mail. [1995 c 246 § 10; 1992 c 143 § 6; 1985 c 303 § 6; 1984 c 263 § 10.]

**Severability—1995 c 246:** See note following RCW 26.50.010.

**26.50.095 Order following service by publication.**

Following completion of service by publication as provided in RCW 26.50.085 or by mail as provided in RCW 26.50.123, if the respondent fails to appear at the hearing, the court may issue an order of protection as provided in RCW 26.50.060. That order must be served pursuant to RCW 26.50.090, and forwarded to the appropriate law enforcement agency pursuant to RCW 26.50.100. [1995 c 246 § 12; 1992 c 143 § 5.]

**Severability—1995 c 246:** See note following RCW 26.50.010.

**26.50.100 Order—Transmittal to law enforcement agency—Record in law enforcement information system—Enforceability.** (1) A copy of an order for protection granted under this chapter shall be forwarded by the clerk of the court on or before the next judicial day to the appropriate law enforcement agency specified in the order.

Upon receipt of the order, the law enforcement agency shall forthwith enter the order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. The order shall remain in the computer for the period stated in the order. The law enforcement agency shall only expunge from the computer-based criminal intelligence information system orders that are expired, vacated, or superseded. Entry into the law enforcement information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any county in the state.

(2) The information entered into the computer-based criminal intelligence information system shall include notice to law enforcement whether the order was personally served or served by publication. [1995 c 246 § 13; 1992 c 143 § 7; 1984 c 263 § 11.]

**Severability—1995 c 246:** See note following RCW 26.50.010.

**26.50.110 Violation of order—Penalties.** (1) Whenever an order for protection is granted under this chapter and the respondent or person to be restrained knows



of the order, a violation of the restraint provisions or of a provision excluding the person from a residence, workplace, school, or day care is a gross misdemeanor. Upon conviction, and in addition to any other penalties provided by law, the court may require that the respondent submit to electronic monitoring. The court shall specify who shall provide the electronic monitoring services, and the terms under which the monitoring shall be performed. The order also may include a requirement that the respondent pay the costs of the monitoring. The court shall consider the ability of the convicted person to pay for electronic monitoring.

(2) A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order issued under this chapter that restrains the person or excludes the person from a residence, workplace, school, or day care, if the person restrained knows of the order. Presence of the order in the law enforcement computer-based criminal intelligence information system is not the only means of establishing knowledge of the order.

(3) A violation of an order for protection shall also constitute contempt of court, and is subject to the penalties prescribed by law.

(4) Any assault that is a violation of an order issued under this chapter and that does not amount to assault in the first or second degree under RCW 9A.36.011 or 9A.36.021 is a class C felony, and any conduct in violation of a protective order issued under this chapter that is reckless and creates a substantial risk of death or serious physical injury to another person is a class C felony.

(5) Upon the filing of an affidavit by the petitioner or any peace officer alleging that the respondent has violated an order for protection granted under this chapter, the court may issue an order to the respondent, requiring the respondent to appear and show cause within fourteen days why the respondent should not be found in contempt of court and punished accordingly. The hearing may be held in the court of any county or municipality in which the petitioner or respondent temporarily or permanently resides at the time of the alleged violation. [1995 c 246 § 14; 1992 c 86 § 5; 1991 c 301 § 6; 1984 c 263 § 12.]

**Severability—1995 c 246:** See note following RCW 26.50.010.

**Finding—1991 c 301:** See note following RCW 10.99.020.

**26.50.115 Enforcement of ex parte order—Knowledge of order prerequisite to penalties—Reasonable efforts to serve copy of order.** (1) When the court issues an ex parte order pursuant to RCW 26.50.070 or an order of protection ordered issued pursuant to RCW 26.50.060, the court shall advise the petitioner that the respondent may not be subjected to the penalties set forth in RCW 26.50.110 for a violation of the order unless the respondent knows of the order.

(2) When a peace officer investigates a report of an alleged violation of an order for protection issued under this chapter the officer shall attempt to determine whether the respondent knew of the existence of the protection order. If the law enforcement officer determines that the respondent did not or probably did not know about the protection order and the officer is provided a current copy of the order, the officer shall serve the order on the respondent if the respon-

dent is present. If the respondent is not present, the officer shall make reasonable efforts to serve a copy of the order on the respondent. If the officer serves the respondent with the petitioner's copy of the order, the officer shall give petitioner a receipt indicating that petitioner's copy has been served on the respondent.

(3) Presentation of an unexpired, certified copy of a protection order is sufficient for a law enforcement officer to enforce the terms of the order regardless of the presence of the order in the law enforcement computer-based criminal intelligence information system. [1995 c 246 § 15; 1992 c 143 § 8.]

**Severability—1995 c 246:** See note following RCW 26.50.010.

**26.50.123 Service by mail.** (1) In circumstances justifying service by publication under RCW 26.50.085(1), if the serving party files an affidavit stating facts from which the court determines that service by mail is just as likely to give actual notice as service by publication and that the serving party is unable to afford the cost of service by publication, the court may order that service be made by mail. Such service shall be made by any person over eighteen years of age, who is competent to be a witness, other than a party, by mailing copies of the order and other process to the party to be served at his or her last known address or any other address determined by the court to be appropriate. Two copies shall be mailed, postage prepaid, one by ordinary first class mail and the other by a form of mail requiring a signed receipt showing when and to whom it was delivered. The envelopes must bear the return address of the sender.

(2) Proof of service under this section shall be consistent with court rules for civil proceedings.

(3) Service under this section may be used in the same manner and shall have the same jurisdictional effect as service by publication for purposes of this chapter. Service shall be deemed complete upon the mailing of two copies as prescribed in this section. [1995 c 246 § 16.]

**Severability—1995 c 246:** See note following RCW 26.50.010.

**26.50.125 Service by publication or mailing—Costs.** The court may permit service by publication or by mail under this chapter only if the petitioner pays the cost of publication or mailing unless the county legislative authority allocates funds for service of process by publication or by mail for indigent petitioners. [1995 c 246 § 17; 1992 c 143 § 9.]

**Severability—1995 c 246:** See note following RCW 26.50.010.

**26.50.135 Residential placement or custody of a child—Prerequisite.** (1) Before granting an order under this chapter directing residential placement of a child or restraining or limiting a party's contact with a child, the court shall consult the judicial information system, if available, to determine the pendency of other proceedings involving the residential placement of any child of the parties for whom residential placement has been requested.

(2) Jurisdictional issues regarding out-of-state proceedings involving the custody or residential placement of any child of the parties shall be governed by the uniform child

custody jurisdiction act, chapter 26.27 RCW. [1995 c 246 § 19.]

**Severability—1995 c 246:** See note following RCW 26.50.010.

#### 26.50.160 Judicial information system—Data base.

To prevent the issuance of competing protection orders in different courts and to give courts needed information for issuance of orders, the judicial information system shall be available in each district, municipal, and superior court by July 1, 1997, and shall include a data base containing the following information:

(1) The names of the parties and the cause number for every order of protection issued under this title, every criminal no-contact order issued under chapter 10.99 RCW, every antiharassment order issued under chapter 10.14 RCW, every dissolution action under chapter 26.09 RCW, every third-party custody action under chapter 26.10 RCW, and every parentage action under chapter 26.10 RCW;

(2) A criminal history of the parties; and

(3) Other relevant information necessary to assist courts in issuing orders under this chapter as determined by the judicial information system committee. [1995 c 246 § 18.]

**Severability—1995 c 246:** See note following RCW 26.50.010.

## Title 27

### LIBRARIES, MUSEUMS, AND HISTORICAL ACTIVITIES

#### Chapters

- 27.14 Library district local improvement districts.
- 27.15 Library capital facility areas.
- 27.34 State historical societies—Heritage council—Archaeology and historic preservation.
- 27.53 Archaeological sites and resources.
- 27.60 1989 Washington centennial.

#### Chapter 27.14

### LIBRARY DISTRICT LOCAL IMPROVEMENT DISTRICTS

#### Sections

27.14.010 through 27.14.050 Repealed.

**27.14.010 through 27.14.050 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

#### Chapter 27.15

### LIBRARY CAPITAL FACILITY AREAS

#### Sections

- 27.15.005 Findings.
- 27.15.010 Definitions.
- 27.15.020 Request to establish library capital facilities area—Ballot propositions.
- 27.15.030 Governing body.
- 27.15.040 Authority to construct, acquire, maintain, and remodel facilities—Interlocal agreements—Legal title.
- 27.15.050 Financing—Bonds authorized.

[1995 RCW Supp—page 242]

27.15.060 Dissolution of library capital facility area.

**27.15.005 Findings.** The legislature finds that it is in the interests of the people of the state of Washington to be able to establish library capital facility areas as quasi-municipal corporations and independent taxing units existing within the boundaries of existing rural county library districts, rural intercounty library districts, rural partial-county library districts, or island library districts, for the purpose of financing the construction of capital library facilities. [1995 c 368 § 1.]

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

(1) "Library district" means rural county library district, rural intercounty library district, rural partial-county library district, or island library district.

(2) "Library capital facility area" means a quasi-municipal corporation and independent taxing authority within the meaning of Article VII, section 1 of the state Constitution, and a taxing district within the meaning of Article VII, section 2 of the state Constitution, created by a county legislative authority of one or several counties. A library capital facility area may include all or a portion of a city or town.

(3) "Library capital facilities" includes both real and personal property including, but not limited to, land, buildings, site improvements, equipment, furnishings, collections, and all necessary costs related to acquisition, financing, design, construction, equipping, and remodeling. [1995 c 368 § 2.]

**27.15.020 Request to establish library capital facilities area—Ballot propositions.** Upon receipt of a completed written request to both establish a library capital facilities area and submit a ballot proposition under RCW 27.15.050 to finance library capital facilities, that is signed by a majority of the members of the board of trustees of a library district or board of trustees of a city or town library, the county legislative authority or county legislative authorities for the county or counties in which a proposed library capital facility area is to be established shall submit separate ballot propositions to voters to authorize establishing the proposed library capital facilities area and authorizing the library capital facilities area, if established, to finance library capital facilities by issuing general indebtedness and imposing excess levies to retire the indebtedness. The ballot propositions may only be submitted to voters at a general election. Approval of the ballot proposition to create a library capital facilities area shall be by a simple majority vote.

A completed request submitted under this section shall include: (1) A description of the boundaries of the library capital facility area; and (2) a copy of the resolution of the legislative authority of each city or town, and board of trustees of each library district, with territory included within the proposed library capital facilities area indicating both: (a) Its approval of the creation of the proposed library capital facilities area; and (b) agreement on how election costs will be paid for submitting ballot propositions to voters that

authorize the library capital facilities area to incur general indebtedness and impose excess levies to retire the general indebtedness. [1995 c 368 § 3.]

**27.15.030 Governing body.** The governing body of the library capital facility area shall be three members of the county legislative authority from each county in which the library capital facility area is located. In counties that have more than three members of their legislative body, the three members who shall serve on the governing body of the library capital facility area shall be chosen by the full membership of the county legislative authority. Where the library capital facility area is located in more than one county, a county may be represented by less than three members by mutual agreement of the legislative authorities of the participating counties. [1995 c 368 § 4.]

**27.15.040 Authority to construct, acquire, maintain, and remodel facilities—Interlocal agreements—Legal title.** A library capital facilities area may construct, acquire, maintain, and remodel library capital facilities and the governing body of the library capital facility area may, by interlocal agreement or otherwise, contract with a county, city, town, or library district to design, administer the construction of, operate, or maintain a library capital facility financed pursuant to this chapter. Legal title to library capital facilities acquired or constructed pursuant to this chapter may be transferred, acquired, or held by the library capital facility area or by a county, city, town, or library district in which the facility is located. [1995 c 368 § 5.]

**27.15.050 Financing—Bonds authorized.** (1) A library capital facility area may contract indebtedness or borrow money to finance library capital facilities and may issue general obligation bonds for such purpose not exceeding an amount, together with any existing indebtedness of the library capital facility area, equal to one and one-quarter percent of the value of the taxable property in the district and impose excess property tax levies to retire the general indebtedness as provided in RCW 39.36.050 if a ballot proposition authorizing both the indebtedness and excess levies is approved by at least three-fifths of the voters of the library capital facility area voting on the proposition, and the total number of voters voting on the proposition constitutes not less than forty percent of the total number of voters in the library capital facility area voting at the last preceding general election. The term "value of the taxable property" has the meaning set forth in RCW 39.36.015. Such a proposition may only be submitted to voters at a general election and may be submitted to voters at the same election as the election when the ballot proposition authorizing the establishing of the library capital facilities district is submitted.

(2) A library capital facility area may accept gifts or grants of money or property of any kind for the same purposes for which it is authorized to borrow money in subsection (1) of this section. [1995 c 368 § 6.]

**27.15.060 Dissolution of library capital facility area.** (1) A library capital facility area may be dissolved by a majority vote of the governing body when all obligations

under any general obligation bonds issued by the library capital facility area have been discharged and any other contractual obligations of the library capital facility area have either been discharged or assumed by another governmental entity.

(2) A library capital facility area shall be dissolved by the governing body if the first two ballot propositions under RCW 27.15.050 that are submitted to voters are not approved. [1995 c 368 § 7.]

## Chapter 27.34

### STATE HISTORICAL SOCIETIES— HISTORIC PRESERVATION

#### Sections

27.34.020	Definitions.
27.34.210	Office of archaeology and historic preservation— Preservation officer—Qualifications.
27.34.250	Advisory council on historic preservation—Members.
27.34.300	Repealed.
27.34.310	Inventory of state-owned properties—Definitions.
27.34.330	Heritage capital projects—Proposals for funding—Prioritized list.

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

(1) "Advisory council" means the advisory council on historic preservation.

(2) "Department" means the department of community, trade, and economic development.

(3) "Director" means the director of community, trade, and economic development.

(4) "Federal act" means the national historic preservation act of 1966 (Public Law 89-655; 80 Stat. 915).

(5) "Heritage council" means the Washington state heritage council.

(6) "Historic preservation" includes the protection, rehabilitation, restoration, identification, scientific excavation, and reconstruction of districts, sites, buildings, structures, and objects significant in American and Washington state history, architecture, archaeology, or culture.

(7) "Office" means the office of archaeology and historic preservation within the department.

(8) "Preservation officer" means the state historic preservation officer as provided for in RCW 27.34.210.

(9) "Project" means programs leading to the preservation for public benefit of historical properties, whether by state and local governments or other public bodies, or private organizations or individuals, including the acquisition of title or interests in, and the development of, any district, site, building, structure, or object that is significant in American and Washington state history, architecture, archaeology, or culture, and property used in connection therewith, or for its development.

(10) "State historical agencies" means the state historical societies and the office of archaeology and historic preservation within the department.

(11) "State historical societies" means the Washington state historical society and the eastern Washington state historical society.

(12) "Cultural resource management plan" means a comprehensive plan which identifies and organizes information on the state of Washington's historic, archaeological, and architectural resources into a set of management criteria, and which is to be used for producing reliable decisions, recommendations, and advice relative to the identification, evaluation, and protection of these resources. [1995 c 399 § 13; 1993 c 101 § 10; 1986 c 266 § 9; 1983 c 91 § 2.]

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

**Severability—1986 c 266:** See note following RCW 38.52.005.

**Transfer of powers and duties of office of archaeology and historic preservation—Construction of statutory references:** See note following RCW 38.52.005.

**27.34.210 Office of archaeology and historic preservation—Preservation officer—Qualifications.** There is hereby established the office of archaeology and historic preservation within the department.

The director shall appoint the preservation officer to assist the director in implementing this chapter. The preservation officer shall have a background in program administration, an active involvement in historic preservation, and a knowledge of the national, state, and local preservation programs as they affect the state of Washington. [1995 c 399 § 14; 1986 c 266 § 10; 1983 c 91 § 11.]

**Severability—1986 c 266:** See note following RCW 38.52.005.

*Identification of historic properties and sites in need of rehabilitation or renovation—Use of conservation corps members:* RCW 43.220.180.

**27.34.250 Advisory council on historic preservation—Members.** (1) There is hereby established an advisory council on historic preservation, which shall be composed of nine members appointed by the governor as follows:

(a) A representative of a local or state heritage organization;

(b) Six members of the public who are interested and experienced in matters to be considered by the council including the fields of history, architecture, and archaeology;

(c) A representative from the Washington archaeological community; and

(d) A native American.

(2) Each member of the council shall serve a four-year term.

(3) A vacancy in the council shall not affect its powers, but shall be filled in the same manner as the original appointment for the balance of the unexpired term.

(4) The chairperson of the council shall be designated by the governor.

(5) Five members of the council shall constitute a quorum. [1995 c 150 § 1. Prior: 1993 c 185 § 1; 1993 c 101 § 12; 1983 c 91 § 15.]

**Effective date—1993 c 185:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect June 30, 1993." [1993 c 185 § 2.]

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

**27.34.300 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**27.34.310 Inventory of state-owned properties—Definitions.** Unless the context clearly requires otherwise, the following definitions apply throughout RCW 27.34.320.

(1) "Agency" means the state agency, department, or institution that has ownership of historic property.

(2) "Historic properties" means those buildings, sites, objects, structures, and districts that are listed in or eligible for listing in the National Register of Historic Places.

(3) "Office" means the office of archaeology and historic preservation within the department of community, trade, and economic development. [1995 c 399 § 15; 1993 c 325 § 3.]

**Purpose—1993 c 325 §§ 3, 4:** "It is the purpose of sections 3 and 4 of this act to give authority to the office of archaeology and historic preservation to identify and record all state-owned facilities to determine which of these facilities may be considered historically significant and to require the office to provide copies of the inventory to departments, agencies, and institutions that have jurisdiction over the buildings and sites listed." [1993 c 325 § 2.]

**27.34.330 Heritage capital projects—Proposals for funding—Prioritized list.** The Washington state historical society shall establish a competitive process to solicit proposals for and prioritize heritage capital projects for potential funding in the state capital budget. The society shall adopt rules governing project eligibility and evaluation criteria. Application for funding of specific projects may be made to the society by local governments, public development authorities, nonprofit corporations, tribal governments, and other entities, as determined by the society. The society, with the advice of leaders in the heritage field, including but not limited to representatives from the office of the secretary of state, the eastern Washington state historical society, and the state office of archaeology and historic preservation, shall establish a prioritized list of heritage capital projects to be recommended to the governor and the legislature by September 1st of each even-numbered year, beginning in 1996. The prioritized list shall be developed through open and public meetings. The governor and the legislature shall consider the prioritized list of heritage projects as a guide for appropriating funds to heritage capital projects beginning with the 1997-99 biennium and thereafter. [1995 c 182 § 2.]

**Findings—1995 c 182:** "The legislature finds that the state of Washington has a rich heritage in historical sites and artifacts that have the potential to provide life-long learning opportunities for citizens of the state. Further, the legislature finds that many of these historical treasures are not readily accessible to citizens, and that there is a need to create an ongoing program to support the capital needs of heritage organizations and facilities." [1995 c 182 § 1.]

## Chapter 27.53

### ARCHAEOLOGICAL SITES AND RESOURCES

#### Sections

27.53.030	Definitions.
27.53.130	List of areas requiring permits.
27.53.140	Rule-making authority.

**27.53.030 Definitions.** Unless the context clearly requires otherwise, the definitions contained in this section shall apply throughout this chapter.

(1) "Archaeology" means systematic, scientific study of man's past through material remains.

(2) "Archaeological object" means an object that comprises the physical evidence of an indigenous and subsequent culture including material remains of past human life including monuments, symbols, tools, facilities, and technological by-products.

(3) "Archaeological site" means a geographic locality in Washington, including but not limited to, submerged and submersible lands and the bed of the sea within the state's jurisdiction, that contains archaeological objects.

(4) "Department" means the department of community, trade, and economic development.

(5) "Director" means the director of community, trade, and economic development or the director's designee.

(6) "Historic" means peoples and cultures who are known through written documents in their own or other languages. As applied to underwater archaeological resources, the term historic shall include only those properties which are listed in or eligible for listing in the Washington State Register of Historic Places (RCW 27.34.220) or the National Register of Historic Places as defined in the National Historic Preservation Act of 1966 (Title 1, Sec. 101, Public Law 89-665; 80 Stat. 915; 16 U.S.C. Sec. 470) as now or hereafter amended.

(7) "Prehistoric" means peoples and cultures who are unknown through contemporaneous written documents in any language.

(8) "Professional archaeologist" means a person who has met the educational, training, and experience requirements of the society of professional archaeologists.

(9) "Qualified archaeologist" means a person who has had formal training and/or experience in archaeology over a period of at least three years, and has been certified in writing to be a qualified archaeologist by two professional archaeologists.

(10) "Amateur society" means any organization composed primarily of persons who are not professional archaeologists, whose primary interest is in the archaeological resources of the state, and which has been certified in writing by two professional archaeologists.

(11) "Historic archaeological resources" means those properties which are listed in or eligible for listing in the Washington State Register of Historic Places (RCW 27.34.220) or the National Register of Historic Places as defined in the National Historic Preservation Act of 1966 (Title 1, Sec. 101, Public Law 89-665; 80 Stat. 915; 16 U.S.C. Sec. 470) as now or hereafter amended. [1995 c 399 § 16; 1989 c 44 § 6; 1988 c 124 § 2; 1986 c 266 § 17; 1983 c 91 § 20; 1977 ex.s. c 195 § 13; 1975 1st ex.s. c 134 § 3.]

**Intent—1989 c 44:** See RCW 27.44.030.

**Captions not law—Liberal construction—1989 c 44:** See RCW 27.44.900 and 27.44.901.

**Intent—1988 c 124:** "It is the intent of the legislature that those historic archaeological resources located on state-owned aquatic lands that are of importance to the history of our state, or its communities, be protected for the people of the state. At the same time, the legislature also recognizes that divers have long enjoyed the recreation of diving near shipwrecks and picking up artifacts from the state-owned aquatic lands, and it is not the intent of the legislature to regulate these occasional, recreational activities except in areas where necessary to protect underwater historic archaeological sites. The legislature also recognizes that salvors who invest in a project to salvage underwater archaeological resources on state-owned aquatic lands should be required to obtain a state permit for their operation in order to protect the interest of the people of the state, as well as to

protect the interest of the salvors who have invested considerable time and money in the salvage expedition." [1988 c 124 § 1.]

**Application—1988 c 124:** "This act shall not affect any ongoing salvage effort in which the state has entered into separate contracts or agreements prior to March 18, 1988." [1988 c 124 § 13.] For codification of "this act," see Codification Tables, Volume 0.

**Severability—1986 c 266:** See note following RCW 38.52.005.

**Effective date—1983 c 91:** See RCW 27.34.910.

**Severability—1977 ex.s. c 195:** See note following RCW 27.53.020.

**27.53.130 List of areas requiring permits.** The department shall publish annually and update as necessary a list of those areas where permits are required to protect historic archaeological sites on aquatic lands. [1995 c 399 § 17; 1988 c 124 § 10.]

**Intent—Application—1988 c 124:** See notes following RCW 27.53.030.

**27.53.140 Rule-making authority.** The department shall have such rule-making authority as is necessary to carry out the provisions of this chapter. [1995 c 399 § 18; 1988 c 124 § 11.]

**Intent—Application—1988 c 124:** See notes following RCW 27.53.030.

## Chapter 27.60

### 1989 WASHINGTON CENTENNIAL

#### Sections

27.60.010 through 27.60.090 Repealed.

27.60.900 Repealed.

**27.60.010 through 27.60.090 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**27.60.900 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

## Title 28A

### COMMON SCHOOL PROVISIONS

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### Chapter 28A.150

#### GENERAL PROVISIONS

##### Sections

28A.150.220	Basic Education Act—Definitions—Program requirements—Program accessibility—Rules and regulations. ( <i>Contingent expiration date.</i> )
28A.150.260	Annual basic education allocation of funds according to average FTE student enrollment—Procedure to determine distribution formula—Submittal to legislature—Enrollment, FTE student, certificated and classified staff, defined—Minimum classroom contact hours—Waiver. ( <i>Contingent expiration date.</i> )
28A.150.260	Annual basic education allocation of funds according to average FTE student enrollment—Procedure to determine distribution formula—Submittal to legislature—Enrollment, FTE student, certificated and classified staff, defined. ( <i>Contingent effective date.</i> )
28A.150.275	Annual basic education allocation for students in technical colleges.
28A.150.360	Adjustments to meet emergencies.
28A.150.370	Additional programs for which legislative appropriations must or may be made.
28A.150.380	Appropriations by legislature.
28A.150.390	Appropriations for special education programs.

**28A.150.220 Basic Education Act—Definitions—Program requirements—Program accessibility—Rules and regulations. (*Contingent expiration date.*)** (1) For the purposes of this section and RCW 28A.150.250 and 28A.150.260:

(a) The term "total program hour offering" shall mean those hours when students are provided the opportunity to engage in educational activity planned by and under the direction of school district staff, as directed by the administration and board of directors of the district, inclusive of intermissions for class changes, recess and teacher/parent-guardian conferences which are planned and scheduled by the district for the purpose of discussing students' educational needs or progress, and exclusive of time actually spent for meals.

(b) "Instruction in work skills" shall include instruction in one or more of the following areas: Industrial arts, home and family life education, business and office education, distributive education, agricultural education, health occupations education, vocational education, trade and industrial education, technical education and career education.

(2) Satisfaction of the basic education goal identified in RCW 28A.150.210 shall be considered to be implemented by the following program requirements:

(a) Each school district shall make available to students in kindergarten at least a total program offering of four hundred fifty hours. The program shall include reading, arithmetic, language skills and such other subjects and such activities as the school district shall determine to be appropriate for the education of the school district's students enrolled in such program;

(b) Each school district shall make available to students in grades one through three, at least a total program hour offering of two thousand seven hundred hours. A minimum of ninety-five percent of the total program hour offerings shall be in the basic skills areas of reading/language arts (which may include languages other than English, including American Indian languages), mathematics, social studies, science, music, art, health and physical education. The remaining five percent of the total program hour offerings may include such subjects and activities as the school district shall determine to be appropriate for the education of the school district's students in such grades;

(c) Each school district shall make available to students in grades four through six at least a total program hour offering of two thousand nine hundred seventy hours. A minimum of ninety percent of the total program hour offerings shall be in the basic skills areas of reading/language arts (which may include languages other than English, including American Indian languages), mathematics, social studies, science, music, art, health and physical education. The remaining ten percent of the total program hour offerings may include such subjects and activities as the school district shall determine to be appropriate for the education of the school district's students in such grades;

(d) Each school district shall make available to students in grades seven through eight, at least a total program hour offering of one thousand nine hundred eighty hours. A minimum of eighty-five percent of the total program hour offerings shall be in the basic skills areas of reading/language arts (which may include languages other than English, including American Indian languages), mathematics, social studies, science, music, art, health and physical education. A minimum of ten percent of the total program hour offerings shall be in the area of work skills. The remaining five percent of the total program hour offerings may include such subjects and activities as the school district

shall determine to be appropriate for the education of the school district's students in such grades;

(e) Each school district shall make available to students in grades nine through twelve at least a total program hour offering of four thousand three hundred twenty hours. A minimum of sixty percent of the total program hour offerings shall be in the basic skills areas of language arts, languages other than English, which may be American Indian languages, mathematics, social studies, science, music, art, health and physical education. A minimum of twenty percent of the total program hour offerings shall be in the area of work skills. The remaining twenty percent of the total program hour offerings may include traffic safety or such subjects and activities as the school district shall determine to be appropriate for the education of the school district's students in such grades, with not less than one-half thereof in basic skills and/or work skills: PROVIDED, That each school district shall have the option of including grade nine within the program hour offering requirements of grades seven and eight so long as such requirements for grades seven through nine are increased to two thousand nine hundred seventy hours and such requirements for grades ten through twelve are decreased to three thousand two hundred forty hours.

(3) In order to provide flexibility to the local school districts in the setting of their curricula, and in order to maintain the intent of this legislation, which is to stress the instruction of basic skills and work skills, any local school district may establish minimum course mix percentages that deviate by up to five percentage points above or below those minimums required by subsection (2) of this section, so long as the total program hour requirement is still met.

(4) Nothing contained in subsection (2) of this section shall be construed to require individual students to attend school for any particular number of hours per day or to take any particular courses.

(5) Each school district's kindergarten through twelfth grade basic educational program shall be accessible to all students who are five years of age, as provided by RCW 28A.225.160, and less than twenty-one years of age and shall consist of a minimum of one hundred eighty school days per school year in such grades as are conducted by a school district, and one hundred eighty half-days of instruction, or equivalent, in kindergarten: PROVIDED, That effective May 1, 1979, a school district may schedule the last five school days of the one hundred and eighty day school year for noninstructional purposes in the case of students who are graduating from high school, including, but not limited to, the observance of graduation and early release from school upon the request of a student, and all such students may be claimed as a full time equivalent student to the extent they could otherwise have been so claimed for the purposes of RCW 28A.150.250 and 28A.150.260.

(6) The state board of education shall adopt rules to implement and ensure compliance with the program requirements imposed by this section, RCW 28A.150.250 and 28A.150.260, and such related supplemental program approval requirements as the state board may establish: PROVIDED, That each school district board of directors shall establish the basis and means for determining and monitoring the district's compliance with the basic skills and work skills percentage and course requirements of this

section. The certification of the board of directors and the superintendent of a school district that the district is in compliance with such basic skills and work skills requirements may be accepted by the superintendent of public instruction and the state board of education.

(7) Special education programs for students with disabilities, vocational-technical institute programs, state institution and state residential school programs, all of which programs are conducted for the common school age, kindergarten through secondary school program students encompassed by this section, shall be exempt from the basic skills and work skills percentage and course requirements of this section in order that the unique needs, abilities or limitations of such students may be met.

(8) Any school district may petition the state board of education for a reduction in the total program hour offering requirements for one or more of the grade level groupings specified in this section. The state board of education shall grant all such petitions that are accompanied by an assurance that the minimum total program hour offering requirements in one or more other grade level groupings will be exceeded concurrently by no less than the number of hours of the reduction. [1995 c 77 § 1; 1993 c 371 § 1; 1990 c 33 § 105; 1982 c 158 § 1; 1979 ex.s. c 250 § 1; 1977 ex.s. c 359 § 3. Formerly RCW 28A.58.754.]

**Contingent expiration date—1995 c 77 § 1:** "Section 1 of this act shall expire September 1, 2000. However, section 1 of this act shall not expire if, by September 1, 2000, a law is not enacted stating that a school accountability and academic assessment system is not in place." [1995 c 77 § 32.]

**Severability—1982 c 158:** "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 c 158 § 8.] For codification of 1982 c 158, see Codification Tables, Volume 0.

**Effective date—1979 ex.s. c 250:** "This amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and except as otherwise provided in subsection (5) of section 1, and section 2 of this amendatory act, shall take effect August 15, 1979." [1979 ex.s. c 250 § 10.]

**Severability—1979 ex.s. c 250:** "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 ex.s. c 250 § 11.]

The above two annotations apply to 1979 ex.s. c 250. For codification of that act, see Codification Tables, Volume 0.

**Effective date—Severability—1977 ex.s. c 359:** See notes following RCW 28A.150.200.

**28A.150.260 Annual basic education allocation of funds according to average FTE student enrollment—Procedure to determine distribution formula—Submittal to legislature—Enrollment, FTE student, certificated and classified staff, defined—Minimum classroom contact hours—Waiver. (Contingent expiration date.)** The basic education allocation for each annual average full time equivalent student shall be determined in accordance with the following procedures:

(1) The governor shall and the superintendent of public instruction may recommend to the legislature a formula based on a ratio of students to staff for the distribution of a basic education allocation for each annual average full time equivalent student enrolled in a common school. The

distribution formula shall have the primary objective of equalizing educational opportunities and shall provide appropriate recognition of the following costs among the various districts within the state:

- (a) Certificated instructional staff and their related costs;
- (b) Certificated administrative staff and their related costs;
- (c) Classified staff and their related costs;
- (d) Nonsalary costs;
- (e) Extraordinary costs of remote and necessary schools and small high schools, including costs of additional certificated and classified staff; and
- (f) The attendance of students pursuant to RCW 28A.335.160 and 28A.225.250 who do not reside within the servicing school district.

(2)(a) This formula for distribution of basic education funds shall be reviewed biennially by the superintendent and governor. The recommended formula shall be subject to approval, amendment or rejection by the legislature. The formula shall be for allocation purposes only. While the legislature intends that the allocations for additional instructional staff be used to increase the ratio of such staff to students, nothing in this section shall require districts to reduce the number of administrative staff below existing levels.

(b) The formula adopted by the legislature shall reflect the following ratios at a minimum: (i) Forty-nine certificated instructional staff to one thousand annual average full time equivalent students enrolled in grades kindergarten through three; (ii) forty-six certificated instructional staff to one thousand annual average full time equivalent students in grades four through twelve; (iii) four certificated administrative staff to one thousand annual average full time equivalent students in grades kindergarten through twelve; and (iv) sixteen and sixty-seven one-hundredths classified personnel to one thousand annual average full time equivalent students enrolled in grades kindergarten through twelve.

(c) In the event the legislature rejects the distribution formula recommended by the governor, without adopting a new distribution formula, the distribution formula for the previous school year shall remain in effect: PROVIDED, That the distribution formula developed pursuant to this section shall be for state apportionment and equalization purposes only and shall not be construed as mandating specific operational functions of local school districts other than those program requirements identified in RCW 28A.150.220 and 28A.150.100. The enrollment of any district shall be the annual average number of full time equivalent students and part time students as provided in RCW 28A.150.350, enrolled on the first school day of each month and shall exclude full time equivalent students with disabilities recognized for the purposes of allocation of state funds for programs under RCW 28A.155.010 through 28A.155.100. The definition of full time equivalent student shall be determined by rules of the superintendent of public instruction: PROVIDED, That the definition shall be included as part of the superintendent's biennial budget request: PROVIDED, FURTHER, That any revision of the present definition shall not take effect until approved by the house appropriations committee and the senate ways and means committee: PROVIDED, FURTHER, That the office of financial management shall make a monthly review of the

superintendent's reported full time equivalent students in the common schools in conjunction with RCW 43.62.050.

(3)(a) Certificated instructional staff shall include those persons employed by a school district who are nonsupervisory employees within the meaning of RCW 41.59.020(8): PROVIDED, That in exceptional cases, people of unusual competence but without certification may teach students so long as a certificated person exercises general supervision: PROVIDED, FURTHER, That the hiring of such noncertificated people shall not occur during a labor dispute and such noncertificated people shall not be hired to replace certificated employees during a labor dispute.

(b) Certificated administrative staff shall include all those persons who are chief executive officers, chief administrative officers, confidential employees, supervisors, principals, or assistant principals within the meaning of RCW 41.59.020(4).

(4) Each annual average full time equivalent certificated classroom teacher's direct classroom contact hours shall average at least twenty-five hours per week. Direct classroom contact hours shall be exclusive of time required to be spent for preparation, conferences, or any other nonclassroom instruction duties. Up to two hundred minutes per week may be deducted from the twenty-five contact hour requirement, at the discretion of the school district board of directors, to accommodate authorized teacher/parent-guardian conferences, recess, passing time between classes, and informal instructional activity. Implementing rules to be adopted by the state board of education pursuant to RCW 28A.150.220(4) shall provide that compliance with the direct contact hour requirement shall be based upon teachers' normally assigned weekly instructional schedules, as assigned by the district administration. Additional record-keeping by classroom teachers as a means of accounting for contact hours shall not be required. Waivers from contact hours may be requested under RCW 28A.305.140. [1995 c 77 § 2; 1992 c 141 § 303; 1991 c 116 § 10; 1990 c 33 § 108; 1987 1st ex.s. c 2 § 202; 1985 c 349 § 5; 1983 c 229 § 1; 1979 ex.s. c 250 § 3; 1979 c 151 § 12; 1977 ex.s. c 359 § 5; 1969 ex.s. c 244 § 14. Prior: 1969 ex.s. c 217 § 3; 1969 c 130 § 7; 1969 ex.s. c 223 § 28A.41.140; prior: 1965 ex.s. c 154 § 3. Formerly RCW 28A.41.140, 28.41.140.]

**Findings—Part headings—Severability—1992 c 141:** See notes following RCW 28A.410.040.

**Intent—Severability—Effective date—1987 1st ex.s. c 2:** See notes following RCW 84.52.0531.

**Severability—1985 c 349:** See note following RCW 28A.630.800.

**Effective date—Severability—1979 ex.s. c 250:** See notes following RCW 28A.150.220.

**Effective date—Severability—1977 ex.s. c 359:** See notes following RCW 28A.150.200.

*Basic Education Act, RCW 28A.150.260 as part of: RCW 28A.150.200.*

*Distribution of forest reserve funds—As affects basic education allocation: RCW 28A.520.020.*

**28A.150.260 Annual basic education allocation of funds according to average FTE student enrollment—Procedure to determine distribution formula—Submittal to legislature—Enrollment, FTE student, certificated and classified staff, defined. (Contingent effective date.)** The basic education allocation for each annual average full time



equivalent student shall be determined in accordance with the following procedures:

(1) The governor shall and the superintendent of public instruction may recommend to the legislature a formula based on a ratio of students to staff for the distribution of a basic education allocation for each annual average full time equivalent student enrolled in a common school. The distribution formula shall have the primary objective of equalizing educational opportunities and shall provide appropriate recognition of the following costs among the various districts within the state:

- (a) Certificated instructional staff and their related costs;
- (b) Certificated administrative staff and their related costs;
- (c) Classified staff and their related costs;
- (d) Nonsalary costs;
- (e) Extraordinary costs of remote and necessary schools and small high schools, including costs of additional certificated and classified staff; and
- (f) The attendance of students pursuant to RCW 28A.335.160 and 28A.225.250 who do not reside within the servicing school district.

(2)(a) This formula for distribution of basic education funds shall be reviewed biennially by the superintendent and governor. The recommended formula shall be subject to approval, amendment or rejection by the legislature. The formula shall be for allocation purposes only. While the legislature intends that the allocations for additional instructional staff be used to increase the ratio of such staff to students, nothing in this section shall require districts to reduce the number of administrative staff below existing levels.

(b) The formula adopted by the legislature shall reflect the following ratios at a minimum: (i) Forty-nine certificated instructional staff to one thousand annual average full time equivalent students enrolled in grades kindergarten through three; (ii) forty-six certificated instructional staff to one thousand annual average full time equivalent students in grades four through twelve; (iii) four certificated administrative staff to one thousand annual average full time equivalent students in grades kindergarten through twelve; and (iv) sixteen and sixty-seven one-hundredths classified personnel to one thousand annual average full time equivalent students enrolled in grades kindergarten through twelve.

(c) In the event the legislature rejects the distribution formula recommended by the governor, without adopting a new distribution formula, the distribution formula for the previous school year shall remain in effect: PROVIDED, That the distribution formula developed pursuant to this section shall be for state apportionment and equalization purposes only and shall not be construed as mandating specific operational functions of local school districts other than those program requirements identified in RCW 28A.150.220 and 28A.150.100. The enrollment of any district shall be the annual average number of full time equivalent students and part time students as provided in RCW 28A.150.350, enrolled on the first school day of each month and shall exclude full time equivalent students with disabilities recognized for the purposes of allocation of state funds for programs under RCW 28A.155.010 through 28A.155.100. The definition of full time equivalent student

shall be determined by rules of the superintendent of public instruction: PROVIDED, That the definition shall be included as part of the superintendent's biennial budget request: PROVIDED, FURTHER, That any revision of the present definition shall not take effect until approved by the house appropriations committee and the senate ways and means committee: PROVIDED, FURTHER, That the office of financial management shall make a monthly review of the superintendent's reported full time equivalent students in the common schools in conjunction with RCW 43.62.050.

(3)(a) Certificated instructional staff shall include those persons employed by a school district who are nonsupervisory employees within the meaning of RCW 41.59.020(8): PROVIDED, That in exceptional cases, people of unusual competence but without certification may teach students so long as a certificated person exercises general supervision: PROVIDED, FURTHER, That the hiring of such noncertificated people shall not occur during a labor dispute and such noncertificated people shall not be hired to replace certificated employees during a labor dispute.

(b) Certificated administrative staff shall include all those persons who are chief executive officers, chief administrative officers, confidential employees, supervisors, principals, or assistant principals within the meaning of RCW 41.59.020(4). [1995 c 77 § 3; 1992 c 141 § 507; 1992 c 141 § 303; 1991 c 116 § 10; 1990 c 33 § 108; 1987 1st ex.s. c 2 § 202; 1985 c 349 § 5; 1983 c 229 § 1; 1979 ex.s. c 250 § 3; 1979 c 151 § 12; 1977 ex.s. c 359 § 5; 1969 ex.s. c 244 § 14. Prior: 1969 ex.s. c 217 § 3; 1969 c 130 § 7; 1969 ex.s. c 223 § 28A.41.140; prior: 1965 ex.s. c 154 § 3. Formerly RCW 28A.41.140, 28.41.140.]

**Contingent effective date—1995 c 77 § 3:** "Section 3 of this act shall take effect September 1, 2000. However, section 3 of this act shall not take effect if, by September 1, 2000, a law is enacted stating that a school accountability and academic assessment system is not in place." [1995 c 77 § 33.]

**Contingent effective date—1993 c 336 §§ 502-504, 506, 507; 1992 c 141 §§ 501-507:** See note following RCW 28A.150.205.

**Findings—Part headings—Severability—1992 c 141:** See notes following RCW 28A.410.040.

**Intent—Severability—Effective date—1987 1st ex.s. c 2:** See notes following RCW 84.52.0531.

**Severability—1985 c 349:** See note following RCW 28A.630.800.

**Effective date—Severability—1979 ex.s. c 250:** See notes following RCW 28A.150.220.

**Effective date—Severability—1977 ex.s. c 359:** See notes following RCW 28A.150.200.

*Basic Education Act, RCW 28A.150.260 as part of: RCW 28A.150.200.*

*Distribution of forest reserve funds—As affects basic education allocation: RCW 28A.520.020.*

**28A.150.275 Annual basic education allocation for students in technical colleges.** The basic education allocation, including applicable vocational entitlements and special education program money, generated under this chapter and under state appropriation acts by school districts for students enrolled in a technical college program established by an interlocal agreement under RCW 28B.50.533 shall be allocated in amounts as determined by the superintendent of public instruction to the serving college rather than to the school district, unless the college chooses to continue to receive the allocations through the school districts. This

section does not apply to students enrolled in the running start program established in RCW 28A.600.310. [1995 c 77 § 4; 1993 c 223 § 1.]

**28A.150.360 Adjustments to meet emergencies.** In the event of an unforeseen emergency, in the nature of either an unavoidable cost to a district or unexpected variation in anticipated revenues to a district, the state superintendent is authorized, for not to exceed two years, to make such an adjustment in the allocation of funds as is consistent with the intent of this chapter, RCW 28A.160.150 through 28A.160.210, 28A.300.170, and 28A.500.010 in providing an equal educational opportunity for the children of such district or districts. [1995 c 335 § 101; 1990 c 33 § 113; 1969 ex.s. c 223 § 28A.41.150. Prior: 1965 ex.s. c 154 § 4. Formerly RCW 28A.41.150, 28.41.150.]

**Part headings, table of contents not law—1995 c 335:** "Part headings and the table of contents as used in this act do not constitute any part of the law." [1995 c 335 § 805.]

**28A.150.370 Additional programs for which legislative appropriations must or may be made.** In addition to those state funds provided to school districts for basic education, the legislature shall appropriate funds for pupil transportation, in accordance with this chapter, RCW 28A.160.150 through 28A.160.210, 28A.300.035, 28A.300.170, and 28A.500.010, and for special education programs for students with disabilities, in accordance with RCW 28A.155.010 through 28A.155.100. The legislature may appropriate funds to be distributed to school districts for population factors such as urban costs, enrollment fluctuations and for special programs, including but not limited to, vocational-technical institutes, compensatory programs, bilingual education, urban, rural, racial and disadvantaged programs, programs for gifted students, and other special programs. [1995 c 335 § 102; 1995 c 77 § 5; 1990 c 33 § 114; 1982 1st ex.s. c 24 § 1; 1977 ex.s. c 359 § 7. Formerly RCW 28A.41.162.]

**Reviser's note:** This section was amended by 1995 c 77 § 5 and by 1995 c 335 § 102, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Part headings, table of contents not law—1995 c 335:** See note following RCW 28A.150.360.

**Effective date—1982 1st ex.s. c 24:** "Sections 2 and 3 of this amendatory act shall take effect September 1, 1982." [1982 1st ex.s. c 24 § 6.]

**Severability—1982 1st ex.s. c 24:** "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 1st ex.s. c 24 § 7.]

The above two annotations apply to 1982 1st ex.s. c 24. For codification of that act, see Codification Tables, Volume 0.

**Effective date—Severability—1977 ex.s. c 359:** See notes following RCW 28A.150.200.

*Basic Education Act, RCW 28A.150.370 as part of: RCW 28A.150.200.*

**28A.150.380 Appropriations by legislature.** The state legislature shall, at each regular session in an odd-numbered year, appropriate from the state general fund for the current use of the common schools such amounts as needed for state support to the common schools during the ensuing biennium as provided in this chapter, RCW

28A.160.150 through 28A.160.210, 28A.300.170, and 28A.500.010. [1995 c 335 § 103; 1990 c 33 § 115; 1980 c 6 § 3; 1969 ex.s. c 223 § 28A.41.050. Prior: 1945 c 141 § 2; Rem. Supp. 1945 § 4940-2. Formerly RCW 28A.41.050, 28.41.050.]

**Part headings, table of contents not law—1995 c 335:** See note following RCW 28A.150.360.

**Severability—1980 c 6:** See note following RCW 28A.515.320.

**28A.150.390 Appropriations for special education programs.** The superintendent of public instruction shall submit to each regular session of the legislature during an odd-numbered year a programmed budget request for special education programs for students with disabilities. Funding for programs operated by local school districts shall be on an excess cost basis from appropriations provided by the legislature for special education programs for students with disabilities and shall take account of state funds accruing through RCW 28A.150.250, 28A.150.260, federal medical assistance and private funds accruing under RCW 74.09.5249 through 74.09.5253 and 74.09.5254 through 74.09.5256, and other state and local funds, excluding special excess levies. [1995 c 77 § 6; 1994 c 180 § 8; 1993 c 149 § 9; 1990 c 33 § 116; 1989 c 400 § 2; 1980 c 87 § 5; 1971 ex.s. c 66 § 11. Formerly RCW 28A.41.053.]

**Conflict with federal requirements—Severability—1994 c 180:** See notes following RCW 74.09.5243.

**Conflict with federal requirements—Severability—Effective dates—1993 c 149:** See notes following RCW 74.09.5241.

**Intent—1989 c 400:** "The legislature finds that there is increasing demand for school districts' special education programs to include medical services necessary for handicapped children's participation and educational progress. In some cases, these services could qualify for federal funding under Title XIX of the social security act. The legislature intends to establish a process for school districts to obtain reimbursement for eligible services from medical assistance funds. In this way, state dollars for handicapped education can be leveraged to generate federal matching funds, thereby increasing the overall level of resources available for school districts' special education programs." [1989 c 400 § 1.]

**Severability—Effective date—1971 ex.s. c 66:** See notes following RCW 28A.155.010.

## Chapter 28A.155

### SPECIAL EDUCATION

Sections	Purpose.
28A.155.010 28A.155.020	Administrative section or unit for the education of children with disabling conditions—"Children with disabilities" and "appropriate education" defined—Approval when child under jurisdiction of juvenile court.
28A.155.030 28A.155.040	Division administrative officer—Appointment—Duties. Authority of districts—Participation of department of social and health services.
28A.155.050	Aid for children unable to attend school—Apportionment—Allocations from state excess funds.
28A.155.060	District authority to contract with approved agencies—Approval standards.
28A.155.070	Services to children of preschool age with disabilities—Apportionment—Allocations from state excess cost funds.
28A.155.080	Appeal from superintendent's denial of educational program.
28A.155.090	Superintendent of public instruction's duty and authority.

**28A.155.010 Purpose.** It is the purpose of RCW 28A.155.010 through 28A.155.100, 28A.160.030, and 28A.150.390 to ensure that all children with disabilities as defined in RCW 28A.155.020 shall have the opportunity for an appropriate education at public expense as guaranteed to them by the Constitution of this state. [1995 c 77 § 7; 1990 c 33 § 120; 1971 ex.s. c 66 § 1. Formerly RCW 28A.13.005.]

**Severability—1971 ex.s. c 66:** "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 66 § 13.]

**Effective date—1971 ex.s. c 66:** "This 1971 amendatory act will take effect July 1, 1973." [1971 ex.s. c 66 § 14.]

**28A.155.020 Administrative section or unit for the education of children with disabling conditions—"Children with disabilities" and "appropriate education" defined—Approval when child under jurisdiction of juvenile court.** There is established in the office of the superintendent of public instruction an administrative section or unit for the education of children with disabling conditions.

Children with disabilities are those children in school or out of school who are temporarily or permanently retarded in normal educational processes by reason of physical or mental disability, or by reason of emotional maladjustment, or by reason of other disability, and those children who have specific learning and language disabilities resulting from perceptual-motor disabilities, including problems in visual and auditory perception and integration.

The superintendent of public instruction shall require each school district in the state to insure an appropriate educational opportunity for all children with disabilities between the ages of three and twenty-one, but when the twenty-first birthday occurs during the school year, the educational program may be continued until the end of that school year. The superintendent of public instruction, by rule, shall establish for the purpose of excess cost funding, as provided in RCW 28A.150.390, 28A.160.030, and 28A.155.010 through 28A.155.100, functional definitions of the various types of disabling conditions and eligibility criteria for special education programs for students with disabilities. For the purposes of RCW 28A.155.010 through 28A.155.100, an appropriate education is defined as an education directed to the unique needs, abilities, and limitations of the children with disabilities. School districts are strongly encouraged to provide parental training in the care and education of the children and to involve parents in the classroom.

Nothing in this section shall prohibit the establishment or continuation of existing cooperative programs between school districts or contracts with other agencies approved by the superintendent of public instruction, which can meet the obligations of school districts to provide education for children with disabilities, or prohibit the continuation of needed related services to school districts by the department of social and health services.

This section shall not be construed as in any way limiting the powers of local school districts set forth in RCW 28A.155.070.

No child shall be removed from the jurisdiction of juvenile court for training or education under RCW 28A.155.010 through 28A.155.100 without the approval of the superior court of the county. [1995 c 77 § 8; 1990 c 33 § 121; 1985 c 341 § 4; 1984 c 160 § 1; 1971 ex.s. c 66 § 2; 1969 ex.s. c 2 § 2; 1969 ex.s. c 223 § 28A.13.010. Prior: 1951 c 92 § 1; prior: (i) 1943 c 120 § 1; Rem. Supp. 1943 § 4679-25. (ii) 1943 c 120 § 2, part; Rem. Supp. 1943 § 4679-26, part. Formerly RCW 28A.13.010, 28.13.010.]

**Effective date—1985 c 341 §§ 4, 13:** "Sections 4 and 13 of this act shall take effect August 1, 1985." [1985 c 341 § 18.]

**Severability—1984 c 160:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1984 c 160 § 6.]

**Severability—Effective date—1971 ex.s. c 66:** See notes following RCW 28A.155.010.

**28A.155.030 Division administrative officer—Appointment—Duties.** The superintendent of public instruction shall appoint an administrative officer of the division. The administrative officer, under the direction of the superintendent of public instruction, shall coordinate and supervise the program of special education for eligible children with disabilities in the school districts of the state. He or she shall cooperate with the educational service district superintendents and local school district superintendents and with all other interested school officials in ensuring that all school districts provide an appropriate educational opportunity for all children with disabilities and shall cooperate with the state secretary of social and health services and with county and regional officers on cases where medical examination or other attention is needed. [1995 c 77 § 9; 1990 c 33 § 122; 1975 1st ex.s. c 275 § 52; 1972 ex.s. c 10 § 1. Prior: 1971 ex.s. c 66 § 3; 1971 c 48 § 3; 1969 ex.s. c 223 § 28A.13.020; prior: 1943 c 120 § 3; Rem. Supp. 1943 § 4679-27. Formerly RCW 28A.13.020, 28.13.020.]

**Severability—Effective date—1971 ex.s. c 66:** See notes following RCW 28A.155.010.

**28A.155.040 Authority of districts—Participation of department of social and health services.** The board of directors of each school district, for the purpose of compliance with the provisions of RCW 28A.150.390, 28A.160.030, and 28A.155.010 through 28A.155.100, shall cooperate with the superintendent of public instruction and with the administrative officer and shall provide an appropriate educational opportunity and give other appropriate aid and special attention to children with disabilities in regular or special school facilities within the district or shall contract for such services with other agencies as provided in RCW 28A.155.060 or shall participate in an interdistrict arrangement in accordance with RCW 28A.335.160 and 28A.225.220 and/or 28A.225.250 and 28A.225.260.

In carrying out their responsibilities under this chapter, school districts severally or jointly with the approval of the superintendent of public instruction are authorized to establish, operate, support and/or contract for residential schools and/or homes approved by the department of social and health services for aid and special attention to children with disabilities.

The cost of board and room in facilities approved by the department of social and health services shall be provided by the department of social and health services for those students with disabilities eligible for such aid under programs of the department. The cost of approved board and room shall be provided for those students with disabilities not eligible under programs of the department of social and health services but deemed in need of the same by the superintendent of public instruction: PROVIDED, That no school district shall be financially responsible for special aid programs for students who are attending residential schools operated by the department of social and health services: PROVIDED FURTHER, That the provisions of RCW 28A.150.390, 28A.160.030, and 28A.155.010 through 28A.155.100 shall not preclude the extension by the superintendent of public instruction of special education opportunities to children with disabilities in residential schools operated by the department of social and health services. [1995 c 77 § 10; 1990 c 33 § 123; 1971 ex.s. c 66 § 4; 1969 ex.s. c 223 § 28A.13.030. Prior: 1959 c 122 § 1; 1953 c 135 § 1; 1943 c 120 § 4; Rem. Supp. 1943 § 4679-28. Formerly RCW 28A.13.030, 28.13.030.]

**Severability—Effective date—1971 ex.s. c 66:** See notes following RCW 28A.155.010.

**28A.155.050 Aid for children unable to attend school—Apportionment—Allocations from state excess funds.** Any child who is not able to attend school and who is eligible for special excess cost aid programs authorized under RCW 28A.155.010 through 28A.155.100 shall be given such aid at home or at such other place as determined by the board of directors of the school district in which such child resides. Any school district within which such a child resides shall thereupon be granted regular apportionment of state and county school funds and, in addition, allocations from state excess funds made available for such special services for such period of time as such special aid program is given: PROVIDED, That should such child or any other child with disabilities attend and participate in a special aid program operated by another school district in accordance with the provisions of RCW 28A.225.210, 28A.225.220, and/or 28A.225.250, such regular apportionment shall be granted to the receiving school district, and such receiving school district shall be reimbursed by the district in which such student resides in accordance with rules adopted by the superintendent of public instruction for the entire approved excess cost not reimbursed from such regular apportionment. [1995 c 77 § 11; 1990 c 33 § 124; 1971 ex.s. c 66 § 5; 1969 ex.s. c 223 § 28A.13.040. Prior: 1943 c 120 § 5; Rem. Supp. 1943 § 4679-29. Formerly RCW 28A.13.040, 28.13.040.]

**Severability—Effective date—1971 ex.s. c 66:** See notes following RCW 28A.155.010.

**28A.155.060 District authority to contract with approved agencies—Approval standards.** For the purpose of carrying out the provisions of RCW 28A.155.020 through 28A.155.050, the board of directors of every school district shall be authorized to contract with agencies approved by the state board of education for operating special education programs for students with disabilities. Approval standards

for such agencies shall conform substantially with those promulgated for approval of special education aid programs in the common schools. [1995 c 77 § 12; 1990 c 33 § 125; 1971 ex.s. c 66 § 6. Formerly RCW 28A.13.045.]

**Severability—Effective date—1971 ex.s. c 66:** See notes following RCW 28A.155.010.

**28A.155.070 Services to children of preschool age with disabilities—Apportionment—Allocations from state excess cost funds.** Special educational and training programs provided by the state and the school districts thereof for children with disabilities may be extended to include children of preschool age. School districts which extend such special programs to children of preschool age shall be entitled to the regular apportionments from state and county school funds, as provided by law, and in addition to allocations from state excess cost funds made available for such special services for those children with disabilities who are given such special services. [1995 c 77 § 13; 1971 ex.s. c 66 § 7; 1969 ex.s. c 223 § 28A.13.050. Prior: 1951 c 92 § 2; 1949 c 186 § 1; Rem. Supp. 1949 § 4901-3. Formerly RCW 28A.13.050, 28.13.050.]

**Severability—Effective date—1971 ex.s. c 66:** See notes following RCW 28A.155.010.

**28A.155.080 Appeal from superintendent's denial of educational program.** Where a child with disabilities as defined in RCW 28A.155.020 has been denied the opportunity of an educational program by a local school district superintendent under the provisions of RCW 28A.225.010, or for any other reason there shall be an affirmative showing by the school district superintendent in a writing directed to the parents or guardian of such a child within ten days of such decision that

(1) No agency or other school district with whom the district may contract under RCW 28A.155.040 can accommodate such child, and

(2) Such child will not benefit from an alternative educational opportunity as permitted under RCW 28A.155.050.

There shall be a right of appeal by the parent or guardian of such child to the superintendent of public instruction pursuant to procedures established by the superintendent and in accordance with RCW 28A.155.090. [1995 c 77 § 14; 1990 c 33 § 126; 1971 ex.s. c 66 § 8. Formerly RCW 28A.13.060.]

**Severability—Effective date—1971 ex.s. c 66:** See notes following RCW 28A.155.010.

**28A.155.090 Superintendent of public instruction's duty and authority.** The superintendent of public instruction shall have the duty and authority, through the administrative section or unit for the education of children with disabling conditions, to:

(1) Assist school districts in the formation of total school programs to meet the needs of children with disabilities;

(2) Develop interdistrict cooperation programs for children with disabilities as authorized in RCW 28A.225.250;

(3) Provide, upon request, to parents or guardians of children with disabilities, information as to the special education programs for students with disabilities offered within the state;

(4) Assist, upon request, the parent or guardian of any child with disabilities in the placement of any child with disabilities who is eligible for but not receiving special educational aid for children with disabilities;

(5) Approve school district and agency programs as being eligible for special excess cost financial aid to children with disabilities;

(6) Adjudge, upon appeal by a parent or guardian of a child with disabilities who is not receiving an educational program, whether the decision of a local school district superintendent under RCW 28A.155.080 to exclude such child with disabilities was justified by the available facts and consistent with the provisions of RCW 28A.150.390, 28A.160.030, and 28A.155.010 through 28A.155.100. If the superintendent of public instruction shall decide otherwise he or she shall apply sanctions as provided in RCW 28A.155.100 until such time as the school district assures compliance with the provisions of RCW 28A.150.390, 28A.160.030, and 28A.155.010 through 28A.155.100; and

(7) Promulgate such rules as are necessary to implement the several provisions of RCW 28A.150.390, 28A.160.030, and 28A.155.010 through 28A.155.100 and to ensure educational opportunities within the common school system for all children with disabilities who are not institutionalized. [1995 c 77 § 15; 1990 c 33 § 127; 1985 c 341 § 5; 1971 ex.s. c 66 § 9. Formerly RCW 28A.13.070.]

**Severability—Effective date—1971 ex.s. c 66:** See notes following RCW 28A.155.010.

## Chapter 28A.160

### STUDENT TRANSPORTATION

#### Sections

28A.160.040	Lease of buses to transport children with disabilities and elderly—Limitation.
28A.160.090	School buses, rental or lease for emergency purposes—Board to determine district policy—Conditions if rent or lease.
28A.160.160	Student transportation allocation—Definitions.
28A.160.180	Student transportation allocation—Allocation rates, adjustment—District-owned passenger cars—Report.
28A.160.195	Vehicle acquisition—School bus categories—Competitive specifications—Purchase—Reimbursement—Rules.
28A.160.200	Vehicle acquisition—Reimbursement schedule—Maintenance and operation—Depreciation schedule.

**28A.160.040 Lease of buses to transport children with disabilities and elderly—Limitation.** The directors of school districts are authorized to lease school buses to nonprofit organizations to transport children with disabilities and elderly persons to and from the site of activities or programs deemed beneficial to such persons by such organizations: PROVIDED, That commercial bus transportation is not reasonably available for such purposes. [1995 c 77 § 16; 1973 c 45 § 2; 1971 c 78 § 1. Formerly RCW 28A.24.110.]

*Elderly persons defined—Program limitation:* RCW 28A.160.070.

**28A.160.090 School buses, rental or lease for emergency purposes—Board to determine district policy—Conditions if rent or lease.** Each school district board shall determine its own policy as to whether or not its school buses will be rented or leased for the purposes of RCW 28A.160.080, and if the board decision is to rent or lease, under what conditions, subject to the following:

(1) Such renting or leasing may take place only after the director of community, trade, and economic development or any of his or her agents so authorized has, at the request of an involved governmental agency, declared that an emergency exists in a designated area insofar as the need for additional transport is concerned.

(2) The agency renting or leasing the school buses must agree, in writing, to reimburse the school district for all costs and expenses related to their use and also must provide an indemnity agreement protecting the district against any type of claim or legal action whatsoever, including all legal costs incident thereto. [1995 c 399 § 20; 1990 c 33 § 137; 1986 c 266 § 21; 1985 c 7 § 88; 1974 ex.s. c 171 § 1; 1971 c 24 § 2. Formerly RCW 28A.24.172.]

**Severability—1986 c 266:** See note following RCW 38.52.005.

**28A.160.160 Student transportation allocation—Definitions.** For purposes of RCW 28A.160.150 through 28A.160.190, except where the context shall clearly indicate otherwise, the following definitions apply:

(1) "Eligible student" means any student served by the transportation program of a school district or compensated for individual transportation arrangements authorized by RCW 28A.160.030 whose route stop is more than one radius mile from the student's school, except if the student to be transported: (a) Is disabled under RCW 28A.155.020 and is either not ambulatory or not capable of protecting his or her own welfare while traveling to or from the school or agency where special education services are provided, in which case no mileage distance restriction applies; or (b) qualifies for an exemption due to hazardous walking conditions.

(2) "Superintendent" means the superintendent of public instruction.

(3) "To and from school" means the transportation of students for the following purposes:

(a) Transportation to and from route stops and schools;

(b) Transportation to and from schools pursuant to an interdistrict agreement pursuant to RCW 28A.335.160;

(c) Transportation of students between schools and learning centers for instruction specifically required by statute; and

(d) Transportation of students with disabilities to and from schools and agencies for special education services.

Extended day transportation shall not be considered part of transportation of students "to and from school" for the purposes of chapter 61, Laws of 1983 1st ex. sess.

(4) "Hazardous walking conditions" means those instances of the existence of dangerous walkways documented by the board of directors of a school district which meet criteria specified in rules adopted by the superintendent of public instruction. A school district that receives an exemption for hazardous walking conditions should demonstrate that good faith efforts are being made to alleviate the problem and that the district, in cooperation with other state

and local governing authorities, is attempting to reduce the incidence of hazardous walking conditions. The superintendent of public instruction shall appoint an advisory committee to prepare guidelines and procedures for determining the existence of hazardous walking conditions. The committee shall include but not be limited to representatives from law enforcement agencies, school districts, the department of transportation, city and county government, the insurance industry, parents, school directors and legislators. [1995 c 77 § 17; 1990 c 33 § 142; 1983 1st ex.s. c 61 § 3; 1981 c 265 § 2. Formerly RCW 28A.41.510.]

**Severability—1983 1st ex.s. c 61:** See note following RCW 28A.160.010.

**Effective date—Severability—1981 c 265:** See notes following RCW 28A.160.150.

**28A.160.180 Student transportation allocation—Allocation rates, adjustment—District-owned passenger cars—Report.** Each district's annual student transportation allocation shall be based on differential rates determined by the superintendent of public instruction in the following manner:

(1) The superintendent shall annually calculate a standard student mile allocation rate for determining the transportation allocation for those services provided for in RCW 28A.160.150. "Standard student mile allocation rate," as used in this chapter, means the per mile allocation rate for transporting an eligible student. The standard student mile allocation rate may be adjusted to include such additional differential factors as distance; restricted passenger load; circumstances that require use of special types of transportation vehicles; student with disabilities load; and small fleet maintenance.

(2) The superintendent of public instruction shall annually calculate allocation rate(s), which shall include vehicle amortization, for determining the transportation allocation for transporting students in district-owned passenger cars, as defined in RCW 46.04.382, pursuant to RCW 28A.160.010 for services provided for in RCW 28A.160.150 if a school district deems it advisable to use such vehicles after the school district board of directors has considered the safety of the students being transported as well as the economy of utilizing a district-owned passenger car in lieu of a school bus.

(3) Prior to June 1st of each year the superintendent shall submit to the office of financial management, and the committees on education and ways and means of the senate and house of representatives a report outlining the methodology and rationale used in determining the allocation rates to be used the following year. [1995 c 77 § 18; 1990 c 33 § 144; 1985 c 59 § 1; 1983 1st ex.s. c 61 § 5; 1982 1st ex.s. c 24 § 2; 1981 c 265 § 4. Formerly RCW 28A.41.520.]

**Severability—1983 1st ex.s. c 61:** See note following RCW 28A.160.010.

**Effective date—Severability—1982 1st ex.s. c 24:** See notes following RCW 28A.150.370.

**Effective date—Severability—1981 c 265:** See notes following RCW 28A.160.150.

**28A.160.195 Vehicle acquisition—School bus categories—Competitive specifications—Purchase—Reimbursement—Rules.** (1) The superintendent of public

instruction, in consultation with the regional transportation coordinators of the educational service districts, shall establish a minimum number of school bus categories considering the capacity and type of vehicles required by school districts in Washington. The superintendent, in consultation with the regional transportation coordinators of the educational service districts, shall establish competitive specifications for each category of school bus. The categories shall be developed to produce minimum long-range operating costs, including costs of equipment and all costs in operating the vehicles. The categories, for purposes of comparative studies, will be at a minimum the same as those in the beginning of the 1994-95 school year. The competitive specifications shall meet federal motor vehicle safety standards, minimum state specifications as established by rule by the superintendent, and supported options as determined by the superintendent in consultation with the regional transportation coordinators of the educational service districts.

(2) After establishing school bus categories and competitive specifications, the superintendent of public instruction shall solicit competitive price quotes from school bus dealers to be in effect for one year and establish a list of the lowest competitive price quotes obtained under this subsection.

(3) The superintendent shall base the level of reimbursement to school districts and educational service districts for school buses on the lowest quote in each category.

(4) Notwithstanding RCW 28A.335.190, school districts and educational service districts may purchase at the quoted price directly from the dealer who is providing the lowest competitive price quote on the list established under subsection (2) of this section. School districts and educational service districts may make their own selections for school buses, but shall be reimbursed at the rates determined under this section and RCW 28A.160.200. District-selected options shall not be reimbursed by the state.

(5) This section does not prohibit school districts or educational service districts from conducting their own competitive bid process.

(6) The superintendent of public instruction may adopt rules under chapter 34.05 RCW to implement this section. [1995 1st sp.s. c 10 § 1.]

**Effective dates—1995 1st sp.s. c 10 §§ 1 and 2:** "(1) Section 1 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [June 14, 1995].

(2) Section 2 of this act shall take effect September 1, 1995." [1995 1st sp.s. c 10 § 5.]

**28A.160.200 Vehicle acquisition—Reimbursement schedule—Maintenance and operation—Depreciation schedule.** (1) The superintendent shall develop a reimbursement schedule to pay districts for the cost of student transportation vehicles purchased after September 1, 1982. While it is the responsibility of each district to select and pay for each student transportation vehicle purchased by the district, each district shall be paid a sum based on the category of vehicle, anticipated lifetime of vehicles of this category, and state reimbursement rate for the category plus inflation as recognized by the reimbursement schedule established in this section as set by the superintendent. Categories and reimbursement rates of vehicles shall be those established under

RCW 28A.160.195. The accumulated value of the payments and the potential investment return thereon shall be designed to be equal to the replacement cost of the vehicle less its salvage value at the end of its anticipated lifetime. The superintendent shall revise at least annually the reimbursement payments based on the current and anticipated future cost of comparable categories of transportation equipment. Reimbursements to school districts for approved transportation equipment shall be placed in a separate transportation vehicle fund established for each school district under RCW 28A.160.130. However, educational service districts providing student transportation services pursuant to RCW 28A.310.180(4) and receiving moneys generated pursuant to this section shall establish and maintain a separate transportation vehicle account in the educational service district's general expense fund for the purposes and subject to the conditions under RCW 28A.160.130 and 28A.320.300.

(2) To the extent possible, districts shall operate vehicles acquired under this section not less than the number of years or useful lifetime now, or hereafter, assigned to the category of vehicles by the superintendent. School districts shall properly maintain the transportation equipment acquired under the provisions of this section, in accordance with rules established by the office of the superintendent of public instruction. If a district fails to follow generally accepted standards of maintenance and operation, the superintendent of public instruction shall penalize the district by deducting from future reimbursements under this section an amount equal to the original cost of the vehicle multiplied by the fraction of the useful lifetime or miles the vehicle failed to operate.

(3) The superintendent shall annually develop a depreciation schedule to recognize the cost of depreciation to districts contracting with private carriers for student transportation. Payments on this schedule shall be a straight line depreciation based on the original cost of the appropriate category of vehicle. [1995 1st sp.s. c 10 § 2; 1990 c 33 § 146; 1987 c 508 § 4; 1981 c 265 § 6. Formerly RCW 28A.41.540.]

**Effective dates—1995 1st sp.s. c 10 §§ 1 and 2:** See note following RCW 28A.160.195.

**Effective date—Severability—1981 c 265:** See notes following RCW 28A.160.150.

*Transportation vehicle fund—Deposits in—Use—Rules for establishment and use:* RCW 28A.160.130.

### Chapter 28A.165

#### LEARNING ASSISTANCE PROGRAM

##### Sections

28A.165.070 Eligibility for funds—Distribution of funds—Development of allocation formula.

**28A.165.070 Eligibility for funds—Distribution of funds—Development of allocation formula.** Each school district which has established an approved program shall be eligible, as determined by the superintendent of public instruction, for state funds made available for the purposes of such programs.

(1) For the 1995-96 school year and thereafter, the superintendent of public instruction shall distribute funds

appropriated for the learning assistance program in accordance with the biennial appropriations act. The distribution formula shall be based upon an assessment of students and a poverty factor.

(2) The distribution of funds is for allocation purposes only.

(3) The superintendent of public instruction shall recommend to the legislature a new allocation formula that uses additional elements consistent with performance-based education and the new assessment system developed by the commission on student learning. The superintendent of public instruction shall develop the recommendations for a new allocation formula not later than the 1997-98 school year, based upon the initial implementation of the assessment system for reading, writing, communication, and mathematics. [1995 1st sp.s. c 13 § 1; 1993 sp.s. c 24 § 520; 1990 c 33 § 150; 1987 c 478 § 7. Formerly RCW 28A.120.022.]

**Severability—1993 sp.s. c 24:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1993 sp.s. c 24 § 932.]

**Effective dates—1993 sp.s. c 24:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993, except for section 308(5) of this act which shall take effect immediately [May 28, 1993]." [1993 sp.s. c 24 § 933.]

### Chapter 28A.170

#### SUBSTANCE ABUSE AWARENESS PROGRAM

##### Sections

28A.170.010	through 28A.170.040 Repealed.
28A.170.060	Repealed.
28A.170.070	Repealed.
28A.170.075	Findings—Intent.
28A.170.090	Selection of grant recipients—Program rules.
28A.170.100	Repealed.

**28A.170.010 through 28A.170.040 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**28A.170.060 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**28A.170.070 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**28A.170.075 Findings—Intent.** (1) The legislature finds that the provision of drug and alcohol counseling and related prevention and intervention services in schools will enhance the classroom environment for students and teachers, and better enable students to realize their academic and personal potentials.

(2) The legislature finds that it is essential that resources be made available to school districts to provide early drug and alcohol prevention and intervention services to students and their families; to assist in referrals to treatment providers; and to strengthen the transition back to school for students who have had problems of drug and alcohol abuse.

(3) Substance abuse awareness programs funded under this chapter do not fall within the definition of basic educa-

tion for purposes of Article IX of the state Constitution and the state's funding duty thereunder.

(4) The legislature intends to provide grants for drug and alcohol abuse prevention and intervention in schools, targeted to those schools with the highest concentrations of students at risk. [1995 c 335 § 204; 1990 c 33 § 156; 1989 c 271 § 310. Formerly RCW 28A.120.080.]

**Part headings, table of contents not law—1995 c 335:** See note following RCW 28A.150.360.

**Severability—1989 c 271:** See note following RCW 9.94A.310.

**28A.170.090 Selection of grant recipients—Program rules.** (1) The superintendent of public instruction shall select school districts and cooperatives of school districts to receive grants for drug and alcohol abuse prevention and intervention programs for students in kindergarten through twelfth grade, from funds appropriated by the legislature for this purpose. The minimum annual grant amount per district or cooperative of districts shall be twenty thousand dollars. Factors to be used in selecting proposals for funding and in determining grant awards shall be developed in consultation with the substance abuse advisory committee appointed under RCW 28A.170.050, with the intent of targeting funding to districts with high-risk populations. These factors may include:

(a) Characteristics of the school attendance areas to be served, such as the number of students from low-income families, truancy rates, juvenile justice referrals, and social services caseloads;

(b) The total number of students who would have access to services; and

(c) Participation of community groups and law enforcement agencies in drug and alcohol abuse prevention and intervention activities.

(2) The application procedures for grants under this section shall include provisions for comprehensive planning, establishment of a school and community substance abuse advisory committee, and documentation of the district's needs assessment. Planning and application for grants under this section may be integrated with the development of other substance abuse awareness programs by school districts. School districts shall, to the maximum extent feasible, coordinate the use of grants provided under this section with other funding available for substance abuse awareness programs. School districts should allocate resources giving emphasis to drug and alcohol abuse intervention services for students in grades five through nine. Grants may be used to provide services for students who are enrolled in approved private schools.

(3) School districts receiving grants under this section shall be required to establish a means of accessing formal assessment services for determining treatment needs of students with drug and alcohol problems. The grant applications submitted by districts shall identify the districts' plan for meeting this requirement.

(4) School districts receiving grants under this section shall be required to perform biennial evaluations of their drug and alcohol abuse prevention and intervention programs, and to report on the results of these evaluations to the superintendent of public instruction.

(5) The superintendent of public instruction may adopt rules to implement RCW 28A.170.080 and 28A.170.090. [1995 c 335 § 205; 1990 c 33 § 158; 1989 c 271 § 312. Formerly RCW 28A.120.084.]

**Part headings, table of contents not law—1995 c 335:** See note following RCW 28A.150.360.

**Severability—1989 c 271:** See note following RCW 9.94A.310.

**28A.170.100 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

### Chapter 28A.175

#### DROPOUT PREVENTION AND RETRIEVAL PROGRAM

##### Sections

28A.175.020 through 28A.175.080 Repealed.

**28A.175.020 through 28A.175.080 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

### Chapter 28A.180

#### TRANSITIONAL BILINGUAL INSTRUCTION PROGRAM

##### Sections

28A.180.050 Repealed.

28A.180.070 Repealed.

28A.180.080 Transitional bilingual instruction program—Budget request for—Allocation of moneys, priorities—English language skills test.

**28A.180.050 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**28A.180.070 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**28A.180.080 Transitional bilingual instruction program—Budget request for—Allocation of moneys, priorities—English language skills test.** The superintendent of public instruction shall prepare and submit biennially to the governor and the legislature a budget request for bilingual instruction programs. Moneys appropriated by the legislature for the purposes of RCW 28A.180.010 through 28A.180.080 shall be allocated by the superintendent of public instruction to school districts for the sole purpose of operating an approved bilingual instruction program; priorities for funding shall exist for the early elementary grades. No moneys shall be allocated pursuant to this section to fund more than three school years of bilingual instruction for each eligible pupil within a district: PROVIDED, That such moneys may be allocated to fund more than three school years of bilingual instruction for any pupil who fails to demonstrate improvement in English language skills adequate to remove impairment of learning when taught only in English. The superintendent of public instruction shall set standards and approve a test for the measurement of such



English language skills. [1995 c 335 § 601; 1990 c 33 § 167; 1979 c 95 § 6. Formerly RCW 28A.58.810.]

**Part headings, table of contents not law—1995 c 335:** See note following RCW 28A.150.360.

**Severability—1979 c 95:** See note following RCW 28A.180.010.

**Chapter 28A.190**

**RESIDENTIAL EDUCATION PROGRAMS**

Sections

28A.190.030 Educational programs for residential school residents—  
School district to conduct—Scope of duties and authority.

**28A.190.030 Educational programs for residential school residents—School district to conduct—Scope of duties and authority.** Each school district within which there is located a residential school shall, singly or in concert with another school district pursuant to RCW 28A.335.160 and 28A.225.250 or pursuant to chapter 39.34 RCW, conduct a program of education, including related student activities, for residents of the residential school. Except as otherwise provided for by contract pursuant to RCW 28A.190.050, the duties and authority of a school district and its employees to conduct such a program shall be limited to the following:

(1) The employment, supervision and control of administrators, teachers, specialized personnel and other persons, deemed necessary by the school district for the conduct of the program of education;

(2) The purchase, lease or rental and provision of textbooks, maps, audio-visual equipment, paper, writing instruments, physical education equipment and other instructional equipment, materials and supplies, deemed necessary by the school district for the conduct of the program of education;

(3) The development and implementation, in consultation with the superintendent or chief administrator of the residential school or his or her designee, of the curriculum;

(4) The conduct of a program of education, including related student activities, for residents who are three years of age and less than twenty-one years of age, and have not met high school graduation requirements as now or hereafter established by the state board of education and the school district which includes:

(a) Not less than one hundred and eighty school days each school year;

(b) Special education pursuant to RCW 28A.155.010 through 28A.155.100, and vocational education, as necessary to address the unique needs and limitations of residents; and

(c) Such courses of instruction and school related student activities as are provided by the school district for nonresidential school students to the extent it is practical and judged appropriate for the residents by the school district after consultation with the superintendent or chief administrator of the residential school: PROVIDED, That a pre-school special education program may be provided for residential school students with disabilities;

(5) The control of students while participating in a program of education conducted pursuant to this section and the discipline, suspension or expulsion of students for

violation of reasonable rules of conduct adopted by the school district; and

(6) The expenditure of funds for the direct and indirect costs of maintaining and operating the program of education that are appropriated by the legislature and allocated by the superintendent of public instruction for the exclusive purpose of maintaining and operating residential school programs of education, and funds from federal and private grants, bequests and gifts made for the purpose of maintaining and operating the program of education. [1995 c 77 § 19; 1990 c 33 § 172; 1985 c 341 § 13; 1984 c 160 § 3; 1979 ex.s. c 217 § 2. Formerly RCW 28A.58.772.]

**Effective date—1985 c 341 §§ 4, 13:** See note following RCW 28A.155.020.

**Severability—1984 c 160:** See note following RCW 28A.155.020.

**Effective date—Severability—1979 ex.s. c 217:** See notes following RCW 28A.190.020.

**Chapter 28A.200**

**HOME-BASED INSTRUCTION**

Sections

28A.200.010 Home-based instruction—Duties of parents.

**28A.200.010 Home-based instruction—Duties of parents.** Each parent whose child is receiving home-based instruction under RCW 28A.225.010(4) shall have the duty to:

(1) File annually a signed declaration of intent that he or she is planning to cause his or her child to receive home-based instruction. The statement shall include the name and age of the child, shall specify whether a certificated person will be supervising the instruction, and shall be written in a format prescribed by the superintendent of public instruction. Each parent shall file the statement by September 15 of the school year or within two weeks of the beginning of any public school quarter, trimester, or semester with the superintendent of the public school district within which the parent resides or the district that accepts the transfer, and the student shall be deemed a transfer student of the nonresident district. Parents may apply for transfer under RCW 28A.225.220;

(2) Ensure that test scores or annual academic progress assessments and immunization records, together with any other records that are kept relating to the instructional and educational activities provided, are forwarded to any other public or private school to which the child transfers. At the time of a transfer to a public school, the superintendent of the local school district in which the child enrolls may require a standardized achievement test to be administered and shall have the authority to determine the appropriate grade and course level placement of the child after consultation with parents and review of the child's records; and

(3) Ensure that a standardized achievement test approved by the state board of education is administered annually to the child by a qualified individual or that an annual assessment of the student's academic progress is written by a certificated person who is currently working in the field of education. The state board of education shall not require these children to meet the student learning goals, master the essential academic learning requirements, to take

the assessments, or to obtain a certificate of mastery pursuant to RCW 28A.630.885. The standardized test administered or the annual academic progress assessment written shall be made a part of the child's permanent records. If, as a result of the annual test or assessment, it is determined that the child is not making reasonable progress consistent with his or her age or stage of development, the parent shall make a good faith effort to remedy any deficiency.

Failure of a parent to comply with the duties in this section shall be deemed a failure of such parent's child to attend school without valid justification under RCW 28A.225.020. Parents who do comply with the duties set forth in this section shall be presumed to be providing home-based instruction as set forth in RCW 28A.225.010(4). [1995 c 52 § 1; 1993 c 336 § 1103; 1990 c 33 § 178; 1985 c 441 § 2. Formerly RCW 28A.27.310.]

**Findings—Intent—Part headings not law—1993 c 336:** See notes following RCW 28A.150.210.

**Findings—1993 c 336:** See note following RCW 28A.630.879.

**Severability—1985 c 441:** See note following RCW 28A.225.010.

*Part-time students—Defined—Enrollment in public schools authorized:* RCW 28A.150.350.

*Private schools—Extension programs for parents to teach children in their custody:* RCW 28A.195.010.

### Chapter 28A.205

#### EDUCATION CENTERS

(Formerly: Educational clinics)

##### Sections

28A.205.050	Rules.
28A.205.060	Repealed.

**28A.205.050 Rules.** In accordance with chapter 34.05 RCW, the administrative procedure act, the state board of education with respect to the matter of certification, and the superintendent of public instruction with respect to all other matters, shall have the power and duty to make the necessary rules to carry out the purpose and intent of this chapter. [1995 c 335 § 201; 1993 c 211 § 4; 1990 c 33 § 184; 1977 ex.s. c 341 § 5. Formerly RCW 28A.97.050.]

**Part headings, table of contents not law—1995 c 335:** See note following RCW 28A.150.360.

**Severability—1977 ex.s. c 341:** See note following RCW 28A.205.010.

**28A.205.060 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

### Chapter 28A.210

#### HEALTH—SCREENING AND REQUIREMENTS

##### Sections

28A.210.005	Repealed.
28A.210.050	Repealed.

**28A.210.005 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**28A.210.050 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

### Chapter 28A.215

#### EARLY CHILDHOOD, PRESCHOOLS, AND BEFORE-AND-AFTER SCHOOL CARE

##### Sections

28A.215.010	Authority of school boards.
28A.215.020	Allocations of state or federal funds—Regulations by state board.
28A.215.030	Allocations pending receipt of federal funds.
28A.215.040	Establishment and maintenance discretionary.
28A.215.050	Additional authority—Contracts with private and public entities—Charges—Transportation services.
28A.215.170	Early childhood educational and assistance services—Report to governor.
28A.215.300	through 28A.215.330 Repealed.

**28A.215.010 Authority of school boards.** The board of directors of any school district shall have the power to establish and maintain preschools and to provide before-and-after-school and vacation care in connection with the common schools of said district located at such points as the board shall deem most suitable for the convenience of the public, for the care and instruction of infants and children residing in said district. The board shall establish such courses, activities, rules, and regulations governing preschools and before-and-after-school care as it may deem best: PROVIDED, That these courses and activities shall meet the minimum standard for such preschools as established by the United States Department of Health, Education and Welfare, or its successor agency, and the state board of education. Except as otherwise provided by state or federal law, the board of directors may fix a reasonable charge for the care and instruction of children attending such schools. The board may, if necessary, supplement such funds as are received for the superintendent of public instruction or any agency of the federal government, by an appropriation from the general school fund of the district. [1995 c 335 § 104; 1969 ex.s. c 223 § 28A.34.010. Prior: 1945 c 247 § 1; 1943 c 220 § 1; Rem. Supp. 1945 § 5109-1. Formerly RCW 28A.34.010, 28.34.010.]

**Part headings, table of contents not law—1995 c 335:** See note following RCW 28A.150.360.

**28A.215.020 Allocations of state or federal funds—Regulations by state board.** Expenditures under federal funds and/or state appropriations made to carry out the purposes of RCW 28A.215.010 through 28A.215.050 shall be made by warrants issued by the state treasurer upon order of the superintendent of public instruction. The state board of education shall make necessary rules and regulations to carry out the purpose of RCW 28A.215.010. [1995 c 335 § 308; 1990 c 33 § 210; 1969 ex.s. c 223 § 28A.34.020. Prior: 1943 c 220 § 2; Rem. Supp. 1943 § 5109-2. Formerly RCW 28A.34.020, 28.34.020, 28.34.030.]

**Part headings, table of contents not law—1995 c 335:** See note following RCW 28A.150.360.

**28A.215.030 Allocations pending receipt of federal funds.** In the event the legislature appropriates any moneys

to carry out the purposes of RCW 28A.215.010 through 28A.215.050, allocations therefrom may be made to school districts for the purpose of underwriting allocations made or requested from federal funds until such federal funds are available. Any school district may allocate a portion of its funds for the purpose of carrying out the provisions of RCW 28A.215.010 through 28A.215.050 pending the receipt of reimbursement from funds made available by acts of congress. [1995 c 335 § 309; 1990 c 33 § 211; 1969 ex.s. c 223 § 28A.34.040. Prior: 1943 c 220 § 3; Rem. Supp. 1943 § 5109-3. Formerly RCW 28A.34.040, 28.34.040.]

**Part headings, table of contents not law—1995 c 335:** See note following RCW 28A.150.360.

**28A.215.040 Establishment and maintenance discretionary.** Every board of directors shall have power to establish, equip and maintain preschools and/or provide before-and-after-school care for children of working parents, in cooperation with the federal government or any of its agencies, when in their judgment the best interests of their district will be subserved thereby. [1995 c 335 § 105; 1973 1st ex.s. c 154 § 45; 1969 ex.s. c 223 § 28A.34.050. Prior: 1943 c 220 § 5; Rem. Supp. 1943 § 5109-5. Formerly RCW 28A.34.050, 28.34.050.]

**Part headings, table of contents not law—1995 c 335:** See note following RCW 28A.150.360.

**Severability—1973 1st ex.s. c 154:** See note following RCW 2.12.030.

**28A.215.050 Additional authority—Contracts with private and public entities—Charges—Transportation services.** As a supplement to the authority otherwise granted by RCW 28A.215.010 through 28A.215.050 respecting the care or instruction, or both, of children in general, the board of directors of any school district may only utilize funds outside the state basic education appropriation and the state school transportation appropriation to:

(1) Contract with public and private entities to conduct all or any portion of the management and operation of a child care program at a school district site or elsewhere;

(2) Establish charges based upon costs incurred under this section and provide for the reduction or waiver of charges in individual cases based upon the financial ability of the parents or legal guardians of enrolled children to pay the charges, or upon their provision of other valuable consideration to the school district; and

(3) Transport children enrolled in a child care program to the program and to related sites using district-owned school buses and other motor vehicles, or by contracting for such transportation and related services: PROVIDED, That no child three years of age or younger shall be transported under the provisions of this section unless accompanied by a parent or guardian. [1995 c 335 § 310; 1990 c 33 § 212; 1987 c 487 § 1. Formerly RCW 28A.34.150.]

**Part headings, table of contents not law—1995 c 335:** See note following RCW 28A.150.360.

**28A.215.170 Early childhood educational and assistance services—Report to governor.** The department shall annually report to the governor and the legislature on the findings of the longitudinal study undertaken to examine

and monitor the effectiveness of early childhood educational and assistance services for eligible children to measure, among other elements, if possible, how the average level of performance of children completing this program compare to the average level of performance of all state students in their grade level, and to the average level of performance of those eligible students who did not have access to this program. The evaluation system shall examine how the percentage of these children needing access to special education or remedial programs compares to the overall percentage of children needing such services and compares to the percentage of eligible students who did not have access to this program needing such services. [1995 c 335 § 501; 1994 c 166 § 9; 1988 c 174 § 8; 1985 c 418 § 8. Formerly RCW 28A.34A.080.]

**Part headings, table of contents not law—1995 c 335:** See note following RCW 28A.150.360.

**Effective date—1994 c 166:** See note following RCW 28A.215.100.

**Findings—1994 c 166; 1988 c 174:** See note following RCW 28A.215.110.

**28A.215.300 through 28A.215.330 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

## Chapter 28A.225

### COMPULSORY SCHOOL ATTENDANCE AND ADMISSION

#### Sections

28A.225.020	School's duties upon child's failure to attend school—Generally.
28A.225.025	Community truancy boards.
28A.225.030	Petition to juvenile court for violations by a parent or child.
28A.225.035	Petition to juvenile court—Contents—Court action.
28A.225.040	Repealed.
28A.225.050	Repealed.
28A.225.060	Custody and disposition of child absent from school without excuse.
28A.225.070	Repealed.
28A.225.090	Penalties in general—Defense—Suspension of fine—Complaints to court.
28A.225.095	Authority of court commissioners and family law commissioners to hear cases under this chapter.
28A.225.100	Repealed.
28A.225.110	Fines applied to support of schools.
28A.225.120	Repealed.
28A.225.130	Repealed.
28A.225.150	Repealed.
28A.225.151	Reports.
28A.225.180	Repealed.
28A.225.190	Repealed.
28A.225.220	Adults, children from other districts, agreements for attending school—Tuition.
28A.225.225	Applications from nonresident students or students receiving home-based instruction to attend district school—Acceptance and rejection—Notification.
28A.225.250	Cooperative programs among school districts—Rules.
28A.225.320	Repealed.
28A.225.330	Enrolling students from other districts—Requests for information and permanent records—Withheld transcripts, effect—Immunity from liability—Rules.

**28A.225.020 School's duties upon child's failure to attend school—Generally.** If a child required to attend

school under the laws of the state of Washington fails to attend school without valid justification, the child's school shall:

(1) Inform the child's custodial parent, parents, or guardian by a notice in writing or by telephone whenever the child has failed to attend school after one unexcused absence within any month during the current school year;

(2) Schedule a conference or conferences with the custodial parent, parents, or guardian and child at a time and place reasonably convenient for all persons included for the purpose of analyzing the causes of the child's absences after two unexcused absences within any month during the current school year. If a regularly scheduled parent-teacher conference day is to take place within thirty days of the second unexcused absence, then the school district may schedule this conference on that day; and

(3) Take steps to eliminate or reduce the child's absences. These steps shall include, where appropriate, adjusting the child's school program or school or course assignment, providing more individualized or remedial instruction, providing appropriate vocational courses or work experience, or refer the child to a community truancy board, or assisting the parent or child to obtain supplementary services that might eliminate or ameliorate the cause or causes for the absence from school. [1995 c 312 § 67; 1992 c 205 § 202; 1986 c 132 § 2; 1979 ex.s. c 201 § 1. Formerly RCW 28A.27.020.]

**Short title—1995 c 312:** See note following RCW 13.32A.010.

**Part headings not law—Severability—1992 c 205:** See notes following RCW 13.40.010.

**28A.225.025 Community truancy boards.** For purposes of this chapter, "community truancy board" means a board composed of members of the local community in which the child attends school. The local school district boards of directors may create a community truancy board. Members of the board shall be selected from representatives of the community. Duties of a community truancy board shall include, but not be limited to, recommending methods for improving school attendance. [1995 c 312 § 66.]

**Short title—1995 c 312:** See note following RCW 13.32A.010.

**28A.225.030 Petition to juvenile court for violations by a parent or child.** If the actions taken by a school district under RCW 28A.225.020 are not successful in substantially reducing an enrolled student's absences from school, upon the fifth unexcused absence by a child within any month during the current school year or upon the tenth unexcused absence during the current school year the school district shall file a petition with the juvenile court alleging a violation of RCW 28A.225.010: (1) By the parent; (2) by the child; or (3) by the parent and the child.

If the school district fails to file a petition under this section, the parent of a child with five or more unexcused absences in any month during the current school year or upon the tenth unexcused absence during the current school year may file a petition with the juvenile court alleging a violation of RCW 28A.225.010. [1995 c 312 § 68; 1992 c 205 § 203; 1990 c 33 § 220; 1986 c 132 § 3; 1979 ex.s. c 201 § 2. Formerly RCW 28A.27.022.]

**Short title—1995 c 312:** See note following RCW 13.32A.010.

**Part headings not law—Severability—1992 c 205:** See notes following RCW 13.40.010.

**28A.225.035 Petition to juvenile court—Contents—Court action.** (1) A petition under RCW 28A.225.030 shall consist of a written notification to the court alleging that:

(a) The child has five or more unexcused absences within any month during the current school year or ten or more unexcused absences in the current school year;

(b) Actions taken by the school district have not been successful in substantially reducing the child's absences from school; and

(c) Court intervention and supervision are necessary to assist the school district or parent to reduce the child's absences from school.

(2) The petition shall set forth the name, age, school, and residence of the child and the names and residence of the child's parents.

(3) The petition shall set forth facts that support the allegations in this section and shall generally request relief available under this chapter.

(4) When a petition is filed under RCW 28A.225.030, the juvenile court may:

(a) Schedule a fact-finding hearing at which the court shall consider the petition;

(b) Separately notify the child, the parent of the child, and the school district of the fact-finding hearing;

(c) Notify the parent and the child of their rights to present evidence at the fact-finding hearing; and

(d) Notify the parent and the child of the options and rights available under chapter 13.32A RCW.

(5) The court may require the attendance of both the child and the parents at any hearing on a petition filed under RCW 28A.225.030.

(6) The court shall grant the petition and enter an order assuming jurisdiction to intervene for the remainder of the school year, if the allegations in the petition are established by a preponderance of the evidence.

(7) If the court assumes jurisdiction, the school district shall regularly report to the court any additional unexcused absences by the child. [1995 c 312 § 69.]

**Short title—1995 c 312:** See note following RCW 13.32A.010.

**28A.225.040 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**28A.225.050 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**28A.225.060 Custody and disposition of child absent from school without excuse.** Any school district official, sheriff, deputy sheriff, marshal, police officer, or any other officer authorized to make arrests, may take into custody without a warrant a child who is required under the provisions of RCW 28A.225.010 through 28A.225.140 to attend school and is absent from school without an approved excuse, and shall deliver the child to: (1) The custody of a person in parental relation to the child; (2) the school from which the child is absent; or (3) a program designated by the school district. [1995 c 312 § 73; 1990 c 33 s 223; 1979 ex.s. c 201 s 5; 1977 ex.s. c 291 s 52; 1969 ex.s. c 223 s

28A.27.070. Prior: 1909 c 97 p 366 s 5; RRS s 5076; prior: 1907 c 231 s 5; 1905 c 162 s 5. Formerly RCW 28A.27.070, 28.27.070.]

**Short title—1995 c 312:** See note following RCW 13.32A.010.

**Effective dates—Severability—1977 ex.s. c 291:** See notes following RCW 13.04.005.

**28A.225.070 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**28A.225.090 Penalties in general—Defense—Suspension of fine—Complaints to court.** Any person violating any of the provisions of either RCW 28A.225.010 or 28A.225.080 shall be fined not more than twenty-five dollars for each day of unexcused absence from school. However, a child found to be in violation of RCW 28A.225.010 shall be required to attend school and shall not be fined. If the child fails to comply with the court order to attend school, the court may: (1) Order the child be punished by detention; or (2) impose alternatives to detention such as community service hours or participation in dropout prevention programs or referral to a community truancy board, if available. Failure by a child to comply with an order issued under this section shall not be punishable by detention for a period greater than that permitted pursuant to a contempt proceeding against a child under chapter 13.32A RCW. It shall be a defense for a parent charged with violating RCW 28A.225.010 to show that he or she exercised reasonable diligence in attempting to cause a child in his or her custody to attend school or that the child's school did not perform its duties as required in RCW 28A.225.020. The court may order the parent to provide community service at the child's school instead of imposing a fine. Any fine imposed pursuant to this section may be suspended upon the condition that a parent charged with violating RCW 28A.225.010 shall participate with the school and the child in a supervised plan for the child's attendance at school or upon condition that the parent attend a conference or conferences scheduled by a school for the purpose of analyzing the causes of a child's absence.

School districts shall make complaint for violation of the provisions of RCW 28A.225.010 through 28A.225.140 to a judge of the juvenile court. [1995 c 312 § 74; 1992 c 205 § 204; 1990 c 33 § 226; 1987 c 202 § 189; 1986 c 132 § 5; 1979 ex.s. c 201 § 6; 1969 ex.s. c 223 § 28A.27.100. Prior: 1909 c 97 p 365 § 3; RRS § 5074; prior: 1907 c 231 § 3; 1905 c 162 § 3. Formerly RCW 28A.27.100, 28.27.100.]

**Short title—1995 c 312:** See note following RCW 13.32A.010.

**Part headings not law—Severability—1992 c 205:** See notes following RCW 13.40.010.

**Intent—1987 c 202:** See note following RCW 2.04.190.

**28A.225.095 Authority of court commissioners and family law commissioners to hear cases under this chapter.** In any judicial district having a court commissioner, the court commissioner shall have the power, authority, and jurisdiction, concurrent with a juvenile court judge, to hear all cases under RCW 28A.225.030, 28A.225.090, and 28A.225.035 and to enter judgment and make orders with the same power, force, and effect as any judge of the

juvenile court, subject to motion or demand by any party within ten days from the entry of the order or judgment by the court commissioner as provided in RCW 2.24.050. In any judicial district having a family law commissioner appointed pursuant to chapter 26.12 RCW, the family law commissioner shall have the power, authority, and jurisdiction, concurrent with a juvenile court judge, to hear cases under RCW 28A.225.030, 28A.225.090, and 28A.225.035 and to enter judgment and make orders with the same power, force, and effect as any judge of the juvenile court, subject to motion or demand by any party within ten days from the entry of the order or judgment by the court commissioner as provided in RCW 2.24.050. [1995 c 312 § 71.]

**Effective dates—1995 c 312 §§ 71, 82:** "(1) Section 71 of this act shall take effect September 1, 1995.

(2) Section 82 of this act shall take effect September 1, 1996." [1995 c 312 § 85.]

**Short title—1995 c 312:** See note following RCW 13.32A.010.

**28A.225.100 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**28A.225.110 Fines applied to support of schools.** Notwithstanding the provisions of RCW 10.82.070, fifty percent of all fines except as otherwise provided in RCW 28A.225.010 through 28A.225.140 shall be applied to the support of the public schools in the school district where such offense was committed: PROVIDED, That all fees, fines, forfeitures, and penalties collected or assessed by a district court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW, and fifty percent shall be paid to the county treasurer who shall deposit such amount to the credit of the courts in the county for the exclusive purpose of enforcing the provisions of RCW 28A.225.010 through 28A.225.140. [1995 c 312 § 75; 1990 c 33 § 228; 1987 c 202 § 191; 1969 ex.s. c 199 § 54; 1969 ex.s. c 223 § 28A.27.104. Prior: 1909 c 97 p 368 § 11; RRS § 5082; prior: 1907 c 231 § 12; 1905 c 162 § 11. Formerly RCW 28A.27.104, 28.27.104, 28.27.100, part.]

**Short title—1995 c 312:** See note following RCW 13.32A.010.

**Intent—1987 c 202:** See note following RCW 2.04.190.

**28A.225.120 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**28A.225.130 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**28A.225.150 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**28A.225.151 Reports.** (1) Each school shall document the actions taken under RCW 28A.225.020 and 28A.225.030 and report this information at the end of each grading period to the school district superintendent who shall compile the data for all the schools in the district and prepare an annual school district report for each school year and submit the report to the superintendent of public instruction. The reports shall be made upon forms furnished by the superintendent of public instruction and shall be

transmitted as determined by the superintendent of public instruction.

(2) The reports under subsection (1) of this section shall include:

(a) The number of enrolled students and the number of excused and unexcused absences;

(b) Documentation of the steps taken by the school district under each subsection of RCW 28A.225.020;

(c) The number of enrolled students with ten or more unexcused absences in a school year or five or more unexcused absences in a month during a school year;

(d) Documentation of success by the school district in substantially reducing enrolled student absences for students with five or more absences in any month or ten or more unexcused absences in any school year;

(e) The number of petitions filed by a school district or a parent with the juvenile court; and

(f) The disposition of cases filed with the juvenile court, including the frequency of contempt orders issued to enforce a court's order under RCW 28A.225.090.

(3) A report required under this section shall not disclose the name or other identification of a child or parent.

(4) The superintendent of public instruction shall collect these reports from all school districts and prepare an annual report for each school year to be submitted to the legislature no later than December 15th of each year. [1995 c 312 § 72.]

**Short title—1995 c 312:** See note following RCW 13.32A.010.

**28A.225.180 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**28A.225.190 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**28A.225.220 Adults, children from other districts, agreements for attending school—Tuition.** (1) Any board of directors may make agreements with adults choosing to attend school, and may charge the adults reasonable tuition.

(2) A district is strongly encouraged to honor the request of a parent or guardian for his or her child to attend a school in another district or the request of a parent or guardian for his or her child to transfer as a student receiving home-based instruction.

(3) A district shall release a student to a nonresident district that agrees to accept the student if:

(a) A financial, educational, safety, or health condition affecting the student would likely be reasonably improved as a result of the transfer; or

(b) Attendance at the school in the nonresident district is more accessible to the parent's place of work or to the location of child care; or

(c) There is a special hardship or detrimental condition.

(4) A district may deny the request of a resident student to transfer to a nonresident district if the release of the student would adversely affect the district's existing desegregation plan.

(5) For the purpose of helping a district assess the quality of its education program, a resident school district may request an optional exit interview or questionnaire with the parents or guardians of a child transferring to another

district. No parent or guardian may be forced to attend such an interview or complete the questionnaire.

(6) Beginning with the 1993-94 school year, school districts may not charge transfer fees or tuition for nonresident students enrolled under subsection (3) of this section and RCW 28A.225.225. Reimbursement of a high school district for cost of educating high school pupils of a nonhigh school district shall not be deemed a transfer fee as affecting the apportionment of current state school funds. [1995 c 335 § 602; 1995 c 52 § 2; 1993 c 336 § 1008; 1990 1st ex.s. c 9 § 201; 1969 c 130 § 10; 1969 ex.s. c 223 § 28A.58.240. Prior: 1963 c 47 § 2; prior: 1921 c 44 § 1, part; 1899 c 142 § 8, part; RRS § 4780, part. Formerly RCW 28A.58.240, 28.58.240.]

**Reviser's note:** This section was amended by 1995 c 52 § 2 and by 1995 c 335 § 602, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Part headings, table of contents not law—1995 c 335:** See note following RCW 28A.150.360.

**Findings—Intent—Part headings not law—1993 c 336:** See notes following RCW 28A.150.210.

**Findings—1993 c 336:** See note following RCW 28A.630.879.

**Finding—1990 1st ex.s. c 9:** "The legislature finds that academic achievement of Washington students can and should be improved. The legislature further finds that student success depends, in large part, on increased parental involvement in their children's education.

In order to take another step toward improving education in Washington, it is the purpose of this act to enhance the ability of parents to exercise choice in where they prefer their children attend school; inform parents of their options under local policies and state law for the intradistrict and interdistrict enrollment of their children; and provide additional program opportunities for secondary students." [1990 1st ex.s. c 9 § 101.]

**Severability—1990 1st ex.s. c 9:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1990 1st ex.s. c 9 § 502.]

*Education of children with disabilities:* RCW 28A.155.040, 28A.155.050.

**28A.225.225 Applications from nonresident students or students receiving home-based instruction to attend district school—Acceptance and rejection—Notification.**

(1) All districts accepting applications from nonresident students or from students receiving home-based instruction for admission to the district's schools shall consider equally all applications received. Each school district shall adopt a policy establishing rational, fair, and equitable standards for acceptance and rejection of applications by June 30, 1990. The policy may include rejection of nonresident students if acceptance of these students would result in the district experiencing a financial hardship.

(2) The district shall provide to applicants written notification of the approval or denial of the application in a timely manner. If the application is rejected, the notification shall include the reason or reasons for denial and the right to appeal under RCW 28A.225.230(3). [1995 c 52 § 3; 1994 c 293 § 1; 1990 1st ex.s. c 9 § 203.]

**Captions, headings not law—1990 1st ex.s. c 9:** "Part headings and section headings do not constitute any part of the law." [1990 1st ex.s. c 9 § 501.]

**Finding—Severability—1990 1st ex.s. c 9:** See notes following RCW 28A.225.220.

**28A.225.250 Cooperative programs among school districts—Rules.** (1) The state superintendent of public instruction is directed and authorized to develop and adopt rules governing cooperative programs between and among school districts and educational service districts that the superintendent deems necessary to assure:

- (a) Correct calculation of state apportionment payments;
- (b) Proper budgeting and accounting for interdistrict cooperative program revenues and expenditures;
- (c) Reporting of student, personnel, and fiscal data to meet state needs; and
- (d) Protection of the right of residents of Washington under twenty-one years of age to a tuition-free program of basic education.

(2) Unless specifically authorized in law, interdistrict cooperative programs shall not be designed to systematically increase state allocation above amounts required if services were provided by the resident school district. [1995 c 335 § 603; 1969 c 130 § 11. Formerly RCW 28A.58.243.]

**Part headings, table of contents not law—1995 c 335:** See note following RCW 28A.150.360.

*Education of children with disabilities:* RCW 28A.155.040, 28A.155.050.

**28A.225.320 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**28A.225.330 Enrolling students from other districts—Requests for information and permanent records—Withheld transcripts, effect—Immunity from liability—Rules.** (1) When enrolling a student who has attended school in another school district, the school enrolling the student may request the parent and the student to briefly indicate in writing whether or not the student has:

- (a) Any history of placement in special educational programs;
- (b) Any past, current, or pending disciplinary action;
- (c) Any history of violent behavior;
- (d) Any unpaid fines or fees imposed by other schools; and
- (e) Any health conditions affecting the student's educational needs.

(2) The school enrolling the student shall request the school the student previously attended to send the student's permanent record including records of disciplinary action. If the student has not paid a fine or fee under RCW 28A.635.060, the school may withhold the student's official transcript, but shall transmit information about the student's academic performance, special placement, and records of disciplinary action. If the official transcript is not sent due to unpaid fees or fines, the enrolling school shall notify both the student and parent or guardian that the official transcript will not be sent until the obligation is met, and failure to have an official transcript may result in exclusion from extracurricular activities or failure to graduate.

(3) If information is requested under subsection (2) of this section, the information shall be transmitted within two school days after receiving the request and the records shall be sent as soon as possible. Any school district or district employee who releases the information in compliance with this section is immune from civil liability for damages unless it is shown that the school district employee acted with gross

negligence or in bad faith. The state board of education shall provide by rule for the discipline under chapter 28A.410 RCW of a school principal or other chief administrator of a public school building who fails to make a good faith effort to assure compliance with this subsection.

(4) Any school district or district employee who releases the information in compliance with federal and state law is immune from civil liability for damages unless it is shown that the school district or district employee acted with gross negligence or in bad faith. [1995 c 324 § 2; 1995 c 311 § 25; 1994 c 304 § 2.]

**Reviser's note:** This section was amended by 1995 c 311 § 25 and by 1995 c 324 § 2, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Effective date—1994 c 304:** See note following RCW 28A.635.060.

## Chapter 28A.234

### GOVERNOR'S COUNCIL ON ENVIRONMENTAL EDUCATION

#### Sections

28A.234.010 Repealed.

**28A.234.010 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

## Chapter 28A.240

### SCHOOL-BASED MANAGEMENT

#### Sections

28A.240.010 through 28A.240.030 Repealed.

**28A.240.010 through 28A.240.030 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

## Chapter 28A.300

### SUPERINTENDENT OF PUBLIC INSTRUCTION

#### Sections

28A.300.110 Repealed.

28A.300.160 Development of coordinated primary prevention program for child abuse and neglect—Office as lead agency.

28A.300.180 Repealed.

28A.300.200 Repealed.

28A.300.210 Repealed.

**28A.300.110 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**28A.300.160 Development of coordinated primary prevention program for child abuse and neglect—Office as lead agency.** (1) The office of the superintendent of public instruction shall be the lead agency and shall assist the department of social and health services, the department of community, trade, and economic development, and school districts in establishing a coordinated primary prevention program for child abuse and neglect.

(2) In developing the program, consideration shall be given to the following:

(a) Parent, teacher, and children's workshops whose information and training is:

(i) Provided in a clear, age-appropriate, nonthreatening manner, delineating the problem and the range of possible solutions;

(ii) Culturally and linguistically appropriate to the population served;

(iii) Appropriate to the geographic area served; and

(iv) Designed to help counteract common stereotypes about child abuse victims and offenders;

(b) Training for school age children's parents and school staff, which includes:

(i) Physical and behavioral indicators of abuse;

(ii) Crisis counseling techniques;

(iii) Community resources;

(iv) Rights and responsibilities regarding reporting;

(v) School district procedures to facilitate reporting and apprise supervisors and administrators of reports; and

(vi) Caring for a child's needs after a report is made;

(c) Training for licensed day care providers and parents that includes:

(i) Positive child guidance techniques;

(ii) Physical and behavioral indicators of abuse;

(iii) Recognizing and providing safe, quality day care;

(iv) Community resources;

(v) Rights and responsibilities regarding reporting; and

(vi) Caring for the abused or neglected child;

(d) Training for children that includes:

(i) The right of every child to live free of abuse;

(ii) How to disclose incidents of abuse and neglect;

(iii) The availability of support resources and how to obtain help;

(iv) Child safety training and age-appropriate self-defense techniques; and

(v) A period for crisis counseling and reporting immediately following the completion of each children's workshop in a school setting which maximizes the child's privacy and sense of safety.

(3) The primary prevention program established under this section shall be a voluntary program and shall not be part of the basic program of education.

(4) Parents shall be given notice of the primary prevention program and may refuse to have their children participate in the program. [1995 c 399 § 21; 1987 c 489 § 3. Formerly RCW 28A.03.514.]

**Intent—1987 c 489:** See note following RCW 28A.300.150.

**28A.300.180 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**28A.300.200 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**28A.300.210 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

## Chapter 28A.305

### STATE BOARD OF EDUCATION

#### Sections

28A.305.130 Powers and duties generally.  
28A.305.230 through 28A.305.250 Repealed.

**28A.305.130 Powers and duties generally.** In addition to any other powers and duties as provided by law, the state board of education shall:

(1) Approve or disapprove the program of courses leading to teacher, school administrator, and school specialized personnel certification offered by all institutions of higher education within the state which may be accredited and whose graduates may become entitled to receive such certification.

(2) Conduct every five years a review of the program approval standards, including the minimum standards for teachers, administrators, and educational staff associates, to reflect research findings and assure continued improvement of preparation programs for teachers, administrators, and educational staff associates.

(3) Investigate the character of the work required to be performed as a condition of entrance to and graduation from any institution of higher education in this state relative to such certification as provided for in subsection (1) above, and prepare a list of accredited institutions of higher education of this and other states whose graduates may be awarded such certificates.

(4)(a) The state board of education shall adopt rules to allow a teacher certification candidate to fulfill, in part, teacher preparation program requirements through work experience as a noncertificated teacher's aide in a public school or private school meeting the requirements of RCW 28A.195.010. The rules shall include, but are not limited to, limitations based upon the recency of the teacher preparation candidate's teacher aide work experience, and limitations based on the amount of work experience that may apply toward teacher preparation program requirements under this chapter.

(b) The state board of education shall require that at the time of the individual's enrollment in a teacher preparation program, the supervising teacher and the building principal shall jointly provide to the teacher preparation program of the higher education institution at which the teacher candidate is enrolled, a written assessment of the performance of the teacher candidate. The assessment shall contain such information as determined by the state board of education and shall include: Evidence that at least fifty percent of the candidate's work as a noncertificated teacher's aide was involved in instructional activities with children under the supervision of a certificated teacher and that the candidate worked a minimum of six hundred thirty hours for one school year; the type of work performed by the candidate; and a recommendation of whether the candidate's work experience as a noncertificated teacher's aide should be substituted for teacher preparation program requirements. In compliance with such rules as may be established by the state board of education under this section, the teacher preparation programs of the higher education institution where the candidate is enrolled shall make the final determi-



nation as to what teacher preparation program requirements may be fulfilled by teacher aide work experience.

(5) Supervise the issuance of such certificates as provided for in subsection (1) above and specify the types and kinds of certificates necessary for the several departments of the common schools by rule or regulation in accordance with RCW 28A.410.010.

(6) Accredite, subject to such accreditation standards and procedures as may be established by the state board of education, all schools that apply for accreditation, and approve, subject to the provisions of RCW 28A.195.010, private schools carrying out a program for any or all of the grades one through twelve: PROVIDED, That no public or private schools shall be placed upon the list of accredited schools so long as secret societies are knowingly allowed to exist among its students by school officials: PROVIDED FURTHER, That the state board may elect to require all or certain classifications of the public schools to conduct and participate in such pre-accreditation examination and evaluation processes as may now or hereafter be established by the board.

(7) Make rules and regulations governing the establishment in any existing nonhigh school district of any secondary program or any new grades in grades nine through twelve. Before any such program or any new grades are established the district must obtain prior approval of the state board.

(8) Prepare such outline of study for the common schools as the board shall deem necessary, and prescribe such rules for the general government of the common schools, as shall seek to secure regularity of attendance, prevent truancy, secure efficiency, and promote the true interest of the common schools.

(9) Continuously reevaluate courses and adopt and enforce regulations within the common schools so as to meet the educational needs of students and articulate with the institutions of higher education and unify the work of the public school system.

(10) Carry out board powers and duties relating to the organization and reorganization of school districts under RCW 28A.315.010 through 28A.315.680 and 28A.315.900.

(11) By rule or regulation promulgated upon the advice of the chief of the Washington state patrol, through the director of fire protection, provide for instruction of pupils in the public and private schools carrying out a K through 12 program, or any part thereof, so that in case of sudden emergency they shall be able to leave their particular school building in the shortest possible time or take such other steps as the particular emergency demands, and without confusion or panic; such rules and regulations shall be published and distributed to certificated personnel throughout the state whose duties shall include a familiarization therewith as well as the means of implementation thereof at their particular school.

(12) Hear and decide appeals as otherwise provided by law.

The state board of education is given the authority to promulgate information and rules dealing with the prevention of child abuse for purposes of curriculum use in the common schools. [1995 c 369 § 9; 1991 c 116 § 11; 1990 c 33 § 266. Prior: 1987 c 464 § 1; 1987 c 39 § 1; prior: 1986 c

266 § 86; 1986 c 149 § 3; 1984 c 40 § 2; 1979 ex.s. c 173 § 1; 1975-'76 2nd ex.s. c 92 § 1; 1975 1st ex.s. c 275 § 50; 1974 ex.s. c 92 § 1; 1971 ex.s. c 215 § 1; 1971 c 48 § 2; 1969 ex.s. c 223 § 28A.04.120; prior: 1963 c 32 § 1; 1961 c 47 § 1; prior: (i) 1933 c 80 § 1; 1915 c 161 § 1; 1909 c 97 p 236 § 5; 1907 c 240 § 3; 1903 c 104 § 12; 1897 c 118 § 27; 1895 c 150 § 1; 1890 p 352 § 8; Code 1881 § 3165; RRS § 4529. (ii) 1919 c 89 § 3; RRS § 4684. (iii) 1909 c 97 p 238 § 6; 1897 c 118 § 29; RRS § 4530. Formerly RCW 28A.04.120, 28.04.120, 28.58.280, 28.58.281, 28.58.282, 43.63.140.]

**Effective date—1995 c 369:** See note following RCW 43.43.930.

**Severability—1986 c 266:** See note following RCW 38.52.005.

**Severability—1984 c 40:** See note following RCW 28A.195.050.

**Severability—1975-'76 2nd ex.s. c 92:** "If any provision of this 1976 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975-'76 2nd ex.s. c 92 § 6.]

*Child abuse and neglect—Development of primary prevention program:* RCW 28A.300.160.

*Districts to develop programs and establish programs regarding child abuse and neglect prevention:* RCW 28A.225.200.

*Professional certification not to be required of superintendents, deputy or assistant superintendents:* RCW 28A.410.120.

*Use of force on children—Policy—Actions presumed unreasonable:* RCW 9A.16.100.

**28A.305.230 through 28A.305.250 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

## Chapter 28A.310

### EDUCATIONAL SERVICE DISTRICTS

#### Sections

28A.310.190	ESD board—Teachers' institutes, directors' meetings—Cooperation with state supervisor—Certification of data.
28A.310.380	Repealed.

**28A.310.190 ESD board—Teachers' institutes, directors' meetings—Cooperation with state supervisor—Certification of data.** In addition to other powers and duties as provided by law, every educational service district board shall:

(1) If the district board deems necessary, hold each year one or more teachers' institutes as provided for in RCW 28A.415.010 and one or more school directors' meetings.

(2) Cooperate with the state supervisor of special aid for children with disabilities as provided in RCW 28A.155.010 through 28A.155.100.

(3) Certify statistical data as basis for apportionment purposes to county and state officials as provided in chapter 28A.545 RCW.

(4) Perform such other duties as may be prescribed by law or rule of the state board of education and/or the superintendent of public instruction as provided in RCW 28A.300.030 and 28A.305.210. [1995 c 77 § 20; 1990 c 33 § 277; 1983 c 56 § 2; 1981 c 103 § 2; 1975 1st ex.s. c 275 § 17; 1971 ex.s. c 282 § 12. Formerly RCW 28A.21.088.]

**Severability—1983 c 56:** See note following RCW 28A.195.010.

**Severability—1971 ex.s. c 282:** See note following RCW 28A.310.010.

**28A.310.380 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

### Chapter 28A.315

#### ORGANIZATION AND REORGANIZATION OF SCHOOL DISTRICTS

##### Sections

28A.315.680 Directors' districts in first class districts having city with population of 400,000 people or more—Initial district boundaries—Appointments to fill vacancies for new director districts—Director district numbers.

**28A.315.680 Directors' districts in first class districts having city with population of 400,000 people or more—Initial district boundaries—Appointments to fill vacancies for new director districts—Director district numbers.** The school boards of any school district of the first class having within its boundaries a city with a population of four hundred thousand people or more shall establish the director district boundaries. Appointment of a board member to fill any vacancy existing for a new director district prior to the next regular school election shall be by the school board. Prior to the next regular election in the school district and the filing of declarations of candidacy therefor, the incumbent school board shall designate said director districts by number. Directors appointed to fill vacancies as above provided shall be subject to election, one for a six-year term, and one for a two-year term and thereafter the term of their respective successors shall be for four years. The term of office of incumbent members of the board of such district shall not be affected by RCW 28A.315.450, 28A.315.460, 28A.315.570, 28A.315.670, and 28A.315.680. [1995 c 335 § 106. Prior: 1991 c 363 § 29; 1991 c 288 §§ 7, 8; prior: 1990 c 59 § 72; 1990 c 33 § 328; 1983 c 3 § 36; 1979 ex.s. c 183 § 7; 1973 2nd ex.s. c 21 § 6; 1969 c 131 § 10. Formerly RCW 28A.57.435.]

**Part headings, table of contents not law—1995 c 335:** See note following RCW 28A.150.360.

**Effective dates—1991 c 363 §§ 28, 29, 33, 47, 131:** See note following RCW 28A.315.670.

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

**Effective date—1991 c 288 §§ 6, 8:** See note following RCW 28A.315.670.

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**Effective date—Severability—1979 ex.s. c 183:** See notes following RCW 28A.315.580.

### Chapter 28A.320

#### PROVISIONS APPLICABLE TO ALL DISTRICTS

##### Sections

28A.320.080 Commencement exercises—Lip reading instruction—Joint purchasing, including issuing interest bearing warrants and agreements with private schools—Budgets.

28A.320.150 Voter approval of levies—Request consistent with limit.

28A.320.200 Self-study process by school districts—Requirements—Rules. (*Contingent expiration date.*)

**28A.320.080 Commencement exercises—Lip reading instruction—Joint purchasing, including issuing interest bearing warrants and agreements with private schools—Budgets.** Every board of directors, unless otherwise specifically provided by law, shall:

(1) Provide for the expenditure of a reasonable amount for suitable commencement exercises;

(2) In addition to providing free instruction in lip reading for children disabled by defective hearing, make arrangements for free instruction in lip reading to adults disabled by defective hearing whenever in its judgment such instruction appears to be in the best interests of the school district and adults concerned;

(3) Join with boards of directors of other school districts or an educational service district pursuant to RCW 28A.310.180(3), or both such school districts and educational service district in buying supplies, equipment and services by establishing and maintaining a joint purchasing agency, or otherwise, when deemed for the best interests of the district, any joint agency formed hereunder being herewith authorized and empowered to issue interest bearing warrants in payment of any obligation owed: PROVIDED, HOWEVER, That those agencies issuing interest bearing warrants shall assign accounts receivable in an amount equal to the amount of the outstanding interest bearing warrants to the county treasurer issuing such interest bearing warrants: PROVIDED FURTHER, That the joint purchasing agency shall consider the request of any one or more private schools requesting the agency to jointly buy supplies, equipment, and services including but not limited to school bus maintenance services, and, after considering such request, may cooperate with and jointly make purchases with private schools of supplies, equipment, and services, including but not limited to school bus maintenance services, so long as such private schools pay in advance their proportionate share of the costs or provide a surety bond to cover their proportionate share of the costs involved in such purchases;

(4) Consider the request of any one or more private schools requesting the board to jointly buy supplies, equipment and services including but not limited to school bus maintenance services, and, after considering such request, may provide such joint purchasing services: PROVIDED, That such private schools pay in advance their proportionate share of the costs or provide a surety bond to cover their proportionate share of the costs involved in such purchases; and

(5) Prepare budgets as provided for in chapter 28A.505 RCW. [1995 c 77 § 21; 1990 c 33 § 331; 1986 c 77 § 1; 1983 c 125 § 1; 1981 c 308 § 1; 1979 ex.s. c 66 § 2; 1971 c 26 § 1; 1969 c 53 § 2; 1969 ex.s. c 223 § 28A.58.107. Prior: 1969 c 53 § 1, part; 1967 ex.s. c 29 § 1, part; 1967 c 12 § 1, part; 1965 ex.s. c 49 § 1, part; 1963 c 104 § 1, part; 1963 c 5 § 1, part; 1961 c 305 § 1, part; 1961 c 237 § 1, part; 1961 c 66 § 1, part; 1955 c 68 § 2, part; prior: 1943 c 52 § 1, part; 1941 c 179 § 1, part; 1939 c 131 § 1, part; 1925 ex.s. c 57 § 1, part; 1919 c 89 § 3, part; 1915 c 44 §

1, part; 1909 c 97 p 285 § 2, part; 1907 c 240 § 5, part; 1903 c 104 § 17, part; 1901 c 41 § 3, part; 1897 c 118 § 40, part; 1890 p 364 § 26, part; Rem. Supp. 1943 § 4776, part. Formerly RCW 28A.58.107, 28.58.100(7), (13) and (14).]

**Severability—1981 c 308:** "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 308 § 3.]

**Severability—1979 ex.s. c 66:** See note following RCW 28A.310.180.

**28A.320.150 Voter approval of levies—Request consistent with limit.** In seeking voter approval for levies that assume any portion of the revenues will be collected in calendar year 1998 and thereafter, the boards of directors of each school district shall only request voter approval for an amount consistent with levy limits in existing law at the time the levy approval is requested from the voters and reflecting in such calculations the 1993 rate for any amounts collected in calendar year 1998 and thereafter. [1995 1st sp.s. c 11 § 2.]

**28A.320.200 Self-study process by school districts—Requirements—Rules. (Contingent expiration date.)** (1) Each school district board of directors shall develop a schedule and process by which each public school within its jurisdiction shall undertake self-study procedures on a regular basis: PROVIDED, That districts may allow two or more elementary school buildings in the district to undertake jointly the self-study process. Each school may follow the accreditation process developed by the state board of education under RCW 28A.305.130(6), although no school is required to file for actual accreditation, or the school may follow a self-study process developed locally. The initial self-study process within each district shall begin by September 1, 1986, and should be completed for all schools within a district by the end of the 1990-91 school year.

(2) Any self-study process must include the participation of staff, parents, members of the community, and students, where appropriate to their age.

(3) The self-study process that is used must focus upon the quality and appropriateness of the school's educational program and the results of its operational effort. The primary emphasis throughout the process shall be placed upon:

- (a) Achieving educational excellence and equity;
- (b) Building stronger links with the community; and
- (c) Reaching consensus upon educational expectations through community involvement and corresponding school management.

(4) The state board of education shall adopt rules governing procedural criteria. Such rules should be flexible so as to accommodate local goals and circumstances. The rules may allow for waiver of the self-study for economic reasons and may also allow for waiver of the initial self-study if a district or its schools have participated successfully in an official accreditation process or in a similar assessment of educational programs within the last three years. The self-study process shall be conducted on a cyclical basis every seven years following the initial 1990-91 period.

(5) The superintendent of public instruction shall provide training to assist districts in their self-studies. [1995

c 335 § 502; 1990 c 33 § 333; 1989 c 83 § 1; 1988 c 256 § 2; 1985 c 349 § 2. Formerly RCW 28A.58.085.]

**Part headings, table of contents not law—1995 c 335:** See note following RCW 28A.150.360.

**Severability—1985 c 349:** See note following RCW 28A.630.800.

## Chapter 28A.330

### PROVISIONS APPLICABLE TO SCHOOL DISTRICTS

#### Sections

28A.330.100 Additional powers of board.

**28A.330.100 Additional powers of board.** Every board of directors of a school district of the first class, in addition to the general powers for directors enumerated in this title, shall have the power:

(1) To employ for a term of not exceeding three years a superintendent of schools of the district, and for cause to dismiss him or her; and to fix his or her duties and compensation.

(2) To employ, and for cause dismiss one or more assistant superintendents and to define their duties and fix their compensation.

(3) To employ a business manager, attorneys, architects, inspectors of construction, superintendents of buildings and a superintendent of supplies, all of whom shall serve at the board's pleasure, and to prescribe their duties and fix their compensation.

(4) To employ, and for cause dismiss, supervisors of instruction and to define their duties and fix their compensation.

(5) To prescribe a course of study and a program of exercises which shall be consistent with the course of study prepared by the state board of education for the use of the common schools of this state.

(6) To, in addition to the minimum requirements imposed by this title establish and maintain such grades and departments, including night, high, kindergarten, vocational training and, except as otherwise provided by law, industrial schools, and schools and departments for the education and training of any class or classes of youth with disabilities, as in the judgment of the board, best shall promote the interests of education in the district.

(7) To determine the length of time over and above one hundred eighty days that school shall be maintained: PROVIDED, That for purposes of apportionment no district shall be credited with more than one hundred and eighty-three days' attendance in any school year; and to fix the time for annual opening and closing of schools and for the daily dismissal of pupils before the regular time for closing schools.

(8) To maintain a shop and repair department, and to employ, and for cause dismiss, a foreman and the necessary help for the maintenance and conduct thereof.

(9) To provide free textbooks and supplies for all children attending school.

(10) To require of the officers or employees of the district to give a bond for the honest performance of their duties in such penal sum as may be fixed by the board with good and sufficient surety, and to cause the premium for all

bonds required of all such officers or employees to be paid by the district: PROVIDED, That the board may, by written policy, allow that such bonds may include a deductible proviso not to exceed two percent of the officer's or employee's annual salary.

(11) To prohibit all secret fraternities and sororities among the students in any of the schools of the said districts.

(12) To appoint a practicing physician, resident of the school district, who shall be known as the school district medical inspector, and whose duty it shall be to decide for the board of directors all questions of sanitation and health affecting the safety and welfare of the public schools of the district who shall serve at the board's pleasure: PROVIDED, That children shall not be required to submit to vaccination against the will of their parents or guardian. [1995 c 335 § 503; 1995 c 77 § 22; 1991 c 116 § 17; 1990 c 33 § 348; 1983 c 2 § 7. Prior: 1982 c 191 § 11; 1982 c 158 § 6; 1969 ex.s. c 223 § 28A.59.180; prior: 1919 c 90 § 9; 1909 c 97 p 293 § 16; RRS § 4805. Formerly RCW 28A.59.180, 28.62.180, 28.31.070.]

**Reviser's note:** This section was amended by 1995 c 77 § 22 and by 1995 c 335 § 503, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Part headings, table of contents not law—1995 c 335:** See note following RCW 28A.150.360.

**Severability—1983 c 2:** See note following RCW 18.71.030.

**Effective date—Severability—1982 c 191:** See notes following RCW 28A.315.270.

**Severability—1982 c 158:** See note following RCW 28A.150.220.

## Chapter 28A.335

### SCHOOL DISTRICTS' PROPERTY

#### Sections

28A.335.090	Conveyance and acquisition of property— Management—Appraisal.
28A.335.120	Real property—Sale—Notice of and hearing on— Appraisal required—Broker or real estate appraiser services—Real estate sales contracts, limitation.
28A.335.160	Joint educational facilities, services or programs— Rules.
28A.335.190	Advertising for bids—Competitive bid procedures— Telephone or written quotation solicitation, limita- tions—Emergencies.
28A.335.310	Repealed.
28A.335.320	Enhanced 911 service—Common and public school service required.

**28A.335.090 Conveyance and acquisition of property—Management—Appraisal.** (1) The board of directors of each school district shall have exclusive control of all school property, real or personal, belonging to the district; said board shall have power, subject to RCW 28A.335.120, in the name of the district, to convey by deed all the interest of their district in or to any real property of the district which is no longer required for school purposes. Except as otherwise specially provided by law, and RCW 28A.335.120, the board of directors of each school district may purchase, lease, receive and hold real and personal property in the name of the district, and rent, lease or sell the same, and all conveyances of real estate made to the district shall vest title in the district.

(2) Any purchase of real property by a school district shall be preceded by a market value appraisal by a professionally designated real estate appraiser as defined in RCW 74.46.020 who was selected by the board of directors. [1995 c 358 § 1; 1990 c 33 § 358; 1981 c 306 § 3; 1980 c 115 § 1; 1969 ex.s. c 223 § 28A.58.040. Prior: (i) 1947 c 266 § 6, part; Rem. Supp. 1947 § 4693-25, part; prior: 1909 p 265 § 2, part. Formerly RCW 28.57.135, part. (ii) 1969 c 53 § 1, part; 1967 ex.s. c 29 § 1, part; 1967 c 12 § 1, part; 1965 ex.s. c 49 § 1, part; 1963 c 104 § 1, part; 1963 c 5 § 1, part; 1961 c 305 § 1, part; 1961 c 237 § 1, part; 1961 c 66 § 1, part; 1955 c 68 § 2, part. Formerly RCW 28.58.100(3) and (5), part. (iii) 1909 c 97 p 287 § 7, part; RRS § 4782, part; prior: 1897 c 118 § 44, part; 1891 c 127 § 11, part; 1890 p 366 § 30, part. Formerly RCW 28A.58.040, 28.58.040.]

**Severability—1981 c 306:** See note following RCW 28A.335.180.

**Severability—1980 c 115:** "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1980 c 115 § 9.]

### 28A.335.120 Real property—Sale—Notice of and hearing on—Appraisal required—Broker or real estate appraiser services—Real estate sales contracts, limitation.

(1) The board of directors of any school district of this state may:

(a) Sell for cash, at public or private sale, and convey by deed all interest of the district in or to any of the real property of the district which is no longer required for school purposes; and

(b) Purchase real property for the purpose of locating thereon and affixing thereto any house or houses and appurtenant buildings removed from school sites owned by the district and sell for cash, at public or private sale, and convey by deed all interest of the district in or to such acquired and improved real property.

(2) When the board of directors of any school district proposes a sale of school district real property pursuant to this section and the value of the property exceeds seventy thousand dollars, the board shall publish a notice of its intention to sell the property. The notice shall be published at least once each week during two consecutive weeks in a legal newspaper with a general circulation in the area in which the school district is located. The notice shall describe the property to be sold and designate the place where and the day and hour when a hearing will be held. The board shall hold a public hearing upon the proposal to dispose of the school district property at the place and the day and hour fixed in the notice and admit evidence offered for and against the propriety and advisability of the proposed sale.

(3) The board of directors of any school district desiring to sell surplus real property shall publish a notice in a newspaper of general circulation in the school district. School districts shall not sell the property for at least forty-five days following the publication of the newspaper notice.

(4) Private schools shall have the same rights as any other person or entity to submit bids for the purchase of surplus real property and to have such bids considered along with all other bids.

(5) Any sale of school district real property authorized pursuant to this section shall be preceded by a market value

appraisal by a professionally designated real estate appraiser as defined in RCW 74.46.020 selected by the board of directors and no sale shall take place if the sale price would be less than ninety percent of the appraisal made by the professionally designated real estate appraiser: PROVIDED, That if the property has been on the market for one year or more the property may be reappraised and sold for not less than seventy-five percent of the reappraised value with the unanimous consent of the board.

(6) If in the judgment of the board of directors of any district the sale of real property of the district not needed for school purposes would be facilitated and greater value realized through use of the services of licensed real estate brokers, a contract for such services may be negotiated and concluded: PROVIDED, That the use of a licensed real estate broker will not eliminate the obligation of the board of directors to provide the notice described in this section: PROVIDED FURTHER, That the fee or commissions charged for any broker services shall not exceed seven percent of the resulting sale value for a single parcel: PROVIDED FURTHER, That any professionally designated real estate appraiser as defined in RCW 74.46.020 selected by the board to appraise the market value of a parcel of property to be sold may not be a party to any contract with the school district to sell such parcel of property for a period of three years after the appraisal.

(7) If in the judgment of the board of directors of any district the sale of real property of the district not needed for school purposes would be facilitated and greater value realized through sale on contract terms, a real estate sales contract may be executed between the district and buyer: PROVIDED, That the terms and conditions of any such sales contract must comply with rules and regulations of the state board of education, herein authorized, governing school district real property contract sales. [1995 c 358 § 2; 1991 c 116 § 13; 1984 c 103 § 1; 1981 c 306 § 4; 1979 ex.s. c 16 § 1; 1975 1st ex.s. c 243 § 1; 1969 ex.s. c 223 § 28A.58.045. Prior: 1963 c 67 § 1; 1953 c 225 § 1. Formerly RCW 28A.58.045, 28.58.045.]

*Severability—1981 c 306:* See note following RCW 28A.335.180.

**28A.335.160 Joint educational facilities, services or programs—Rules.** Any school district may cooperate with one or more school districts in the joint financing, planning, construction, equipping and operating of any educational facility otherwise authorized by law: PROVIDED, That any cooperative financing plan involving the construction of school plant facilities must be approved by the state board of education pursuant to such rules as may now or hereafter be promulgated relating to state approval of school construction. [1995 c 335 § 604; 1990 c 33 § 359; 1969 c 130 § 12. Formerly RCW 28A.58.075.]

*Part headings, table of contents not law—1995 c 335:* See note following RCW 28A.150.360.

*Conditional sales contracts for acquisition of property or property rights:* RCW 28A.335.200.

*Education of children with disabilities:* RCW 28A.155.040.

**28A.335.190 Advertising for bids—Competitive bid procedures—Telephone or written quotation solicitation, limitations—Emergencies.** (1) When, in the opinion of the

board of directors of any school district, the cost of any furniture, supplies, equipment, building, improvements, or repairs, or other work or purchases, except books, will equal or exceed the sum of fifty thousand dollars, complete plans and specifications for such work or purchases shall be prepared and notice by publication given in at least one newspaper of general circulation within the district, once each week for two consecutive weeks, of the intention to receive bids therefor and that specifications and other information may be examined at the office of the board or any other officially designated location: PROVIDED, That the board without giving such notice may make improvements or repairs to the property of the district through the shop and repair department of such district when the total of such improvements or repair does not exceed the sum of (a) fifteen thousand dollars, for districts with fifteen thousand five hundred or more full-time equivalent students; or (b) for districts with fewer than fifteen thousand five hundred full-time equivalent students, fifteen thousand dollars if more than one craft or trade is involved with the school district improvement or repair, or ten thousand dollars if a single craft or trade is involved with the school district improvement or repair. The cost of any public work, improvement or repair for the purposes of this section shall be the aggregate of all amounts to be paid for labor, material, and equipment on one continuous or interrelated project where work is to be performed simultaneously or in close sequence. The bids shall be in writing and shall be opened and read in public on the date and in the place named in the notice and after being opened shall be filed for public inspection.

(2) Every purchase of furniture, equipment or supplies, except books, the cost of which is estimated to be in excess of fifteen thousand dollars, shall be on a competitive basis. The board of directors shall establish a procedure for securing telephone and/or written quotations for such purchases. Whenever the estimated cost is from fifteen thousand dollars up to fifty thousand dollars, the procedure shall require quotations from at least three different sources to be obtained in writing or by telephone, and recorded for public perusal. Whenever the estimated cost is in excess of fifty thousand dollars, the public bidding process provided in subsection (1) of this section shall be followed.

(3) Every building, improvement, repair or other public works project, the cost of which is estimated to be in excess of (a) fifteen thousand dollars, for districts with fifteen thousand five hundred or more full-time equivalent students; or (b) for districts with fewer than fifteen thousand five hundred full-time equivalent students, fifteen thousand dollars if more than one craft or trade is involved with the school district improvement or repair, or ten thousand dollars if a single craft or trade is involved with the school district improvement or repair, shall be on a competitive bid process. All such projects estimated to be less than fifty thousand dollars may be awarded to a contractor on the small works roster. The small works roster shall be comprised of all responsible contractors who have requested to be on the list. The board of directors shall establish a procedure for securing telephone and/or written quotations from the contractors on the small works roster to assure establishment of a competitive price and for awarding contracts to the lowest responsible bidder. Such procedure shall require that

a good faith effort be made to request quotations from all contractors on the small works roster who have indicated the capability of performing the kind of public works being contracted. Immediately after an award is made, the bid quotations obtained shall be recorded, open to public inspection, and available by telephone inquiry. The small works roster shall be revised at least once each year by publishing notice of such opportunity in at least one newspaper of general circulation in the district. Responsible contractors shall be added to the list at any time they submit a written request. Whenever the estimated cost of a public works project is fifty thousand dollars or more, the public bidding process provided in subsection (1) of this section shall be followed.

(4) The contract for the work or purchase shall be awarded to the lowest responsible bidder as defined in RCW 43.19.1911 but the board may by resolution reject any and all bids and make further calls for bids in the same manner as the original call. On any work or purchase the board shall provide bidding information to any qualified bidder or the bidder's agent, requesting it in person.

(5) In the event of any emergency when the public interest or property of the district would suffer material injury or damage by delay, upon resolution of the board declaring the existence of such an emergency and reciting the facts constituting the same, the board may waive the requirements of this section with reference to any purchase or contract: PROVIDED, That an "emergency", for the purposes of this section, means a condition likely to result in immediate physical injury to persons or to property of the school district in the absence of prompt remedial action.

(6) This section does not apply to the direct purchase of school buses by school districts and educational services in accordance with RCW 28A.160.195. [1995 1st sp.s. c 10 § 3; 1994 c 212 § 1; 1990 c 33 § 362; 1985 c 324 § 1; 1980 c 61 § 1; 1975-'76 2nd ex.s. c 26 § 1; 1969 ex.s. c 49 § 2; 1969 ex.s. c 223 § 28A.58.135. Prior: 1961 c 224 § 1. Formerly RCW 28A.58.135, 28.58.135.]

**28A.335.310 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**28A.335.320 Enhanced 911 service—Common and public school service required.** By January 1, 1997, or one year after enhanced 911 service becomes available or a private switch automatic location identification service approved by the Washington utilities and transportation commission is available from the serving local exchange telecommunications company, whichever is later, all common and public schools located in counties that provide enhanced 911 service shall provide persons using school facilities direct access to telephones that are connected to the public switched network such that calls to 911 result in automatic location identification for each telephone in a format that is compatible with the existing and planned county enhanced 911 system during all times that the facility is in use. Any school district acquiring a private telecommunications system that allows connection to the public switched network after January 1, 1997, shall assure that the telecommunications system is connected to the public switched network such that calls to 911 result in automatic

location identification for each telephone in a format that is compatible with the existing or planned county enhanced 911 system. [1995 c 243 § 4.]

**Reviser's note:** 1995 c 243 directed that this section be added to chapter 28A.150 RCW. This section has been codified in chapter 28A.335 RCW, which relates more directly to school district facilities.

**Findings—Severability—1995 c 243:** See notes following RCW 80.36.555.

### Chapter 28A.340 SMALL HIGH SCHOOL COOPERATIVE PROJECTS

Sections  
28A.340.050 Repealed.

**28A.340.050 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

### Chapter 28A.400 EMPLOYEES

Sections  
28A.400.150 Repealed.  
28A.400.306 Fingerprints accepted by the state patrol—Fingerprints forwarded to the federal bureau of investigation—Conditions.  
28A.400.350 Liability, life, health, health care, accident, disability, and salary insurance authorized—When required—Premiums.  
28A.400.410 Payment to the public employees' and retirees' insurance account.

**28A.400.150 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**28A.400.306 Fingerprints accepted by the state patrol—Fingerprints forwarded to the federal bureau of investigation—Conditions.** The state patrol shall accept fingerprints obtained under this chapter only if it can ensure that the patrol will not retain a record of the fingerprints after the check is complete. It shall not forward fingerprints obtained under this chapter to the federal bureau of investigation unless it can ensure that the federal bureau of investigation will not retain a record of the fingerprints after the check is complete. [1995 c 335 § 504; 1992 c 159 § 9.]

**Part headings, table of contents not law—1995 c 335:** See note following RCW 28A.150.360.

**Findings—1992 c 159:** See note following RCW 28A.400.303.

**28A.400.350 Liability, life, health, health care, accident, disability, and salary insurance authorized—When required—Premiums.** (1) The board of directors of any of the state's school districts may make available liability, life, health, health care, accident, disability and salary protection or insurance or any one of, or a combination of the enumerated types of insurance, or any other type of insurance or protection, for the members of the boards of directors, the students, and employees of the school district, and their dependents. Such coverage may be provided by contracts with private carriers, with the state health care

authority after July 1, 1990, pursuant to the approval of the authority administrator, or through self-insurance or self-funding pursuant to chapter 48.62 RCW, or in any other manner authorized by law.

(2) Whenever funds are available for these purposes the board of directors of the school district may contribute all or a part of the cost of such protection or insurance for the employees of their respective school districts and their dependents. The premiums on such liability insurance shall be borne by the school district.

After October 1, 1990, school districts may not contribute to any employee protection or insurance other than liability insurance unless the district's employee benefit plan conforms to RCW 28A.400.275 and 28A.400.280.

(3) For school board members and students, the premiums due on such protection or insurance shall be borne by the assenting school board member or student. The school district may contribute all or part of the costs, including the premiums, of life, health, health care, accident or disability insurance which shall be offered to all students participating in interschool activities on the behalf of or as representative of their school or school district. The school district board of directors may require any student participating in extracurricular interschool activities to, as a condition of participation, document evidence of insurance or purchase insurance that will provide adequate coverage, as determined by the school district board of directors, for medical expenses incurred as a result of injury sustained while participating in the extracurricular activity. In establishing such a requirement, the district shall adopt regulations for waiving or reducing the premiums of such coverage as may be offered through the school district to students participating in extracurricular activities, for those students whose families, by reason of their low income, would have difficulty paying the entire amount of such insurance premiums. The district board shall adopt regulations for waiving or reducing the insurance coverage requirements for low-income students in order to assure such students are not prohibited from participating in extracurricular interschool activities.

(4) All contracts for insurance or protection written to take advantage of the provisions of this section shall provide that the beneficiaries of such contracts may utilize on an equal participation basis the services of those practitioners licensed pursuant to chapters 18.22, 18.25, 18.53, 18.57, and 18.71 RCW. [1995 1st sp.s. c 6 § 18; 1995 c 126 § 1; 1993 c 492 § 226. Prior: 1990 1st ex.s. c 11 § 3; 1990 c 74 § 1; 1988 c 107 § 16; 1985 c 277 § 8; 1977 ex.s. c 255 § 1; 1973 1st ex.s. c 9 § 1; 1971 ex.s. c 269 § 2; 1971 c 8 § 3; 1969 ex.s. c 237 § 3; 1969 ex.s. c 223 § 28A.58.420; prior: 1967 c 135 § 2, part; 1959 c 187 § 1, part. Formerly RCW 28A.58.420, 28.76.410, part.]

**Reviser's note:** This section was amended by 1995 c 126 § 1 and by 1995 1st sp.s. c 6 § 18, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Effective date—1995 1st sp.s. c 6:** See note following RCW 28A.400.410.

**Findings—Intent—1993 c 492:** See notes following RCW 43.72.005.

**Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492:** See RCW 43.72.910 through 43.72.915.

**Intent—1990 1st ex.s. c 11:** See note following RCW 28A.400.200.

**Implementation—Effective dates—1988 c 107:** See RCW 41.05.901.

**Retrospective application—1985 c 277:** See note following RCW 48.01.050.

**Severability—1971 ex.s. c 269:** "If any provision of this 1971 act, or its application to any person 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 269 § 4.]

*Hospitalization and medical insurance authorized:* RCW 41.04.180.

*Operation of student transportation program responsibility of local district—Scope—Transporting of elderly—Insurance:* RCW 28A.160.010.

*Retirement allowance deductions for health care benefit plans:* RCW 41.04.235.

**28A.400.410 Payment to the public employees' and retirees' insurance account.** (1) In a manner prescribed by the state health care authority, school districts and educational service districts shall remit to the health care authority for deposit in the public employees' and retirees' insurance account established in RCW 41.05.120 the amount specified for remittance in the omnibus appropriations act.

(2) The remittance requirements specified in this section shall not apply to employees of a school district or educational service district who receive insurance benefits through contracts with the health care authority. [1995 1st sp.s. c 6 § 1.]

**Effective date—1995 1st sp.s. c 6:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995." [1995 1st sp.s. c 6 § 23.]

## Chapter 28A.405

### CERTIFICATED EMPLOYEES

#### Sections

28A.405.010	Recodified as RCW 28A.410.025.
28A.405.025	Recodified as RCW 28A.410.035.
28A.405.070	Job sharing.
28A.405.120	Training for evaluators.
28A.405.150	Repealed.
28A.405.160	Repealed.
28A.405.460	Lunch period for certificated employees.

**28A.405.010 Recodified as RCW 28A.410.025.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**28A.405.025 Recodified as RCW 28A.410.035.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**28A.405.070 Job sharing.** Effective December 31, 1995, school and educational service districts shall have a policy on the sharing of jobs by district employees. [1995 c 335 § 701; 1989 c 206 § 1. Formerly RCW 28A.58.580.]

**Part headings, table of contents not law—1995 c 335:** See note following RCW 28A.150.360.

**28A.405.120 Training for evaluators.** School districts shall require each administrator, each principal, or other supervisory personnel who has responsibility for evaluating classroom teachers to have training in evaluation

procedures. [1995 c 335 § 401; 1985 c 420 § 3. Formerly RCW 28A.67.210.]

Part headings, table of contents not law—1995 c 335: See note following RCW 28A.150.360.

Contingency—Effective date—Severability—1985 c 420: See notes following RCW 28A.405.110.

**28A.405.150 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**28A.405.160 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**28A.405.460 Lunch period for certificated employees.** All certificated employees of school districts shall be allowed a reasonable lunch period of not less than thirty continuous minutes per day during the regular school lunch periods and during which they shall have no assigned duties: PROVIDED, That local districts may work out other arrangements with the consent of all affected parties. [1995 c 335 § 702; 1991 c 116 § 15; 1969 ex.s. c 223 § 28A.58.275. Prior: 1965 c 18 § 1. Formerly RCW 28A.58.275, 28.58.275.]

Part headings, table of contents not law—1995 c 335: See note following RCW 28A.150.360.

**Chapter 28A.410  
CERTIFICATION**

Sections

28A.410.013	Teacher assessment for certification—Study—Report to the legislature.
28A.410.025	Qualifications—Certificate or permit required.
28A.410.030	Repealed.
28A.410.035	Qualifications—Coursework on issues of abuse.

**28A.410.013 Teacher assessment for certification—Study—Report to the legislature.** Not later than January 1, 1997, the state board of education shall study, report, and make recommendations to the legislature on the following issues regarding teacher assessment for initial or residency certification:

- (1) How an individual assessment would be linked to state board-adopted, performance-based program approval standards;
- (2) How an individual assessment would be linked to the performance-based public education system under RCW 28A.630.885; and
- (3) Whether, in lieu of requiring the assessment for initial or residency certification, the assessment should be required as a diagnostic tool and the results used for professional growth purposes while the teacher holds the residency certificate.

In conducting this study, the state board shall take into consideration any recommendations from the board's professional education advisory committee and the Washington advisory council for professional teaching standards.

Any recommendation to implement a teacher assessment system, including funding support, must be approved by the legislature before such implementation occurs. [1995 c 222 § 1.]

**28A.410.025 Qualifications—Certificate or permit required.** No person shall be accounted as a qualified teacher within the meaning of the school law who is not the holder of a valid teacher's certificate or permit issued by lawful authority of this state. [1969 ex.s. c 223 § 28A.67.010. Prior: 1909 c 97 p 306 § 1; RRS § 4844; prior: 1907 c 240 § 6; 1897 c 118 § 51; 1891 c 127 § 14; 1890 p 369 § 37; 1886 p 18 § 47; 1873 p 430 § 15. Formerly RCW 28A.405.010, 28A.67.010, 28.67.010.]

**28A.410.030 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**28A.410.035 Qualifications—Coursework on issues of abuse.** To receive initial certification as a teacher in this state after August 31, 1991, an applicant shall have successfully completed a course on issues of abuse. The content of the course shall discuss the identification of physical, emotional, sexual, and substance abuse, information on the impact of abuse on the behavior and learning abilities of students, discussion of the responsibilities of a teacher to report abuse or provide assistance to students who are the victims of abuse, and methods for teaching students about abuse of all types and their prevention. [1990 c 90 § 1. Formerly RCW 28A.405.025.]

**Chapter 28A.415**

**INSTITUTES, WORKSHOPS, AND TRAINING**

(Formerly: Teachers' institutes, workshops, and other in-service training)

Sections

28A.415.020	Credit on salary schedule for approved in-service training, continuing education, and internship.
28A.415.025	Internship clock hours—Rules.
28A.415.050	Repealed.
28A.415.105	Definitions.
28A.415.110	Repealed.
28A.415.115	Repealed.
28A.415.120	Repealed.
28A.415.220	Repealed.
28A.415.290	Repealed.

**28A.415.020 Credit on salary schedule for approved in-service training, continuing education, and internship.**

(1) Certificated personnel shall receive for each ten clock hours of approved in-service training attended the equivalent of a one credit college quarter course on the salary schedule developed by the legislative evaluation and accountability program committee.

(2) Certificated personnel shall receive for each ten clock hours of approved continuing education earned, as continuing education is defined by rule adopted by the state board of education, the equivalent of a one credit college quarter course on the salary schedule developed by the legislative evaluation and accountability program committee.

(3) Certificated personnel shall receive for each forty clock hours of participation in an approved internship with a business, an industry, or government, as an internship is defined by rule of the state board of education in accordance with RCW 28A.415.025, the equivalent of a one credit college quarter course on the salary schedule developed by



the legislative evaluation and accountability program committee.

(4) An approved in-service training program shall be a program approved by a school district board of directors, which meet standards adopted by the state board of education, and the development of said program has been participated in by an in-service training task force whose membership is the same as provided under RCW 28A.415.040, or a program offered by an education agency approved to provide in-service for the purposes of continuing education as provided for under rules adopted by the state board of education, or both.

(5) Clock hours eligible for application to the salary schedule developed by the legislative evaluation and accountability program committee as described in subsections (1) and (2) of this section, shall be those hours acquired after August 31, 1987. Clock hours eligible for application to the salary schedule as described in subsection (3) of this section shall be those hours acquired after December 31, 1995. [1995 c 284 § 2; 1990 c 33 § 415; 1987 c 519 § 1. Formerly RCW 28A.71.110.]

**Findings—1995 c 284:** "The legislature finds that if students are to succeed in an increasingly competitive economy, they will need to be taught by teachers who are aware of the technological innovations and changes that are occurring throughout business, industry, and government. Having teachers who are more aware of these changes will lead to improvements in curriculum and instruction, thereby making public schools more relevant to the future career and personal needs of our students." [1995 c 284 § 1.]

**Evaluation—1995 c 284:** "The legislative office on performance audit and fiscal analysis shall conduct an evaluation, by December 15, 1997, of internship credits granted to teachers to advance on the salary schedule as provided in RCW 28A.415.020. This evaluation shall compare the efficacy of internship, in-service, and academic credits as recognized in the state salary allocation schedule in the omnibus appropriations act, in improving teacher effectiveness and productivity." [1995 c 284 § 4.]

**28A.415.025 Internship clock hours—Rules.** The state board of education shall establish rules for awarding clock hours for participation of certificated personnel in internships with business, industry, or government. To receive clock hours for an internship, the individual must demonstrate that the internship will provide beneficial skills and knowledge in an area directly related to his or her current assignment, or to his or her assignment for the following school year. An individual may not receive more than the equivalent of two college quarter credits for internships during a calendar-year period. The total number of credits for internships that an individual may earn to advance on the salary schedule developed by the legislative evaluation and accountability program committee or its successor agency is limited to the equivalent of fifteen college quarter credits. [1995 c 284 § 3.]

**Findings—1995 c 284:** See note following RCW 28A.415.020.

**28A.415.050 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**28A.415.105 Definitions.** Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 28A.415.125 through 28A.415.140.

(1) "Cooperating organizations" means that at least one school district, one college or university, and one educational

service district are involved jointly with the development of a student teaching center.

(2) "Cooperating teacher" means a teacher who holds a continuing certificate and supervises and coaches a student teacher.

(3) "Field experience" means opportunities for observation, tutoring, microteaching, extended practicums, and clinical and laboratory experiences which do not fall within the meaning of student teaching.

(4) "School setting" means a classroom in a public, common school in the state of Washington.

(5) "Student teacher" means a candidate for initial teacher certification who is in a state board of education-approved, or regionally or nationally accredited teacher preparation program in a school setting as part of the field-based component of their preparation program.

(6) "Student teaching" means the full quarter or semester in a school setting during which the student teacher observes the cooperating teacher, participates in instructional activities, and assumes both part-time and full-time teaching responsibilities under the supervision of the cooperating teacher.

(7) "Student teaching center" means the program established to provide student teachers in a geographic region of the state with special support and training as part of their teacher preparation program.

(8) "Supervisor or university supervisor" means the regular or adjunct faculty member, or college or university-approved designee, who assists and supervises the work of cooperating teachers and student teachers. [1995 c 335 § 403; 1991 c 258 § 2.]

**Part headings, table of contents not law—1995 c 335:** See note following RCW 28A.150.360.

**28A.415.110 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**28A.415.115 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**28A.415.120 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**28A.415.220 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**28A.415.290 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**Chapter 28A.505**

**SCHOOL DISTRICTS BUDGETS**

Sections

28A.505.040	Budget—Notice of completion—Copies—Review by educational service districts.
28A.505.050	Budget—Notice of meeting to adopt.

**28A.505.040 Budget—Notice of completion—Copies—Review by educational service districts.** On or before the tenth day of July in each year, all school districts

shall prepare their budget for the ensuing fiscal year. The budget shall set forth the complete financial plan of the district for the ensuing fiscal year.

Upon completion of their budgets, every school district shall publish a notice stating that the district has completed the budget, placed it on file in the school district administration office, and that a copy thereof will be furnished to any person who calls upon the district for it. The district shall provide a sufficient number of copies of the budget to meet the reasonable demands of the public. School districts shall submit one copy of their budget to their educational service districts for review and comment by July 10th. The superintendent of public instruction may delay the date in this section if the state's operating budget is not finally approved by the legislature until after June 1st. [1995 c 121 § 1; 1975-'76 2nd ex.s. c 118 § 4. Formerly RCW 28A.65.415.]

**Effective date—1995 c 121:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [April 20, 1995]." [1995 c 121 § 3.]

**Severability—1975-'76 2nd ex.s. c 118:** See note following RCW 28A.505.010.

#### 28A.505.050 Budget—Notice of meeting to adopt.

Upon completion of their budgets as provided in RCW 28A.505.040, every school district shall publish a notice stating that the board of directors will meet for the purpose of fixing and adopting the budget of the district for the ensuing fiscal year. Such notice shall designate the date, time, and place of said meeting which shall occur no later than the thirty-first day of August for first class school districts, and the first day of August for second class school districts. The notice shall also state that any person may appear thereat and be heard for or against any part of such budget. Said notice shall be published at least once each week for two consecutive weeks in a newspaper of general circulation in the district, or, if there be none, in a newspaper of general circulation in the county or counties in which such district is a part. The last notice shall be published no later than seven days immediately prior to the hearing. [1995 c 121 § 2; 1990 c 33 § 417; 1983 c 59 § 3; 1975-'76 2nd ex.s. c 118 § 5. Formerly RCW 28A.65.420.]

**Effective date—1995 c 121:** See note following RCW 28A.505.040.

**Application—Effective date—Severability—1983 c 59:** See notes following RCW 28A.505.010.

**Severability—1975-'76 2nd ex.s. c 118:** See note following RCW 28A.505.010.

### Chapter 28A.525 BOND ISSUES

#### Sections

28A.525.030	Modernization of existing school facilities.
28A.525.162	Allotment of appropriations for school plant facilities by state board—Local school district participation—Computing state matching percentage—Rules.

**28A.525.030 Modernization of existing school facilities.** Whenever funds are appropriated for modernization of existing school facilities, the state board of education is authorized to approve the use of such funds for modern-

ization of existing facilities, modernization being limited to major structural changes in such facilities and, as necessary to bring such facilities into compliance with the barrier free access requirements of section 504 of the federal rehabilitation act of 1973 (29 U.S.C. Sec. 706) and rules implementing the act, both major and minor structural changes, and may include as incidental thereto the replacement of fixtures, fittings, furnishings and service systems of a building in order to bring it up to a contemporary state consistent with the needs of changing educational programs. The allocation of such funds shall be made upon the same basis as funds used for the financing of a new school plant project utilized for a similar purpose. [1995 c 77 § 23; 1980 c 154 § 17; 1969 ex.s. c 223 § 28A.47.073. Prior: 1967 ex.s. c 21 § 1. Formerly RCW 28A.47.073, 28.47.073.]

**Purpose—Effective dates—Savings—Disposition of certain funds—Severability—1980 c 154:** See notes following chapter 82.45 RCW digest.

#### 28A.525.162 Allotment of appropriations for school plant facilities by state board—Local school district participation—Computing state matching percentage—Rules.

(1) Funds appropriated to the state board of education from the common school construction fund shall be allotted by the state board of education in accordance with student enrollment and the provisions of RCW 28A.525.200.

(2) No allotment shall be made to a school district until such district has provided matching funds equal to or greater than the difference between the total approved project cost and the amount of state assistance to the district for financing the project computed pursuant to RCW 28A.525.166, with the following exceptions:

(a) The state board may waive the matching requirement for districts which have provided funds for school building construction purposes through the authorization of bonds or through the authorization of excess tax levies or both in an amount equivalent to two and one-half percent of the value of its taxable property, as defined in RCW 39.36.015.

(b) No such matching funds shall be required as a condition to the allotment of funds for the purpose of making major or minor structural changes to existing school facilities in order to bring such facilities into compliance with the barrier free access requirements of section 504 of the federal rehabilitation act of 1973 (29 U.S.C. Sec. 706) and rules implementing the act.

(3) For the purpose of computing the state matching percentage under RCW 28A.525.166 when a school district is granted authority to enter into contracts, adjusted valuation per pupil shall be calculated using headcount student enrollments from the most recent October enrollment reports submitted by districts to the superintendent of public instruction, adjusted as follows:

(a) In the case of projects for which local bonds were approved after May 11, 1989:

(i) For districts which have been designated as serving high school districts under RCW 28A.540.110, students residing in the nonhigh district so designating shall be excluded from the enrollment count if the student is enrolled in any grade level not offered by the nonhigh district;

(ii) The enrollment of nonhigh school districts shall be increased by the number of students residing within the district who are enrolled in a serving high school district so designated by the nonhigh school district under RCW

28A.540.110, including only students who are enrolled in grade levels not offered by the nonhigh school district; and

(iii) The number of preschool students with disabilities included in the enrollment count shall be multiplied by one-half;

(b) In the case of construction or modernization of high school facilities in districts serving students from nonhigh school districts, the adjusted valuation per pupil shall be computed using the combined adjusted valuations and enrollments of each district, each weighted by the percentage of the district's resident high school students served by the high school district; and

(c) The number of kindergarten students included in the enrollment count shall be multiplied by one-half.

(4) The state board of education shall prescribe and make effective such rules as are necessary to equate insofar as possible the efforts made by school districts to provide capital funds by the means aforesaid.

(5) For the purposes of this section, "preschool students with disabilities" means developmentally disabled children of preschool age who are entitled to services under RCW 28A.155.010 through 28A.155.100 and are not included in the kindergarten enrollment count of the district. [1995 c 77 § 24; 1990 c 33 § 455; 1989 c 321 § 1; 1980 c 154 § 18; 1974 ex.s. c 56 § 1; 1970 ex.s. c 42 § 5; 1969 ex.s. c 244 § 2. Formerly RCW 28A.47.801, 28.47.801.]

**Purpose—Effective dates—Savings—Disposition of certain funds—Severability—1980 c 154:** See notes following chapter 82.45 RCW digest.

**Severability—1974 ex.s. c 56:** "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 56 § 9.]

**Severability—Effective date—1970 ex.s. c 42:** See notes following RCW 39.36.015.

**Severability—1969 ex.s. c 244:** See note following RCW 28A.525.160.

### Chapter 28A.535

#### VALIDATING INDEBTEDNESS

##### Sections

28A.535.020 Resolution providing for election—Vote required to validate.

**28A.535.020 Resolution providing for election—Vote required to validate.** Whenever the board of directors of any school district shall deem it advisable to validate and ratify the indebtedness mentioned in RCW 28A.535.010, they shall provide therefor by resolution, which shall be entered on the records of such school district, which resolution shall provide for the holding of an election for the purpose of submitting the question of validating and ratifying the indebtedness so incurred to the voters of such school district for approval or disapproval, and if at such election three-fifths of the voters in such school district voting at such election shall vote in favor of the validation and ratification of such indebtedness, then such indebtedness so validated and ratified and every part thereof existing at the time of the adoption of said resolution shall thereby become and is hereby declared to be validated and ratified and a binding obligation upon such school district. The resolution adopted by the board of directors shall specify the purposes

of the debt financing measure, including the specific buildings to be constructed or remodelled and any additional specific purposes as authorized by RCW 28A.530.010. If the debt financing measure anticipates the receipt of state financing assistance under chapter 28A.525 RCW, the board resolution also shall describe the specific anticipated purpose of the state assistance. If the school board subsequently determines that state or local circumstances should cause any alteration to the specific expenditures from the debt financing or of the state assistance, the board shall first conduct a public hearing to consider those circumstances and to receive public testimony. If the board then determines that any such alterations are in the best interests of the district, it may adopt a new resolution or amend the original resolution at a public meeting held subsequent to the meeting at which public testimony was received. [1995 c 111 § 1; 1990 c 33 § 481; 1969 ex.s. c 223 § 28A.52.020. Prior: 1909 c 97 p 331 § 2; RRS § 4957; prior: 1897 c 118 § 129; 1895 c 21 § 2. Formerly RCW 28A.52.020, 28.52.020.]

### Chapter 28A.545

#### PAYMENT TO HIGH SCHOOL DISTRICTS

##### Sections

28A.545.040 "Student residing in a nonhigh school district" defined.  
28A.545.100 Amount due reflects cost of education and transportation of students.

**28A.545.040 "Student residing in a nonhigh school district" defined.** The term "student residing in a nonhigh school district" and its equivalent as used in RCW 28A.545.030 through 28A.545.110 and 84.52.0531 shall mean any common school age person with or without disabilities who resides within the boundaries of a nonhigh school district that does not conduct the particular kindergarten through grade twelve grade which the person has not yet successfully completed and is eligible to enroll in. [1995 c 77 § 25; 1990 c 33 § 489; 1981 c 264 § 2. Formerly RCW 28A.44.160.]

**Severability—1981 c 264:** See note following RCW 28A.545.030.

**28A.545.100 Amount due reflects cost of education and transportation of students.** Unless otherwise agreed to by the board of directors of a nonhigh school district, the amounts which are established as due by a nonhigh school district pursuant to RCW 28A.545.030 through 28A.545.110 and 84.52.0531, as now or hereafter amended, shall constitute the entire amount which is due by a nonhigh school district for the school year for the education of any and all students with or without disabilities residing in the nonhigh school district who attend a high school district pursuant to RCW 28A.225.210, and for the transportation of such students by a high school district. [1995 c 77 § 26; 1990 c 33 § 494; 1983 1st ex.s. c 61 § 7; 1981 c 264 § 8. Formerly RCW 28A.44.220.]

**Severability—1983 1st ex.s. c 61:** See note following RCW 28A.160.010.

**Severability—1981 c 264:** See note following RCW 28A.545.030.

### Chapter 28A.600 STUDENTS

## Sections

28A.600.035	Policies on secondary school access and egress. ( <i>Effective September 1, 1996.</i> )
28A.600.130	State scholars' program—Planning committee—Composition—Duties.
28A.600.420	Firearms on school premises, transportation, or facilities—Penalty—Exemptions.
28A.600.425	through 28A.600.450 Repealed.

**28A.600.035 Policies on secondary school access and egress.** (*Effective September 1, 1996.*) School district boards of directors shall review school district policies regarding access and egress by students from secondary school grounds during school hours. Each school district board of directors shall adopt a policy specifying any restrictions on students leaving secondary school grounds during school hours. [1995 c 312 § 82.]

**Effective date—1995 c 312 §§ 71, 82:** See note following RCW 28A.225.095.

**Short title—1995 c 312:** See note following RCW 13.32A.010.

**28A.600.130 State scholars' program—Planning committee—Composition—Duties.** The higher education coordinating board shall establish a planning committee to develop criteria for screening and selection of the Washington scholars each year in accordance with RCW 28A.600.110(1). It is the intent that these criteria shall emphasize scholastic achievement but not exclude such criteria as leadership ability and community contribution in final selection procedures. The Washington scholars planning committee shall have members from selected state agencies and private organizations having an interest and responsibility in education, including but not limited to, the state board of education, the office of superintendent of public instruction, the council of presidents, the state board for community and technical colleges, and the Washington friends of higher education. [1995 1st sp.s. c 5 § 1; 1990 c 33 § 500; 1985 c 370 § 33; 1981 c 54 § 4. Formerly RCW 28A.58.826.]

**Severability—1995 1st sp.s. c 5:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1995 1st sp.s. c 5 § 5.]

**Effective date—1995 1st sp.s. c 5:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995." [1995 1st sp.s. c 5 § 6.]

**Severability—Effective dates—1985 c 370:** See RCW 28B.80.911 and 28B.80.912.

**Severability—1981 c 54:** See note following RCW 28A.600.100.

**28A.600.420 Firearms on school premises, transportation, or facilities—Penalty—Exemptions.** (1) Any elementary or secondary school student who is determined to have carried a firearm onto, or to have possessed a firearm on, public elementary or secondary school premises, public school-provided transportation, or areas of facilities while being used exclusively by public schools, shall be expelled from school for not less than one year under RCW 28A.600.010. The superintendent of the school district,

educational service district, state school for the deaf, or state school for the blind may modify the expulsion of a student on a case-by-case basis.

(2) For purposes of this section, "firearm" means a firearm as defined in 18 U.S.C. Sec. 921, and a "firearm" as defined in RCW 9.41.010.

(3) This section shall be construed in a manner consistent with the individuals with disabilities education act, 20 U.S.C. Sec. 1401 et seq.

(4) Nothing in this section prevents a public school district, educational service district, the state school for the deaf, or the state school for the blind if it has expelled a student from such student's regular school setting from providing educational services to the student in an alternative setting.

(5) This section does not apply to:

(a) Any student while engaged in military education authorized by school authorities in which rifles are used but not other firearms; or

(b) Any student while involved in a convention, showing, demonstration, lecture, or firearms safety course authorized by school authorities in which the rifles of collectors or instructors are handled or displayed but not other firearms; or

(c) Any student while participating in a rifle competition authorized by school authorities. [1995 c 335 § 304; 1995 c 87 § 2.]

**Part headings, table of contents not law—1995 c 335:** See note following RCW 28A.150.360.

**28A.600.425 through 28A.600.450 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

### Chapter 28A.610 PROJECT EVEN START

## Sections

28A.610.010	Recodified as RCW 28B.06.010.
28A.610.020	Recodified as RCW 28B.06.020.
28A.610.030	Recodified as RCW 28B.06.030.
28A.610.040	Recodified as RCW 28B.06.040.
28A.610.050	Recodified as RCW 28B.06.050.

**28A.610.010 Recodified as RCW 28B.06.010.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**28A.610.020 Recodified as RCW 28B.06.020.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**28A.610.030 Recodified as RCW 28B.06.030.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**28A.610.040 Recodified as RCW 28B.06.040.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**28A.610.050 Recodified as RCW 28B.06.050.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

### Chapter 28A.615

#### SCHOOL INVOLVEMENT PROGRAMS

##### Sections

28A.615.060 Repealed.

**28A.615.060 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

### Chapter 28A.625

#### AWARDS

##### Sections

28A.625.010 Short title.  
28A.625.050 Rules.  
28A.625.300 Repealed.

**28A.625.010 Short title.** RCW 28A.625.020 through 28A.625.065 may be known and cited as the Washington award for excellence in education program act. [1995 c 335 § 107; 1990 c 33 § 513; 1986 c 147 § 1. Formerly RCW 28A.03.520.]

**Part headings, table of contents not law—1995 c 335:** See note following RCW 28A.150.360.

*Commendable employee service and recognition award program:* RCW 28A.625.150.

**28A.625.050 Rules.** The superintendent of public instruction shall adopt rules under chapter 34.05 RCW to carry out the purposes of RCW 28A.625.010 through 28A.625.065. These rules shall include establishing the selection criteria for the Washington award for excellence in education program. The superintendent is encouraged to consult with teachers, educational staff associates, principals, administrators, classified employees, superintendents, and school board members in developing the selection criteria. Notwithstanding the provisions of RCW 28A.625.020 (1) and (2), such rules may allow for the selection of individuals whose teaching or administrative duties, or both, may encompass multiple grade level or building assignments, or both. [1995 c 335 § 108; 1991 c 255 § 8; 1990 c 33 § 516; 1988 c 251 § 2; 1986 c 147 § 5. Formerly RCW 28A.03.532.]

**Part headings, table of contents not law—1995 c 335:** See note following RCW 28A.150.360.

**28A.625.300 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

### Chapter 28A.630

#### TEMPORARY PROVISIONS—SPECIAL PROJECTS

##### Sections

28A.630.070 Repealed.  
28A.630.075 Repealed.  
28A.630.090 Repealed.

28A.630.091 Repealed.  
28A.630.300 through 28A.630.390 Repealed.  
28A.630.400 Paraeducator associate of arts degree.  
28A.630.750 through 28A.630.800 Repealed.  
28A.630.835 School districts' duties. (*Expires September 1, 2001.*)  
28A.630.840 Special services demonstration project funding. (*Expires September 1, 2001.*)  
28A.630.845 Demonstration projects that reduce percentage of students labeled disabled—Funding. (*Expires September 1, 2001.*)  
28A.630.868 School-to-work transitions program—Administration—Duration of projects. (*Expires June 30, 1999.*)  
28A.630.870 School-to-work transitions program—Gifts, grants, and contributions—School-to-work transitions program account. (*Expires June 30, 1999.*)  
28A.630.872 School-to-work transitions program—Waivers. (*Expires June 30, 1999.*)  
28A.630.874 School-to-work transitions program—Technical assistance—Rules. (*Expires June 30, 1999.*)  
28A.630.880 School-to-work transitions program—Short title—1993 c 335; 1992 c 137. (*Expires June 30, 1999.*)  
28A.630.885 Washington commission on student learning—Advisory committees—Essential academic learning requirements—State-wide academic assessment system—Certificate of mastery—Accountability—Reports to the legislature (*as amended by 1995 c 209*). (*Expires June 30, 1999.*)  
28A.630.885 Washington commission on student learning—Advisory committees—Essential academic learning requirements—State-wide academic assessment system—Certificate of mastery—Accountability—Reports to the legislature (*as amended by 1995 c 335*). (*Expires September 1, 1998.*)  
28A.630.886 Academic assessments—Implementation dates—Use by educators.  
28A.630.945 Waivers for educational restructuring programs—Study by joint select committee on education restructuring—Report to legislature.  
28A.630.952 Review of laws and reporting requirements—Report to the legislature. (*Expires December 1, 2001.*)

**28A.630.070 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**28A.630.075 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**28A.630.090 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**28A.630.091 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**28A.630.300 through 28A.630.390 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**28A.630.400 Paraeducator associate of arts degree.**  
(1) The state board of education and the state board for community and technical colleges, in consultation with the superintendent of public instruction, the higher education coordinating board, the state apprenticeship training council, and community colleges, shall adopt rules as necessary under chapter 34.05 RCW to implement the paraeducator associate of arts degree.

(2) As used in this section, a "paraeducator" is an individual who has completed an associate of arts degree for

a paraeducator. The paraeducator may be hired by a school district to assist certificated instructional staff in the direct instruction of children in small and large groups, individualized instruction, testing of children, recordkeeping, and preparation of materials. The paraeducator shall work under the direction of instructional certificated staff.

(3) The training program for a paraeducator associate of arts degree shall include, but is not limited to, the general requirements for receipt of an associate of arts degree and training in the areas of introduction to childhood education, orientation to children with disabilities, fundamentals of childhood education, creative activities for children, instructional materials for children, fine art experiences for children, the psychology of learning, introduction to education, child health and safety, child development and guidance, first aid, and a practicum in a school setting.

(4) Consideration shall be given to transferability of credit earned in this program to teacher preparation programs at colleges and universities. [1995 c 335 § 202; 1995 c 77 § 27; 1991 c 285 § 2; 1989 c 370 § 1. Formerly RCW 28A.04.180.]

**Reviser's note:** This section was amended by 1995 c 77 § 27 and by 1995 c 335 § 202, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Part headings, table of contents not law—1995 c 335:** See note following RCW 28A.150.360.

**28A.630.750 through 28A.630.800 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**28A.630.835 School districts' duties. (Expires September 1, 2001.)** School districts with demonstration projects shall:

(1) Confer on a regular basis during project planning and implementation with teachers, support staff, parents of students with disabilities, and parents of other students served in the project;

(2) Administer annual achievement tests to all students served in the project if required in the project contract; and

(3) Cooperate in providing all information needed for the evaluation. [1995 c 77 § 28; 1991 c 265 § 4.]

**Expiration date—1995 c 77 §§ 28-30:** "Sections 28 through 30 of this act expire September 1, 2001." [1995 c 77 § 34.]

**Expiration date of RCW 28A.630.820 through 28A.630.845:** See RCW 28A.630.850.

**28A.630.840 Special services demonstration project funding. (Expires September 1, 2001.)** (1) Funding used in demonstration projects may include state, federal, and local funds, as determined by the district.

(2) State special education allocations shall be calculated for districts with demonstration projects according to the special education funding formula in use for other districts, except for the provisions of RCW 28A.630.845 and with the following changes:

(a) Funding for school districts that had pilot projects approved under section 13, chapter 233, Laws of 1989, and that were participating in projects under this section on January 31, 1992, shall be based for the duration of a project on four percent of the kindergarten through twelfth grade

enrollment considered as specific learning disabled, without regard to the actual number of students so identified. The legislature recognizes the importance of continuing and developing the pilot projects.

(b) The funding percentages for districts with demonstration projects specified in (a) of this subsection and in RCW 28A.630.845 shall be used to adjust basic education allocations under RCW 28A.150.260 and learning assistance program allocations under RCW 28A.165.070.

(c) State special education allocations up to the level required by federal maintenance of effort rules shall be expended for special education services to students with disabilities. Allocations greater than the amount needed to comply with federal maintenance of effort rules may at the option of the district be designated as noncategorical project funds and may be expended on services to any student served in the project.

(3) Learning assistance program allocations shall be calculated for districts with demonstration projects according to the funding formula in use for other districts, except that any increases in the district allocation above the fiscal year 1991 amount shall be designated as noncategorical project funds and may be expended on services to any student served in the project.

(4) Transitional bilingual program allocations shall be calculated for districts with demonstration projects according to the funding formula in use for other districts, except that any increases in the district allocation above the fiscal year 1991 amount shall be designated as noncategorical project funds and may be expended on services to any student served in the project.

(5) Expenditures of noncategorical project funds under subsections (2)(c), (3), and (4) of this section shall be accounted for in new and discrete program or subprogram codes designated by the superintendent of public instruction. The codes shall take effect by September 1, 1991. [1995 c 77 § 29; 1994 c 13 § 6; 1992 c 180 § 2; 1991 c 265 § 5.]

**Expiration date—1995 c 77 §§ 28-30:** See note following RCW 28A.630.835.

**Expiration date of RCW 28A.630.820 through 28A.630.845:** See RCW 28A.630.850.

**28A.630.845 Demonstration projects that reduce percentage of students labeled disabled—Funding. (Expires September 1, 2001.)** (1) The legislature finds that the state system of funding special education has fiscal incentives to label children as disabled and that unnecessary labeling can be detrimental to children. The legislature encourages demonstration projects that provide needed services without unnecessary labeling. To test this approach, the legislature intends to maintain the funding level for innovative special services programs that reduce the incidence of unnecessary labeling.

(2) School districts may propose demonstration projects under this subsection to provide needed services and achieve major reductions in the percentage of district students labeled as disabled in one or more specified categories. State special education funding for districts with such projects shall be based for the duration of the project on the average percentage of the kindergarten through twelfth grade enrollment in the specified categories during the school year before the start of the project.

(3) School districts with specific learning disabled enrollment at or above four percent of the district's kindergarten through twelfth grade enrollment may propose demonstration projects under this subsection to provide needed services and reduce unnecessary labeling to below the four percent level. When the specific learning disabled enrollment is below the four percent level, funding for the district shall be based on four percent of the kindergarten through twelfth grade enrollment considered as specific learning disabled, without regard to the actual number of students so identified.

(4) Funding under subsections (2) and (3) of this section is contingent on the following: (a) The funding is spent on children needing special services; and (b) the overall percentage of first through twelfth grade students in the district labeled as disabled declines each year of the project, excluding students with disabilities who transfer into the district. [1995 c 77 § 30; 1994 c 13 § 1; 1992 c 180 § 3.]

**Expiration date—1995 c 77 §§ 28-30:** See note following RCW 28A.630.835.

**Expiration date of RCW 28A.630.820 through 28A.630.845:** See RCW 28A.630.850.

**28A.630.868 School-to-work transitions program—Administration—Duration of projects. (Expires June 30, 1999.)** (1) The superintendent of public instruction shall administer RCW 28A.630.861 through 28A.630.880.

(2) The school-to-work transitions projects may be conducted for up to six years, if funds are provided. [1995 c 335 § 109; 1993 c 335 § 5; 1992 c 137 § 6.]

**Expiration date—1995 c 335 §§ 109-112:** "Sections 109 through 112 of this act shall expire June 30, 1999." [1995 c 335 § 802.]

**Part headings, table of contents not law—1995 c 335:** See note following RCW 28A.150.360.

**Findings—Effective date—1993 c 335:** See notes following RCW 28A.630.862.

**Expiration date—Severability—Conflict with federal requirements—1992 c 137:** See notes following RCW 28A.630.862.

**28A.630.870 School-to-work transitions program—Gifts, grants, and contributions—School-to-work transitions program account. (Expires June 30, 1999.)** (1) The superintendent of public instruction may accept, receive, and administer for the purposes of RCW 28A.630.861 through 28A.630.880 such gifts, grants, and contributions as may be provided from public and private sources for the purposes of RCW 28A.630.861 through 28A.630.880.

(2) The school-to-work transitions program account is hereby established in the custody of the state treasurer. The superintendent of public instruction shall deposit in the account all moneys received under this section. Moneys in the account may be spent only for the purposes of RCW 28A.630.861 through 28A.630.880. Disbursements from this account shall be on the authorization of the superintendent of public instruction or the superintendent's designee. The account is subject to the allotment procedure provided under chapter 43.88 RCW, but no appropriation is required for disbursements. [1995 c 335 § 110; 1993 c 335 § 6; 1992 c 137 § 7.]

**Expiration date—1995 c 335 §§ 109-112:** See note following RCW 28A.630.868.

**Part headings, table of contents not law—1995 c 335:** See note following RCW 28A.150.360.

**Findings—Effective date—1993 c 335:** See notes following RCW 28A.630.862.

**Expiration date—Severability—Conflict with federal requirements—1992 c 137:** See notes following RCW 28A.630.862.

**28A.630.872 School-to-work transitions program—Waivers. (Expires June 30, 1999.)** (1) The state board of education, where appropriate, or the superintendent of public instruction, where appropriate, may grant waivers to pilot project districts consistent with law if necessary to implement a pilot project proposal.

(2) State rules dealing with public health, safety, and civil rights, including accessibility by the disabled, shall not be waived. A school district may request the state board of education or the superintendent of public instruction to ask the United States department of education or other federal agencies to waive certain federal regulations necessary to fully implement the proposed pilot project. [1995 c 77 § 31; 1992 c 137 § 8.]

**Expiration date—1995 c 77 § 31:** "Section 31 of this act expires June 30, 1999." [1995 c 77 § 35.]

**Expiration date—Severability—Conflict with federal requirements—1992 c 137:** See notes following RCW 28A.630.862.

**28A.630.874 School-to-work transitions program—Technical assistance—Rules. (Expires June 30, 1999.)** (1) The superintendent of public instruction, in coordination with the state board of education, the state board for community and technical colleges, the work force training and education coordinating board, and the higher education coordinating board, shall provide technical assistance to selected schools and shall develop a process that coordinates and facilitates linkages among participating school districts, secondary schools, junior high schools, middle schools, technical colleges, and colleges and universities.

(2) The superintendent of public instruction and the state board of education may adopt rules under chapter 34.05 RCW as necessary to implement its duties under RCW 28A.630.861 through 28A.630.880. [1995 c 335 § 111; 1993 c 335 § 7; 1992 c 137 § 9.]

**Expiration date—1995 c 335 §§ 109-112:** See note following RCW 28A.630.868.

**Part headings, table of contents not law—1995 c 335:** See note following RCW 28A.150.360.

**Findings—Effective date—1993 c 335:** See notes following RCW 28A.630.862.

**Expiration date—Severability—Conflict with federal requirements—1992 c 137:** See notes following RCW 28A.630.862.

**28A.630.880 School-to-work transitions program—Short title—1993 c 335; 1992 c 137. (Expires June 30, 1999.)** RCW 28A.630.861 through 28A.630.880 may be known and cited as the school-to-work transitions program. [1995 c 335 § 112; 1993 c 335 § 10; 1992 c 137 § 12.]

**Expiration date—1995 c 335 §§ 109-112:** See note following RCW 28A.630.868.

**Part headings, table of contents not law—1995 c 335:** See note following RCW 28A.150.360.

**Findings—Effective date—1993 c 335:** See notes following RCW 28A.630.862.

**Expiration date—Severability—Conflict with federal requirements—1992 c 137:** See notes following RCW 28A.630.862.

**28A.630.885 Washington commission on student learning—Advisory committees—Essential academic learning requirements—State-wide academic assessment system—Certificate of mastery—Accountability—Reports to the legislature (as amended by 1995 c 209). (Expires June 30, 1999.)** (1) The Washington commission on student learning is hereby established. The primary purposes of the commission are to identify the knowledge and skills all public school students need to know and be able to do based on the student learning goals in RCW 28A.150.210, to develop student assessment and school accountability systems, and to take other steps necessary to develop a performance-based education system. The commission shall include three members of the state board of education, three members appointed by the governor before July 1, 1992, and five members appointed no later than June 1, 1993, by the governor elected in the November 1992 election. The governor shall appoint a chair from the commission members, and fill any vacancies in gubernatorial appointments that may occur. The state board of education shall fill any vacancies of state board of education appointments that may occur. In making the appointments, educators, business leaders, and parents shall be represented, and nominations from state-wide education, business, and parent organizations shall be requested. Efforts shall be made to ensure that the commission reflects the racial and ethnic diversity of the state's K-12 student population and that the major geographic regions in the state are represented. Appointees shall be qualified individuals who are supportive of educational restructuring, who have a positive record of service, and who will devote sufficient time to the responsibilities of the commission to ensure that the objectives of the commission are achieved.

(2) The commission shall establish advisory committees. Membership of the advisory committees shall include, but not necessarily be limited to, professionals from the office of the superintendent of public instruction and the state board of education, and other state and local educational practitioners and student assessment specialists.

(3) The commission, with the assistance of the advisory committees, shall:

(a) Develop essential academic learning requirements based on the student learning goals in RCW 28A.150.210. Essential academic learning requirements shall be developed, to the extent possible, for each of the student learning goals in RCW 28A.150.210. Goals one and two shall be considered primary. Essential academic learning requirements for RCW 28A.150.210(1), goal one, and the mathematics component of RCW 28A.150.210(2), goal two, shall be completed no later than March 1, 1995. Essential academic learning requirements that incorporate the remainder of RCW 28A.150.210 (2), (3), and (4), goals two, three, and four, shall be completed no later than March 1, 1996. To the maximum extent possible, the commission shall integrate goal four and the knowledge and skill areas in the other goals in the development of the essential academic learning requirements;

(b)(i) The commission shall present to the state board of education and superintendent of public instruction a state-wide academic assessment system for use in the elementary, middle, and high school years designed to determine if each student has mastered the essential academic learning requirements identified in (a) of this subsection. The academic assessment system shall include a variety of assessment methods, including performance-based measures that are criterion-referenced. Performance standards for determining if a student has successfully completed an assessment shall be initially determined by the commission in consultation with the advisory committees required in subsection (2) of this section.

(ii) The assessment system shall be designed so that the results under the assessment system are used by educators as tools to evaluate instructional practices, and to initiate appropriate educational support for students who have not mastered the essential academic learning requirements at the appropriate periods in the student's educational development.

(iii) Assessments measuring the essential academic learning requirements developed for RCW 28A.150.210(1), goal one, and the mathematics component of RCW 28A.150.210(2), goal two, shall be initially implemented by the state board of education and superintendent of public instruction no later than the 1996-97 school year, unless the legislature takes action to delay or prevent implementation of the assessment system and essential academic learning requirements. Assessments measuring the essential academic learning requirements developed for RCW 28A.150.210 (2), (3), and (4), goals two, three, and four, shall be initially implemented by the state board of education and superintendent of public instruction no later than the ~~((1997-98))~~ 1998-99 school year, unless the legislature takes action

to delay or prevent implementation of the assessment system and essential academic learning requirements. To the maximum extent possible, the commission shall integrate knowledge and skill areas in development of the assessments.

(iv) Before the 2000-2001 school year, participation by school districts in the assessment system shall be optional. School districts that desire to participate before the 2000-2001 school year shall notify the superintendent of public instruction in a manner determined by the superintendent. Beginning in the 2000-2001 school year, all school districts shall be required to participate in the assessment system.

(v) The state board of education and superintendent of public instruction may modify the essential academic learning requirements and academic assessment system, as needed, in subsequent school years.

(vi) The commission shall develop assessments that are directly related to the essential academic learning requirements, and are not biased toward persons with different learning styles, racial or ethnic backgrounds, or on the basis of gender;

(c) After a determination is made by the state board of education that the high school assessment system has been implemented and that it is sufficiently reliable and valid, successful completion of the high school assessment shall lead to a certificate of mastery. The certificate of mastery shall be obtained by most students at about the age of sixteen, and is evidence that the student has successfully mastered the essential academic learning requirements during his or her educational career. The certificate of mastery shall be required for graduation but shall not be the only requirement for graduation. The commission shall make recommendations to the state board of education regarding the relationship between the certificate of mastery and high school graduation requirements. Upon achieving the certificate of mastery, schools shall provide students with the opportunity to continue to pursue career and educational objectives through educational pathways that emphasize integration of academic and vocational education. Educational pathways may include, but are not limited to, programs such as work-based learning, school-to-work transition, tech prep, vocational-technical education, running start, and preparation for technical college, community college, or university education;

(d) Consider methods to address the unique needs of special education students when developing the assessments in (b) and (c) of this subsection;

(e) Consider methods to address the unique needs of highly capable students when developing the assessments in (b) and (c) of this subsection;

(f) Develop recommendations on the time, support, and resources, including technical assistance, needed by schools and school districts to help students achieve the essential academic learning requirements. These recommendations shall include an estimate for the legislature, superintendent of public instruction, and governor on the expected cost of implementing the academic assessment system;

(g) Develop recommendations for consideration by the higher education coordinating board for adopting college and university entrance requirements for public school students that are consistent with the essential academic learning requirements and the certificate of mastery;

(h) By ~~((December 1, 1998))~~ June 30, 1999, recommend to the legislature, governor, state board of education, and superintendent of public instruction:

(i) A state-wide accountability system to monitor and evaluate accurately and fairly the level of learning occurring in individual schools and school districts. The accountability system shall be designed to recognize the characteristics of the student population of schools and school districts such as gender, race, ethnicity, socioeconomic status, and other factors. The system shall include school-site, school district, and state-level accountability reports;

(ii) A school assistance program to help schools and school districts that are having difficulty helping students meet the essential academic learning requirements;

(iii) A system to intervene in schools and school districts in which significant numbers of students persistently fail to learn the essential academic learning requirements; and

(iv) An awards program to provide incentives to school staff to help their students learn the essential academic learning requirements, with each school being assessed individually against its own baseline. Incentives shall be based on the rate of percentage change of students achieving the essential academic learning requirements. School staff shall determine how the awards will be spent.

It is the intent of the legislature to begin implementation of programs in this subsection (3)(h) on September 1, 2000;

(i) Report annually by December 1st to the legislature, the governor, the superintendent of public instruction, and the state board of education on the progress, findings, and recommendations of the commission; and



(j) Make recommendations to the legislature and take other actions necessary or desirable to help students meet the student learning goals.

(4) The commission shall coordinate its activities with the state board of education and the office of the superintendent of public instruction.

(5) The commission shall seek advice broadly from the public and all interested educational organizations in the conduct of its work, including holding periodic regional public hearings.

(6) The commission shall select an entity to provide staff support and the office of the superintendent of public instruction shall provide administrative oversight and be the fiscal agent for the commission. The commission may direct the office of the superintendent of public instruction to enter into subcontracts, within the commission's resources, with school districts, teachers, higher education faculty, state agencies, business organizations, and other individuals and organizations to assist the commission in its deliberations.

(7) Members of the commission shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. [1995 c 209 § 1; 1994 c 245 § 13. Prior: 1993 c 336 § 202; 1993 c 334 § 1; 1992 c 141 § 202.]

**Expiration date—1995 c 209 § 1:** "Section 1 of this act shall expire June 30, 1999." [1995 c 209 § 3.]

**Expiration date—1992 c 141 § 202:** "Section 202 of this act shall expire June 30, 1999." [1995 c 209 § 2; 1992 c 141 § 203.]

**28A.630.885 Washington commission on student learning—Advisory committees—Essential academic learning requirements—State-wide academic assessment system—Certificate of mastery—Accountability—Reports to the legislature (as amended by 1995 c 335). (Expires September 1, 1998.)**

(1) The Washington commission on student learning is hereby established. The primary purposes of the commission are to identify the knowledge and skills all public school students need to know and be able to do based on the student learning goals in RCW 28A.150.210, to develop student assessment and school accountability systems, to review current school district data reporting requirements and make recommendations on what data is necessary for the purposes of accountability and meeting state information needs, and to take other steps necessary to develop a performance-based education system. The commission shall include three members of the state board of education, three members appointed by the governor before July 1, 1992, and five members appointed no later than June 1, 1993, by the governor elected in the November 1992 election. The governor shall appoint a chair from the commission members, and fill any vacancies in gubernatorial appointments that may occur. The state board of education shall fill any vacancies of state board of education appointments that may occur. In making the appointments, educators, business leaders, and parents shall be represented, and nominations from state-wide education, business, and parent organizations shall be requested. Efforts shall be made to ensure that the commission reflects the racial and ethnic diversity of the state's K-12 student population and that the major geographic regions in the state are represented. Appointees shall be qualified individuals who are supportive of educational restructuring, who have a positive record of service, and who will devote sufficient time to the responsibilities of the commission to ensure that the objectives of the commission are achieved.

(2) The commission shall establish advisory committees. Membership of the advisory committees shall include, but not necessarily be limited to, professionals from the office of the superintendent of public instruction and the state board of education, and other state and local educational practitioners and student assessment specialists.

(3) The commission, with the assistance of the advisory committees, shall:

(a) Develop essential academic learning requirements based on the student learning goals in RCW 28A.150.210. Essential academic learning requirements shall be developed, to the extent possible, for each of the student learning goals in RCW 28A.150.210. Goals one and two shall be considered primary. Essential academic learning requirements for RCW 28A.150.210(1), goal one, and the mathematics component of RCW 28A.150.210(2), goal two, shall be completed no later than March 1, 1995. Essential academic learning requirements that incorporate the remainder of RCW 28A.150.210 (2), (3), and (4), goals two, three, and four, shall be completed no later than March 1, 1996. To the maximum extent possible, the commission shall integrate goal four and the knowledge and skill areas in the other goals in the development of the essential academic learning requirements;

(b)(i) The commission shall present to the state board of education and superintendent of public instruction a state-wide academic assessment system for use in the elementary, middle, and high school years designed to determine if each student has mastered the essential academic learning requirements identified in (a) of this subsection. The academic assessment system shall include a variety of assessment methods, including performance-based measures that are criterion-referenced. Performance standards for determining if a student has successfully completed an assessment shall be initially determined by the commission in consultation with the advisory committees required in subsection (2) of this section.

(ii) The assessment system shall be designed so that the results under the assessment system are used by educators as tools to evaluate instructional practices, and to initiate appropriate educational support for students who have not mastered the essential academic learning requirements at the appropriate periods in the student's educational development.

(iii) Assessments measuring the essential academic learning requirements developed for RCW 28A.150.210(1), goal one, and the mathematics component of RCW 28A.150.210(2), goal two, shall be initially implemented by the state board of education and superintendent of public instruction no later than the 1996-97 school year, unless the legislature takes action to delay or prevent implementation of the assessment system and essential academic learning requirements. Assessments measuring the essential academic learning requirements developed for RCW 28A.150.210 (2), (3), and (4), goals two, three, and four, shall be initially implemented by the state board of education and superintendent of public instruction no later than the 1997-98 school year, unless the legislature takes action to delay or prevent implementation of the assessment system and essential academic learning requirements. To the maximum extent possible, the commission shall integrate knowledge and skill areas in development of the assessments.

(iv) Before the 2000-2001 school year, participation by school districts in the assessment system shall be optional. School districts that desire to participate before the 2000-2001 school year shall notify the superintendent of public instruction in a manner determined by the superintendent. Beginning in the 2000-2001 school year, all school districts shall be required to participate in the assessment system.

(v) The state board of education and superintendent of public instruction may modify the essential academic learning requirements and academic assessment system, as needed, in subsequent school years.

(vi) The commission shall develop assessments that are directly related to the essential academic learning requirements, and are not biased toward persons with different learning styles, racial or ethnic backgrounds, or on the basis of gender;

(c) After a determination is made by the state board of education that the high school assessment system has been implemented and that it is sufficiently reliable and valid, successful completion of the high school assessment shall lead to a certificate of mastery. The certificate of mastery shall be obtained by most students at about the age of sixteen, and is evidence that the student has successfully mastered the essential academic learning requirements during his or her educational career. The certificate of mastery shall be required for graduation but shall not be the only requirement for graduation. The commission shall make recommendations to the state board of education regarding the relationship between the certificate of mastery and high school graduation requirements. Upon achieving the certificate of mastery, schools shall provide students with the opportunity to continue to pursue career and educational objectives through educational pathways that emphasize integration of academic and vocational education. Educational pathways may include, but are not limited to, programs such as work-based learning, school-to-work transition, tech prep, vocational-technical education, running start, and preparation for technical college, community college, or university education;

(d) Consider methods to address the unique needs of special education students when developing the assessments in (b) and (c) of this subsection;

(e) Consider methods to address the unique needs of highly capable students when developing the assessments in (b) and (c) of this subsection;

(f) Develop recommendations on the time, support, and resources, including technical assistance, needed by schools and school districts to help students achieve the essential academic learning requirements. These recommendations shall include an estimate for the legislature, superintendent of public instruction, and governor on the expected cost of implementing the academic assessment system;

(g) Develop recommendations for consideration by the higher education coordinating board for adopting college and university entrance requirements for public school students that are consistent with the essential academic learning requirements and the certificate of mastery;

(h) Review current school district data reporting requirements for the purposes of accountability and meeting state information needs. The

commission on student learning shall report recommendations to the joint select committee on education restructuring by September 15, 1996, on:

(i) What data is necessary to compare how school districts are performing before the essential academic learning requirements and the assessment system are implemented with how school districts are performing after the essential academic learning requirements and the assessment system are implemented; and

(ii) What data is necessary pertaining to school district reports under the accountability systems developed by the commission on student learning under this section;

(i) By December 1, 1998, recommend to the legislature, governor, state board of education, and superintendent of public instruction:

(i) A state-wide accountability system to monitor and evaluate accurately and fairly the level of learning occurring in individual schools and school districts. The accountability system shall be designed to recognize the characteristics of the student population of schools and school districts such as gender, race, ethnicity, socioeconomic status, and other factors. The system shall include school-site, school district, and state-level accountability reports;

(ii) A school assistance program to help schools and school districts that are having difficulty helping students meet the essential academic learning requirements;

(iii) A system to intervene in schools and school districts in which significant numbers of students persistently fail to learn the essential academic learning requirements; and

(iv) An awards program to provide incentives to school staff to help their students learn the essential academic learning requirements, with each school being assessed individually against its own baseline. Incentives shall be based on the rate of percentage change of students achieving the essential academic learning requirements. School staff shall determine how the awards will be spent.

It is the intent of the legislature to begin implementation of programs in this subsection (3)(i) on September 1, 2000;

(i) Report annually by December 1st to the legislature, the governor, the superintendent of public instruction, and the state board of education on the progress, findings, and recommendations of the commission; and

(k) Make recommendations to the legislature and take other actions necessary or desirable to help students meet the student learning goals.

(4) The commission shall coordinate its activities with the state board of education and the office of the superintendent of public instruction.

(5) The commission shall seek advice broadly from the public and all interested educational organizations in the conduct of its work, including holding periodic regional public hearings.

(6) The commission shall select an entity to provide staff support and the office of the superintendent of public instruction shall provide administrative oversight and be the fiscal agent for the commission. The commission may direct the office of the superintendent of public instruction to enter into subcontracts, within the commission's resources, with school districts, teachers, higher education faculty, state agencies, business organizations, and other individuals and organizations to assist the commission in its deliberations.

(7) Members of the commission shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. [1995 c 335 § 505; 1994 c 245 § 13. Prior: 1993 c 336 § 202; 1993 c 334 § 1; 1992 c 141 § 202.]

**Reviser's note:** RCW 28A.630.885 was amended twice during the 1995 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

**Expiration date—1995 c 335 § 505:** "Section 505 of this act shall expire September 1, 1998." [1995 c 335 § 803.]

**Part headings, table of contents not law—1995 c 335:** See note following RCW 28A.150.360.

**Findings—Intent—Part headings not law—1993 c 336:** See notes following RCW 28A.150.210.

**Findings—1993 c 336:** See note following RCW 28A.630.879.

**Effective date—1993 c 334:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 12, 1993]." [1993 c 334 § 2.]

**Expiration date—1992 c 141 § 202:** "Section 202 of this act shall expire June 30, 1999." [1995 c 209 § 2; 1992 c 141 § 203.]

[1995 RCW Supp—page 282]

**Findings—Part headings—Severability—1992 c 141:** See notes following RCW 28A.410.040.

**28A.630.886 Academic assessments—Implementation dates—Use by educators.** (1) The elementary grades assessment developed by the commission on student learning under RCW 28A.630.885(3)(b)(i) shall require that all public school students are assessed for reading literacy skills in the third grade no later than March 31st.

(2) The reading assessment in subsection (1) of this section shall be available for use by elementary schools no later than the 1996-97 school year. Elementary schools are encouraged to begin implementation of the assessment in the 1996-97 and 1997-98 school years.

(3) Notwithstanding the assessment implementation dates in RCW 28A.630.885, the reading assessment in subsection (1) of this section shall be implemented state-wide to all public school third-grade students in the 1998-99 school year.

(4) The information provided by the reading assessment shall be used by educators as a tool to evaluate instructional practices and to initiate appropriate educational support for students who have not mastered the essential academic learning requirements for reading. The type of support to be provided to students shall be determined by school districts. School districts shall periodically reassess students who have not mastered the essential academic learning requirements for reading, and shall continue to provide appropriate reading support for students who have not mastered these essential academic learning requirements. The results of the reading assessment shall not be used for school or school district accountability purposes. [1995 c 303 § 2.]

**Findings—Intent—1995 c 303:** "The legislature finds that the ability to read with comprehension and skill is essential for success in school, and for success in future life. As we enter into the twenty-first century, the ability to read is critical to personal and family prosperity. It is the intent of the legislature to improve student learning by focusing on reading literacy in our public schools." [1995 c 303 § 1.]

**28A.630.945 Waivers for educational restructuring programs—Study by joint select committee on education restructuring—Report to legislature.** (1) The state board of education, where appropriate, or the superintendent of public instruction, where appropriate, may grant waivers to districts from the provisions of statutes or rules relating to: The length of the school year; student-to-teacher ratios; and other administrative rules that in the opinion of the state board of education or the opinion of the superintendent of public instruction may need to be waived in order for a district to implement a plan for restructuring its educational program or the educational program of individual schools within the district.

(2) School districts may use the application process in RCW 28A.305.140 or 28A.300.138 to apply for the waivers under subsection (1) of this section.

(3) The joint select committee on education restructuring shall study which waivers of state laws or rules are necessary for school districts to implement education restructuring. The committee shall study whether the waivers are used to implement specific essential academic learning requirements and student learning goals. The committee shall study the

availability of waivers under the schools for the twenty-first century program created by chapter 525, Laws of 1987, and the use of those waivers by schools participating in that program. The committee shall also study the use of waivers authorized under RCW 28A.305.140. The committee shall report its findings to the legislature by December 1, 1997. [1995 c 208 § 1.]

**28A.630.952 Review of laws and reporting requirements—Report to the legislature. (Expires December 1, 2001.)** (1) In addition to the duties in RCW 28A.630.951, the joint select committee on education restructuring shall review all laws pertaining to K-12 public education and to educator preparation and certification with the intent of identifying laws that inhibit the achievement of the new system of performance-based education. The select committee shall report to the legislature by November 15, 1994. The laws pertaining to home schooling and private schools shall not be reviewed in this study.

(2) The joint select committee on education restructuring shall review the school district data reporting requirements for the purposes of accountability and meeting state information needs reported by the commission on student learning under RCW 28A.630.885. The joint select committee shall report its recommendations to the legislature by January 1996. [1995 c 335 § 506; 1994 c 245 § 4; 1993 c 336 § 1003.]

**Expiration date—1995 c 335 § 506:** "Section 506 of this act shall expire December 1, 2001." [1995 c 335 § 804.]

**Part headings, table of contents not law—1995 c 335:** See note following RCW 28A.150.360.

**Expiration date—1994 c 245 § 4:** "Section 4 of this act shall expire December 1, 2001." [1994 c 245 § 16.]

**Expiration date—1993 c 336 §§ 1001-1005:** See note following RCW 28A.630.950.

**Findings—Intent—Part headings not law—1993 c 336:** See notes following RCW 28A.150.210.

**Findings—1993 c 336:** See note following RCW 28A.630.879.

## Chapter 28A.650 EDUCATION TECHNOLOGY

### Sections

28A.650.015 Education technology plan—Educational technology advisory committee.

**28A.650.015 Education technology plan—Educational technology advisory committee.** (1) The superintendent of public instruction, to the extent funds are appropriated, shall develop and implement a Washington state K-12 education technology plan. The technology plan shall be updated on at least a biennial basis, shall be developed to coordinate and expand the use of education technology in the common schools of the state. The plan shall be consistent with applicable provisions of chapter 43.105 RCW. The plan, at a minimum, shall address:

(a) The provision of technical assistance to schools and school districts for the planning, implementation, and training of staff in the use of technology in curricular and administrative functions;

(b) The continued development of a network to connect school districts, institutions of higher learning, and other sources of on-line information; and

(c) Methods to equitably increase the use of education technology by students and school personnel throughout the state.

(2) The superintendent of public instruction shall appoint an educational technology advisory committee to assist in the development and implementation of the technology plan in subsection (1) of this section. The committee shall include, but is not limited to, persons representing: The state board of education, the commission on student learning, the department of information services, educational service districts, school directors, school administrators, school principals, teachers, classified staff, higher education faculty, parents, students, business, labor, scientists and mathematicians, the higher education coordinating board, the work force training and education coordinating board, and the state library. [1995 c 335 § 507; 1994 c 245 § 2; 1993 c 336 § 703.]

**Part headings, table of contents not law—1995 c 335:** See note following RCW 28A.150.360.

## Chapter 28A.900 CONSTRUCTION

### Sections

28A.900.105 Effect of repeal—1995 c 335.

**28A.900.105 Effect of repeal—1995 c 335.** The repeal of any programs that are not funded as of July 23, 1995, is not intended to comment on the value of the services provided by the programs. The repeal of statutes in chapter 335, Laws of 1995 does not affect the general authority of school districts to provide services to accomplish the purposes of these programs. The deletion or repeal of language that permitted school districts to carry out specific activities that would be within their general authority is not intended to affect the general authority of school districts to continue to carry out those activities. [1995 c 335 § 801.]

**Part headings, table of contents not law—1995 c 335:** See note following RCW 28A.150.360.

## Title 28B HIGHER EDUCATION

### Chapters

28B.06 Project even start.  
28B.10 Colleges and universities generally.  
28B.15 College and university fees.  
28B.20 University of Washington.  
28B.30 Washington State University.  
28B.35 Regional universities.  
28B.40 The Evergreen State College.  
28B.50 Community and technical colleges.  
28B.65 High-technology education and training.  
28B.80 Higher education coordinating board.  
28B.85 Degree-granting institutions.

- 28B.90 Foreign degree-granting branch campuses.**  
**28B.102 Future teachers conditional scholarship program.**

### Chapter 28B.06

#### PROJECT EVEN START

##### Sections

28B.06.010	Intent—Short title.
28B.06.020	Definitions.
28B.06.030	Adult literacy program—Basic skills instruction—Credit toward work and training requirement—Rules.
28B.06.040	Preference for existing programs before developing new programs.
28B.06.050	Reports to legislature.

**28B.06.010 Intent—Short title.** (1) Parents can be the most effective teachers for their children. Providing illiterate or semiliterate parents with opportunities to acquire basic skills and child development knowledge will enhance their ability to assist and support their children in the learning process, and will enhance children's learning experiences in the formal education environment by providing children with the motivation and positive home environment which contribute to enhanced academic performance.

(2) This chapter may be known and cited as project even start. [1995 c 335 § 301; 1990 c 33 § 505; 1987 c 518 § 104. Formerly RCW 28A.610.010, 28A.130.010.]

**Part headings, table of contents not law—1995 c 335:** See note following RCW 28A.150.360.

**Intent—1994 c 166; 1987 c 518:** See note following RCW 28A.215.150.

**Severability—1987 c 518:** See note following RCW 28A.215.150.

**28B.06.020 Definitions.** Unless the context clearly requires otherwise, the definition in this section shall apply throughout this chapter.

"Parent" or "parents" means a parent who has less than an eighth grade ability in one or more of the basic skill areas of reading, language arts, or mathematics, as measured by a standardized test, and who has a child or children enrolled in: (1) The state early childhood education and assistance program; (2) a federal head start program; (3) a state or federally funded elementary school basic skills program serving students who have scored below the national average on a standardized test in one or more of the basic skill areas of reading, language arts, or mathematics; or (4) a cooperative preschool at a community or technical college. [1995 c 335 § 302; 1990 c 33 § 506; 1987 c 518 § 105. Formerly RCW 28A.610.020, 28A.130.012.]

**Part headings, table of contents not law—1995 c 335:** See note following RCW 28A.150.360.

**Intent—1994 c 166; 1987 c 518:** See note following RCW 28A.215.150.

**Severability—1987 c 518:** See note following RCW 28A.215.150.

**28B.06.030 Adult literacy program—Basic skills instruction—Credit toward work and training requirement—Rules.** (1) The state board for community and technical colleges, in consultation with the department of community, trade, and economic development, the depart-

ment of social and health services, the superintendent of public instruction, and community-based, nonprofit providers of adult literacy services, shall develop an adult literacy program to serve eligible parents as defined under \*RCW 28A.610.020. The program shall give priority to serving parents with children who have not yet enrolled in school or are in grades kindergarten through three.

(2) In addition to providing basic skills instruction to eligible parents, the program may include other program components which may include transportation, child care, and such other directly necessary activities as may be necessary to accomplish the purposes of this chapter.

(3) Parents who elect to participate in training or work programs, as a condition of receiving public assistance, shall have the hours spent in parent participation programs, conducted as part of a federal head start program, or the state early childhood education and assistance program under RCW 28A.215.100 through 28A.215.200 and 28A.215.900 through 28A.215.908, or parent literacy programs under this chapter, counted toward the fulfillment of their work and training obligation for the receipt of public assistance.

(4) State funds as may be appropriated for project even start shall be used solely to expand and complement, but not supplant, federal funds for adult literacy programs.

(5) The state board for community and technical colleges shall adopt rules as necessary to carry out the purposes of this chapter. [1995 c 335 § 303; 1990 c 33 § 507; 1987 c 518 § 106. Formerly RCW 28A.610.030, 28A.130.014.]

**\*Reviser's note:** RCW 28A.610.020 was recodified as RCW 28B.06.020 pursuant to 1995 c 335 § 306.

**Part headings, table of contents not law—1995 c 335:** See note following RCW 28A.150.360.

**Intent—1994 c 166; 1987 c 518:** See note following RCW 28A.215.150.

**Severability—1987 c 518:** See note following RCW 28A.215.150.

**28B.06.040 Preference for existing programs before developing new programs.** The superintendent of public instruction is authorized and directed, whenever possible, to fund or cooperatively work with existing adult literacy programs and parenting related programs offered through the common school and community college systems, vocational-technical institutes, or community-based, nonprofit organizations to provide services for eligible parents before developing and funding new adult literacy programs to carry out the purposes of project even start. [1987 c 518 § 107. Formerly RCW 28A.610.040, 28A.130.016.]

**Intent—1994 c 166; 1987 c 518:** See note following RCW 28A.215.150.

**Severability—1987 c 518:** See note following RCW 28A.215.150.

**28B.06.050 Reports to legislature.** The superintendent of public instruction shall evaluate and submit to the legislature by January 15, 1988, a report on the effectiveness of project even start. The initial report shall include, if appropriate, recommendations relating to the expansion of project even start. The superintendent shall submit a report to the legislature on project even start every two years after the initial report. [1987 c 518 § 108. Formerly RCW 28A.610.050, 28A.130.018.]

**Intent—1994 c 166; 1987 c 518:** See note following RCW 28A.215.150.

**Severability—1987 c 518:** See note following RCW 28A.215.150.

### Chapter 28B.10

#### COLLEGES AND UNIVERSITIES GENERALLY

##### Sections

28B.10.680	Precollege course work—Findings—Intent.
28B.10.682	Precollege course work—Adoption of definitions.
28B.10.685	Precollege course work—Enrollment information—Report.
28B.10.804	State student financial aid program—Commission, guidelines in performance of duties.

#### 28B.10.680 Precollege course work—Findings—

**Intent.** The legislature finds that some college students who have recently graduated from high school must immediately enroll in one or more precollege classes before they can proceed successfully through college. The legislature also finds that these students should have received basic skills in English, reading, spelling, grammar, and mathematics before graduating from high school. It is the intent of the legislature that colleges and universities provide information to school districts about recent graduates who enroll in precollege classes. It is also the intent of the legislature to encourage institutions of higher education and the common schools to work together to solve problems of common concern. [1995 c 310 § 1.]

**28B.10.682 Precollege course work—Adoption of definitions.** By June 30, 1996, in consultation with the commission on student learning, the superintendent of public instruction, the state board of education, faculty, teachers from institutions of higher education and high schools, and others as appropriate, the higher education coordinating board shall adopt common definitions of remedial and precollege material and course work. The definitions adopted by the board shall be rigorous, challenging students to come to college well prepared to engage in college and university work, and shall be adopted by each institution of higher education as defined in RCW 28B.10.016. [1995 c 310 § 2.]

**28B.10.685 Precollege course work—Enrollment information—Report.** Beginning in 1997, by September 30th of each year, each state university, regional university, state college, and, for community colleges and technical colleges, the state board for community and technical colleges shall provide a report to the office of the superintendent of public instruction, the state board of education, and the commission on student learning under RCW 28A.630.885. The report shall contain the following information on students who, within three years of graduating from a Washington high school, enrolled the prior year in a state-supported precollege level class at the institution: (1) The number of such students enrolled in a precollege level class in mathematics, reading, grammar, spelling, writing, or English; (2) the types of precollege classes in which each student was enrolled; and (3) the name of the Washington high school from which each student graduated.

For students who enrolled in a precollege class within three years of graduating from a Washington high school, each institution of higher education shall also report to the Washington high school from which the student graduated. The annual report shall include information on the number of students from that high school enrolled in precollege classes, and the types of classes taken by the students. [1995 c 310 § 3.]

**28B.10.804 State student financial aid program—Commission, guidelines in performance of duties.** The commission shall be cognizant of the following guidelines in the performance of its duties:

(1) The commission shall be research oriented, not only at its inception but continually through its existence.

(2) The commission shall coordinate all existing programs of financial aid except those specifically dedicated to a particular institution by the donor.

(3) The commission shall take the initiative and responsibility for coordinating all federal student financial aid programs to insure that the state recognizes the maximum potential effect of these programs, and shall design the state program which complements existing federal, state and institutional programs.

(4) Counseling is a paramount function of student financial aid, and in most cases could only be properly implemented at the institutional levels; therefore, state student financial aid programs shall be concerned with the attainment of those goals which, in the judgment of the commission, are the reasons for the existence of a student financial aid program, and not solely with administration of the program on an individual basis.

(5) The "package" approach of combining loans, grants and employment for student financial aid shall be the conceptional element of the state's involvement. [1995 c 269 § 801; 1969 ex.s. c 222 § 10. Formerly RCW 28.76.450.]

**Effective date—1995 c 269:** See note following RCW 13.40.025.

**Part headings not law—Severability—1995 c 269:** See notes following RCW 13.40.005.

### Chapter 28B.15

#### COLLEGE AND UNIVERSITY FEES

##### Sections

28B.15.031	"Operating fees"—Defined—Disposition.
28B.15.066	General fund appropriations to institutions of higher education.
28B.15.067	Tuition fees—Established.
28B.15.069	Tuition categories—Building fees—Services and activities fees—Other fees.
28B.15.070	Development of definitions, criteria, and procedures for the educational costs of instruction—Educational cost study.
28B.15.076	Board to transmit amounts constituting approved educational costs.
28B.15.100	Tuition and fees set by individual institutions—Limitations—Tuition and fees for certain part time, additional time, and out-of-state students.
28B.15.202	Repealed.
28B.15.402	Repealed.
28B.15.502	Repealed.
28B.15.543	Waiver or grant of tuition and fees for recipients of the Washington scholars award—Qualifications.

28B.15.545	Waiver of tuition and fees for recipients of the Washington award for vocational excellence—Grants.
28B.15.600	Refunds or cancellation of fees—Four-year institutions of higher education.
28B.15.605	Refunds or cancellation of fees—Community colleges and technical colleges.
28B.15.620	Exemption from tuition and fees increase at institutions of higher education—Vietnam veterans—Expiration of section.
28B.15.740	Limitation on total tuition and fee waivers.
28B.15.820	Institutional financial aid fund—"Eligible student" defined.

### 28B.15.031 "Operating fees"—Defined—

**Disposition.** The term "operating fees" as used in this chapter shall include the fees, other than building fees, charged all students registering at the state's colleges and universities but shall not include fees for short courses, self-supporting degree credit programs and courses, marine station work, experimental station work, correspondence or extension courses, and individual instruction and student deposits or rentals, disciplinary and library fines, which colleges and universities shall have the right to impose, laboratory, gymnasium, health, and student activity fees, or fees, charges, rentals, and other income derived from any or all revenue producing lands, buildings and facilities of the colleges or universities heretofore or hereafter acquired, constructed or installed, including but not limited to income from rooms, dormitories, dining rooms, hospitals, infirmaries, housing or student activity buildings, vehicular parking facilities, land, or the appurtenances thereon, or such other special fees as may be established by any college or university board of trustees or regents from time to time. All moneys received as operating fees at any institution of higher education shall be deposited in a local account containing only operating fees revenue and related interest: PROVIDED, That a minimum of three and one-half percent of operating fees shall be retained by the institutions, except the technical colleges, for the purposes of RCW 28B.15.820. Local operating fee accounts shall not be subject to appropriation by the legislature or allotment procedures under chapter 43.88 RCW. [1995 1st sp.s. c 9 § 2. Prior: 1993 sp.s. c 18 § 6; 1993 c 379 § 201; 1987 c 15 § 2. Prior: 1985 c 390 § 13; 1985 c 356 § 2; 1982 1st ex.s. c 37 § 12; 1981 c 257 § 1; 1979 c 151 § 14; 1977 ex.s. c 331 § 3; 1971 ex.s. c 279 § 2.]

**Intent—Purpose—1995 1st sp.s. c 9:** "It is the intent of the legislature to address higher education funding through a cooperative bipartisan effort that includes the legislative and executive branches of government, parents, students, educators, and concerned citizens. This effort will begin in 1995, with the results providing the basis for discussion during the 1996 legislative session for future decisions and final legislative action in 1997.

The purpose of this act is to provide tuition increases for public institutions of higher education as a transition measure until final action is taken in 1997." [1995 1st sp.s. c 9 § 1.]

**Effective date—1995 1st sp.s. c 9:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [June 14, 1995]." [1995 1st sp.s. c 9 § 14.]

**Appropriation—1993 sp.s. c 18:** "All moneys in the accounts established under \*RCW 28B.15.824 on July 1, 1993, are hereby appropriated to the respective institutions of higher education for deposit in the institution's local account established under RCW 28B.15.031." [1993 sp.s. c 18 § 15.]

**\*Reviser's note:** RCW 28B.15.824 was repealed by 1993 c 379 § 206 and by 1993 sp.s. c 18 § 14, effective July 1, 1993.

[1995 RCW Supp—page 286]

**Effective date—1993 sp.s. c 18:** See note following RCW 28B.10.265.

**Intent—Severability—Effective date—1993 c 379:** See notes following RCW 28B.10.029.

**Effective date—1987 c 15:** See note following RCW 28B.15.411.

**Effective date—Severability—1982 1st ex.s. c 37:** See notes following RCW 28B.15.012.

**Severability—1981 c 257:** "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 257 § 13.]

**Effective date—1977 ex.s. c 331:** "The effective date of this 1977 amendatory act shall be September 1, 1977." [1977 ex.s. c 331 § 5.]

**Severability—1977 ex.s. c 331:** "If any provision of this 1977 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 331 § 4.]

**Severability—1971 ex.s. c 279:** See note following RCW 28B.15.005.

**28B.15.066 General fund appropriations to institutions of higher education.** It is the intent of the legislature that:

In making appropriations from the state's general fund to institutions of higher education, each appropriation shall conform to the following:

(1) The appropriation shall not be reduced by the amount of operating fees revenue estimated to be collected from students enrolled at the state-funded enrollment level specified in the omnibus biennial operating appropriations act;

(2) The appropriation shall not be reduced by the amount of operating fees revenue collected from students enrolled above the state-funded level, but within the over-enrollment limitations, specified in the omnibus biennial operating appropriations act; and

(3) The general fund state appropriation shall not be reduced by the amount of operating fees revenue collected as a result of waiving less operating fees revenue than the amounts authorized under RCW 28B.15.910. [1995 1st sp.s. c 9 § 3; 1993 c 379 § 205.]

**Intent—Purpose—Effective date—1995 1st sp.s. c 9:** See notes following RCW 28B.15.031.

**Intent—Severability—Effective date—1993 c 379:** See notes following RCW 28B.10.029.

**28B.15.067 Tuition fees—Established.** (1) Tuition fees shall be established under the provisions of this chapter.

(2) Academic year tuition for full-time students at the state's institutions of higher education for the 1995-96 academic year, other than the summer term, shall be as provided in this subsection.

(a) At the University of Washington and Washington State University:

(i) For resident undergraduate students and other resident students not in graduate study programs or enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine, two thousand seven hundred sixty-four dollars;

(ii) For nonresident undergraduate students and other nonresident students not in graduate study programs or enrolled in programs leading to the degrees of doctor of

medicine, doctor of dental surgery, and doctor of veterinary medicine, eight thousand two hundred sixty-eight dollars;

(iii) For resident graduate and law students not enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine, four thousand four hundred ninety dollars;

(iv) For nonresident graduate and law students not enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine, eleven thousand six hundred thirty-four dollars;

(v) For resident students enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine, seven thousand four hundred ninety-seven dollars; and

(vi) For nonresident students enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine, nineteen thousand four hundred thirty-one dollars.

(b) At the regional universities and The Evergreen State College:

(i) For resident undergraduate and all other resident students not in graduate study programs, two thousand forty-five dollars;

(ii) For nonresident undergraduate and all other nonresident students not in graduate study programs, seven thousand nine hundred ninety-two dollars;

(iii) For resident graduate students, three thousand four hundred forty-three dollars; and

(iv) For nonresident graduate students, eleven thousand seventy-one dollars.

(c) At the community colleges:

(i) For resident students, one thousand two hundred twelve dollars; and

(ii) For nonresident students, five thousand one hundred sixty-two dollars and fifty cents.

(3) Academic year tuition for full-time students at the state's institutions of higher education beginning with the 1996-97 academic year, other than the summer term, shall be as provided in this subsection.

(a) At the University of Washington and Washington State University:

(i) For resident undergraduate students and other resident students not in graduate study programs or enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine, two thousand eight hundred seventy-five dollars;

(ii) For nonresident undergraduate students and other nonresident students not in graduate study programs or enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine, eight thousand five hundred ninety-nine dollars;

(iii) For resident graduate and law students not enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine, four thousand six hundred sixty-nine dollars;

(iv) For nonresident graduate and law students not enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine, twelve thousand one hundred dollars;

(v) For resident students enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery,

and doctor of veterinary medicine, seven thousand seven hundred ninety-seven dollars; and

(vi) For nonresident students enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine, twenty thousand two hundred nine dollars.

(b) At the regional universities and The Evergreen State College:

(i) For resident undergraduate and all other resident students not in graduate study programs, two thousand one hundred twenty-seven dollars;

(ii) For nonresident undergraduate and all other nonresident students not in graduate study programs, eight thousand three hundred twelve dollars;

(iii) For resident graduate students, three thousand five hundred eighty-one dollars; and

(iv) For nonresident graduate students, eleven thousand five hundred fourteen dollars.

(c) At the community colleges:

(i) For resident students, one thousand two hundred sixty-one dollars; and

(ii) For nonresident students, five thousand three hundred sixty-nine dollars and fifty cents.

(4) The tuition fees established under this chapter shall not apply to high school students enrolling in community colleges under RCW 28A.600.300 through 28A.600.395. [1995 1st sp.s. c 9 § 4; 1992 c 231 § 4; 1990 1st ex.s. c 9 § 413; 1986 c 42 § 1; 1985 c 390 § 15; 1982 1st ex.s. c 37 § 15; 1981 c 257 § 2.]

**Intent—Purpose—Effective date—1995 1st sp.s. c 9:** See notes following RCW 28B.15.031.

**Effective date—1992 c 231:** See note following RCW 28B.10.016.

**Finding—Severability—1990 1st ex.s. c 9:** See notes following RCW 28A.225.220.

**Effective date—Severability—1982 1st ex.s. c 37:** See notes following RCW 28B.15.012.

**Severability—1981 c 257:** See note following RCW 28B.15.031.

**28B.15.069 Tuition categories—Building fees—Services and activities fees—Other fees.** (1) As used in this section, each of the following subsections is a separate tuition category:

(a) Resident undergraduate students and all other resident students not in first professional, graduate, or law programs;

(b) Nonresident undergraduate students and all other nonresident students not in graduate or law programs;

(c) Resident graduate and law students;

(d) Nonresident graduate and law students;

(e) Resident first professional students; and

(f) Nonresident students in first professional programs.

(2) Unless the context clearly requires otherwise, as used in this section "first professional programs" means programs leading to one of the following degrees: Doctor of medicine, doctor of dental surgery, or doctor of veterinary medicine.

(3) For the 1995-96 and 1996-97 academic years, the building fee for each academic year shall be a percentage of total tuition fees. This percentage shall be calculated by the higher education coordinating board and be based on the actual percentage the building fee is of total tuition for each

tuition category in the 1994-95 academic year, rounded up to the nearest half percent.

(4) The governing boards of each institution of higher education, except for the technical colleges, shall charge to and collect from each student a services and activities fee. A governing board may increase the existing fee annually, consistent with budgeting procedures set forth in RCW 28B.15.045, by a percentage not to exceed the annual percentage increase in student tuition fees for the applicable tuition category: **PROVIDED**, That such percentage increase shall not apply to that portion of the services and activities fee previously committed to the repayment of bonded debt. The services and activities fee committee provided for in RCW 28B.15.045 may initiate a request to the governing board for a fee increase.

(5) Tuition and services and activities fees consistent with subsection (4) of this section shall be set by the state board for community and technical colleges for community college summer school students unless the community college charges fees in accordance with RCW 28B.15.515.

(6) Subject to the limitations of RCW 28B.15.910, each governing board of a community college may charge such fees for ungraded courses, noncredit courses, community services courses, and self-supporting courses as it, in its discretion, may determine, consistent with the rules of the state board for community and technical colleges. [1995 1st sp.s. c 9 § 5.]

**Intent—Purpose—Effective date—1995 1st sp.s. c 9:** See notes following RCW 28B.15.031.

**28B.15.070 Development of definitions, criteria, and procedures for the educational costs of instruction—Educational cost study.** (1) The higher education coordinating board, in consultation with the house of representatives and senate committees responsible for higher education, the respective fiscal committees of the house of representatives and senate, the office of financial management, and the state institutions of higher education, shall develop by December of every fourth year beginning in 1989, definitions, criteria, and procedures for determining the undergraduate and graduate educational costs for the state universities, regional universities, and community colleges.

(2) Every four years, the state institutions of higher education in cooperation with the higher education coordinating board shall perform an educational cost study pursuant to subsection (1) of this section. The study shall be conducted based on every fourth academic year beginning with 1989-90. Institutions shall complete the studies within one year of the end of the study year and report the results to the higher education coordinating board for consolidation, review, and distribution.

(3) In order to conduct the study required by subsection (2) of this section, the higher education coordinating board, in cooperation with the institutions of higher education, shall develop a methodology that requires the collection of comparable educational cost data, which utilizes a faculty activity analysis or similar instrument. [1995 1st sp.s. c 9 § 7; 1992 c 231 § 5; 1989 c 245 § 3. Prior: 1985 c 390 § 16; 1985 c 370 § 65; 1982 1st ex.s. c 37 § 16; 1981 c 257 § 3; 1977 ex.s. c 322 § 7.]

**Intent—Purpose—Effective date—1995 1st sp.s. c 9:** See notes following RCW 28B.15.031.

**Effective date—1992 c 231:** See note following RCW 28B.10.016.

**Analyses—1989 c 245:** "(1) The higher education coordinating board, with cooperation from the institutions of higher education, shall conduct a full review and analysis of the accuracy and consistency of the educational costs study. The board shall report to the legislature by December 1990, outlining its findings and making recommendations upon establishing a modified tuition fees structure based upon educational costs.

(2) The board shall conduct a full analysis and comparison of the educational costs at the University of Washington and Washington State University. The board shall also perform a comparison of the tuition fees charged at the University of Washington and Washington State University with tuition at their respective peer institutions. The board will provide recommendations on whether different levels of tuition fees should be charged at each of the state research universities." [1989 c 245 § 2.]

**Severability—Effective dates—1985 c 370:** See RCW 28B.80.911 and 28B.80.912.

**Effective date—Severability—1982 1st ex.s. c 37:** See notes following RCW 28B.15.012.

**Severability—1981 c 257:** See note following RCW 28B.15.031.

**Severability—1977 ex.s. c 322:** See note following RCW 28B.15.065.

**28B.15.076 Board to transmit amounts constituting approved educational costs.** The higher education coordinating board shall determine and transmit amounts constituting approved undergraduate and graduate educational costs to the several boards of regents and trustees of the state institutions of higher education by November 10 of each even-numbered year except the year 1990 for which the transmittal shall be made by December 17. [1995 1st sp.s. c 9 § 6; 1989 c 245 § 4. Prior: 1985 c 390 § 17; 1985 c 370 § 66; 1982 1st ex.s. c 37 § 17; 1981 c 257 § 4.]

**Intent—Purpose—Effective date—1995 1st sp.s. c 9:** See notes following RCW 28B.15.031.

**Analyses—1989 c 245:** See note following RCW 28B.15.070.

**Severability—Effective dates—1985 c 370:** See RCW 28B.80.911 and 28B.80.912.

**Effective date—Severability—1982 1st ex.s. c 37:** See notes following RCW 28B.15.012.

**Severability—1981 c 257:** See note following RCW 28B.15.031.

**28B.15.100 Tuition and fees set by individual institutions—Limitations—Tuition and fees for certain part time, additional time, and out-of-state students.** (1) The governing boards of the state universities, the regional universities, The Evergreen State College, and the community colleges shall charge to and collect from each of the students registering at the particular institution for any quarter or semester such tuition fees and services and activities fees, and other fees as such board shall in its discretion determine. The total of all fees shall be rounded to the nearest whole dollar amount: **PROVIDED**, That such tuition fees for other than the summer term shall be in the amounts for the respective institutions as otherwise set forth in RCW 28B.15.067.

(2) Part-time students shall be charged tuition and services and activities fees proportionate to full-time student rates established for residents and nonresidents: **PROVIDED**, That students registered for fewer than two credit hours shall be charged tuition and services and activities fees at the rate established for two credit hours: **PROVIDED FURTHER**, That, subject to the limitations of RCW 28B.15.910, residents of Idaho or Oregon who are enrolled in community college district number twenty for six or fewer credits during



any quarter or semester may be exempted from payment of all or a portion of the nonresident tuition fees differential upon a declaration by the higher education coordinating board that it finds Washington residents from the community college district are afforded substantially equivalent treatment by such other states.

(3) Full-time students registered for more than eighteen credit hours shall be charged an additional operating fee for each credit hour in excess of eighteen hours at the applicable established per credit hour tuition fee rate for part-time students: PROVIDED, That, subject to the limitations of RCW 28B.15.910, the governing boards of the state universities and the community colleges may exempt all or a portion of the additional charge, for students who are registered exclusively in first professional programs in medicine, dental medicine, veterinary medicine, or law, or who are registered exclusively in required courses in vocational preparatory programs. [1995 1st sp.s. c 9 § 8; 1993 sp.s. c 18 § 7; 1992 c 231 § 6. Prior: 1985 c 390 § 18; 1985 c 370 § 67; 1982 1st ex.s. c 37 § 11; 1981 c 257 § 5; 1977 ex.s. c 322 § 2; 1977 ex.s. c 169 § 36; 1971 ex.s. c 279 § 5; 1969 ex.s. c 223 § 28B.15.100; prior: (i) 1967 ex.s. c 8 § 31, part. Formerly RCW 28.85.310, part. (ii) 1963 c 181 § 1, part; 1961 ex.s. c 10 § 1, part; 1959 c 186 § 1, part; 1947 c 243 § 1, part; 1945 c 187 § 1, part; 1933 c 169 § 1, part; 1931 c 48 § 1, part; 1921 c 139 § 1, part; 1919 c 63 § 1, part; 1915 c 66 § 2, part; RRS § 4546, part. Formerly RCW 28.77.030, part. (iii) 1963 c 180 § 1, part; 1961 ex.s. c 11 § 1, part; 1949 c 73 § 1, part; 1931 c 49 § 1, part; 1921 c 164 § 1, part; Rem. Supp. 1949 § 4569, part. Formerly RCW 28.80.030, part. (iv) 1967 c 47 § 10, part; 1965 ex.s. c 147 § 1, part; 1963 c 143 § 1, part; 1961 ex.s. c 13 § 3, part. Formerly RCW 28.81.080, part.]

**Intent—Purpose—Effective date—1995 1st sp.s. c 9:** See notes following RCW 28B.15.031.

**Effective date—1993 sp.s. c 18:** See note following RCW 28B.10.265.

**Effective date—1992 c 231:** See note following RCW 28B.10.016.

**Severability—Effective dates—1985 c 370:** See RCW 28B.80.911 and 28B.80.912.

**Effective date—Severability—1982 1st ex.s. c 37:** See notes following RCW 28B.15.012.

**Severability—1981 c 257:** See note following RCW 28B.15.031.

**Severability—1977 ex.s. c 322:** See note following RCW 28B.15.065.

**Severability—Nomenclature—Savings—1977 ex.s. c 169:** See notes following RCW 28B.10.016.

**Severability—1971 ex.s. c 279:** See note following RCW 28B.15.005.

**28B.15.202 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**28B.15.402 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**28B.15.502 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**28B.15.543 Waiver or grant of tuition and fees for recipients of the Washington scholars award—**

**Qualifications.** (1) Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities, the regional universities, The Evergreen State College, and the community colleges shall waive tuition and service and activities fees for students named by the higher education coordinating board on or before June 30, 1994, as recipients of the Washington scholars award under RCW 28A.600.100 through 28A.600.150. The waivers shall be used only for undergraduate studies. To qualify for the waiver, recipients shall enter the college or university within three years of high school graduation and maintain a minimum grade point average at the college or university equivalent to 3.30. Students shall be eligible to receive a maximum of twelve quarters or eight semesters of waivers and may transfer among state-supported institutions of higher education during that period and continue to have the tuition and services and activities fees waived by the state-supported institution of higher education that the student attends. Should the student's cumulative grade point average fall below 3.30 during the first three quarters or two semesters, that student may petition the higher education coordinating board which shall have the authority to establish a probationary period until such time as the student's grade point average meets required standards.

(2) Students named by the higher education coordinating board after June 30, 1994, as recipients of the Washington scholars award under RCW 28A.600.100 through 28A.600.150 shall be eligible to receive a grant for undergraduate course work as authorized under RCW 28B.80.245. [1995 1st sp.s. c 5 § 2; 1993 sp.s. c 18 § 19; 1992 c 231 § 17; 1990 c 33 § 558; 1987 c 465 § 2. Prior: 1985 c 390 § 30; 1985 c 370 § 68; 1985 c 341 § 16; 1984 c 278 § 17.]

**Severability—Effective date—1995 1st sp.s. c 5:** See notes following RCW 28A.600.130.

**Effective date—1993 sp.s. c 18:** See note following RCW 28B.10.265.

**Effective date—1992 c 231:** See note following RCW 28B.10.016.

**Purpose—Statutory references—Severability—1990 c 33:** See RCW 28A.900.100 through 28A.900.102.

**Application—1987 c 465 § 2:** "The amendments to RCW 28B.15.543 by section 2, chapter 465, Laws of 1987 shall apply to persons holding the Washington scholars award as of July 26, 1987, as well as persons holding the award after July 26, 1987." [1987 c 465 § 3.]

**Severability—Effective dates—1985 c 370:** See RCW 28B.80.911 and 28B.80.912.

**Severability—1984 c 278:** See note following RCW 28A.185.010.

**28B.15.545 Waiver of tuition and fees for recipients of the Washington award for vocational excellence—Grants.** (1) Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities, the regional universities, The Evergreen State College, and the community colleges shall waive tuition and services and activities fees for a maximum of two years for those recipients of the Washington award for vocational excellence established under RCW 28C.04.520 through 28C.04.540 who received their awards before June 30, 1994. Each recipient shall not receive a waiver for more than six quarters or four semesters. To qualify for the waiver, recipients shall enter the college or university within three years of receiving the award. A minimum grade point average at the college or university equivalent to 3.00, or an above-average rating at

a technical college, shall be required in the first year to qualify for the second-year waiver. The tuition waiver shall be granted for undergraduate studies only.

(2) Students named by the work force training and education coordinating board after June 30, 1994, as recipients of the Washington award for vocational excellence under RCW 28C.04.520 through 28C.04.550 shall be eligible to receive a grant for undergraduate course work as authorized under RCW 28B.80.272. [1995 1st sp.s. c 7 § 7; 1993 sp.s. c 18 § 20; 1992 c 231 § 18; 1987 c 231 § 1; 1985 c 390 § 31; 1984 c 267 § 6.]

**Severability—1995 1st sp.s. c 7:** See note following RCW 28C.04.520.

**Effective date—1993 sp.s. c 18:** See note following RCW 28B.10.265.

**Effective date—1992 c 231:** See note following RCW 28B.10.016.

**28B.15.600 Refunds or cancellation of fees—Four-year institutions of higher education.** The governing boards of the state universities, the regional universities, and The Evergreen State College may refund or cancel in full the tuition and services and activities fees if the student withdraws from a university or college course or program prior to the sixth day of instruction of the quarter or semester for which the fees have been paid or are due. If the student withdraws on or after the sixth day of instruction, the governing boards may refund or cancel up to one-half of the fees, provided such withdrawal occurs within the first thirty calendar days following the beginning of instruction. However, if a different policy is required by federal law in order for the institution of higher education to maintain eligibility for federal funding of programs, the governing board may adopt a refund policy that meets the minimum requirements of the federal law, and the policy may treat all students attending the institution in the same manner.

The governing boards of the respective universities and college may adopt rules for the refund of tuition and fees for courses or programs that begin after the start of the regular quarter or semester. The governing boards may adopt rules to comply with RCW 28B.15.623 and may extend the refund or cancellation period for students who withdraw for medical reasons or who are called into the military service of the United States and may refund other fees pursuant to such rules as they may prescribe. [1995 c 36 § 1; 1993 sp.s. c 18 § 22; 1991 c 164 § 5; 1985 c 390 § 32; 1983 c 256 § 1; 1977 ex.s. c 169 § 40; 1973 1st ex.s. c 46 § 2; 1971 ex.s. c 279 § 15; 1969 ex.s. c 223 § 28B.15.600. Prior: 1963 c 89 § 1. Formerly RCW 28.76.430.]

**Effective date—1995 c 36:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [April 13, 1995]." [1995 c 36 § 3.]

**Effective date—1993 sp.s. c 18:** See note following RCW 28B.10.265.

**Severability—Nomenclature—Savings—1977 ex.s. c 169:** See notes following RCW 28B.10.016.

**Severability—1973 1st ex.s. c 46:** See note following RCW 28B.10.704.

**Severability—1971 ex.s. c 279:** See note following RCW 28B.15.005.

**28B.15.605 Refunds or cancellation of fees—Community colleges and technical colleges.** (1) The governing boards of the community colleges and technical colleges shall refund or cancel up to one hundred percent but no less than eighty percent of the tuition and services and activities fees if the student withdraws from a college course or program before the sixth day of instruction of the regular quarter for which the fees have been paid or are due. If the student withdraws on or after the sixth day of instruction, the governing boards shall refund or cancel up to fifty percent but no less than forty percent of the fees provided such withdrawal occurs within the first twenty calendar days following the beginning of instruction. However, if a different policy is required by federal law in order for the college to maintain eligibility for federal funding of programs, the governing board may adopt a refund policy that meets the minimum requirements of the federal law and the policy may treat all students attending the institution in the same manner.

(2) The governing boards of the respective community college or technical college shall adopt rules consistent with subsection (1) of this section for the refund of tuition and fees for the summer quarter and for courses or programs that begin after the start of the regular quarter.

(3) The governing boards of community colleges and technical colleges may adopt rules to comply with RCW 28B.15.623 and may extend the refund or cancellation period for students who withdraw for medical reasons or who are called into the military service of the United States. [1995 c 36 § 2.]

**Effective date—1995 c 36:** See note following RCW 28B.15.600.

**28B.15.620 Exemption from tuition and fees increase at institutions of higher education—Vietnam veterans—Expiration of section.** (1) The legislature finds that military and naval veterans who have served their country in wars on foreign soil have risked their own lives to defend both the lives of all Americans and the freedoms that define and distinguish our nation. The legislature also finds that veterans of the Vietnam conflict suffered during and after the war as the country anguished over its involvement in the conflict. It is the intent of the legislature to honor Vietnam veterans for the public service they have provided to their country. It is the further intent of the legislature that, for eligible Vietnam veterans, colleges and universities waive tuition and fee increases that have occurred since October 1, 1977.

(2) Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities, the regional universities, The Evergreen State College, and the community colleges may exempt veterans of the Vietnam conflict who have served in the southeast Asia theater of operations from the payment of all or a portion of any increase in tuition and fees that occur after October 1, 1977, if the veteran qualifies as a resident student under RCW 28B.15.012.

(3) For the purposes of this section, "veterans of the Vietnam conflict" shall be those persons who have been on active federal service as a member of the armed military or naval forces of the United States between a period commencing August 5, 1964, and ending on May 7, 1975.

(4) This section shall expire June 30, 1999. [1995 c 349 § 1; 1994 c 208 § 1; 1993 sp.s. c 18 § 24; 1992 c 231 § 22; 1989 c 306 § 4; 1983 c 307 § 1; 1979 ex.s. c 83 § 1; 1977 ex.s. c 322 § 9; 1972 ex.s. c 149 § 3; 1971 ex.s. c 279 § 22.]

**Effective date—1993 sp.s. c 18:** See note following RCW 28B.10.265.

**Effective date—1992 c 231:** See note following RCW 28B.10.016.

**Severability—1977 ex.s. c 322:** See note following RCW 28B.15.065.

**Severability—1971 ex.s. c 279:** See note following RCW 28B.15.005.

**28B.15.740 Limitation on total tuition and fee waivers.** (1) Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities, the regional universities, The Evergreen State College, and the community colleges may waive all or a portion of tuition and fees for needy students who are eligible for resident tuition and fee rates pursuant to RCW 28B.15.012 and 28B.15.013. Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities, the regional universities, The Evergreen State College, and the community colleges may waive all or a portion of tuition and fees for other students at the discretion of the governing boards, except on the basis of participation in intercollegiate athletic programs, not to exceed three-fourths of one percent of gross authorized operating fees revenue under RCW 28B.15.910 for the community colleges considered as a whole and not to exceed one percent of gross authorized operating fees revenue for the other institutions of higher education.

(2) In addition to the tuition and fee waivers provided in subsection (1) of this section and subject to the provisions of RCW 28B.15.455, 28B.15.460, and 28B.15.910, a total dollar amount of tuition and fee waivers awarded by any state university, regional university, or state college under this chapter, not to exceed one percent, as calculated in subsection (1) of this section, may be used for the purpose of achieving or maintaining gender equity in intercollegiate athletic programs. At any institution that has an underrepresented gender class in intercollegiate athletics, any such waivers shall be awarded:

(a) First, to members of the underrepresented gender class who participate in intercollegiate athletics, where such waivers result in saved or displaced money that can be used for athletic programs for the underrepresented gender class. Such saved or displaced money shall be used for programs for the underrepresented gender class; and

(b) Second, (i) to nonmembers of the underrepresented gender class who participate in intercollegiate athletics, where such waivers result in saved or displaced money that can be used for athletic programs for members of the underrepresented gender class. Such saved or displaced money shall be used for programs for the underrepresented gender class; or (ii) to members of the underrepresented gender class who participate in intercollegiate athletics, where such waivers do not result in any saved or displaced money that can be used for athletic programs for members of the underrepresented gender class. [1995 1st sp.s. c 9 § 9; 1993 sp.s. c 18 § 28; 1992 c 231 § 26; 1989 c 340 § 2; 1986 c 232 § 3; 1985 c 390 § 33; 1982 1st ex.s. c 37 § 9; 1980 c 62 § 1; 1979 ex.s. c 262 § 1.]

**Intent—Purpose—Effective date—1995 1st sp.s. c 9:** See notes following RCW 28B.15.031.

**Effective date—1993 sp.s. c 18:** See note following RCW 28B.10.265.

**Effective date—1992 c 231:** See note following RCW 28B.10.016.

**Effective date—Severability—1982 1st ex.s. c 37:** See notes following RCW 28B.15.012.

**Severability—1979 ex.s. c 262:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 ex.s. c 262 § 5.]

**28B.15.820 Institutional financial aid fund— "Eligible student" defined.** (1) Each institution of higher education, including technical colleges, shall deposit a minimum of three and one-half percent of revenues collected from tuition and services and activities fees in an institutional financial aid fund that is hereby created and which shall be held locally. Moneys in the fund shall be used only for the following purposes: (a) To make guaranteed long-term loans to eligible students as provided in subsections (3) through (8) of this section; (b) to make short-term loans as provided in subsection (9) of this section; or (c) to provide financial aid to needy students as provided in subsection (10) of this section.

(2) An "eligible student" for the purposes of subsections (3) through (8) and (10) of this section is a student registered for at least six credit hours or the equivalent, who is eligible for resident tuition and fee rates as defined in RCW 28B.15.012 through [and] 28B.15.013, and who is a "needy student" as defined in RCW 28B.10.802.

(3) The amount of the guaranteed long-term loans made under this section shall not exceed the demonstrated financial need of the student. Each institution shall establish loan terms and conditions which shall be consistent with the terms of the guaranteed loan program established by 20 U.S. Code Section 1071 et seq., as now or hereafter amended. All loans made shall be guaranteed by the Washington student loan guaranty association or its successor agency. Institutions are hereby granted full authority to operate as an eligible lender under the guaranteed loan program.

(4) Before approving a guaranteed long-term loan, each institution shall analyze the ability of the student to repay the loan based on factors which include, but are not limited to, the student's accumulated total education loan burdens and the employment opportunities and average starting salary characteristics of the student's chosen fields of study. The institution shall counsel the student on the advisability of acquiring additional debt, and on the availability of other forms of financial aid.

(5) Each institution is responsible for collection of guaranteed long-term loans made under this section and shall exercise due diligence in such collection, maintaining all necessary records to insure that maximum repayments are made. Institutions shall cooperate with other lenders and the Washington student loan guaranty association, or its successor agency, in the coordinated collection of guaranteed loans, and shall assure that the guarantability of the loans is not violated. Collection and servicing of guaranteed long-term loans under this section shall be performed by entities approved for such servicing by the Washington student loan guaranty association or its successor agency: PROVIDED,

That institutions be permitted to perform such servicing if specifically recognized to do so by the Washington student loan guaranty association or its successor agency. Collection and servicing of guaranteed long-term loans made by community colleges under subsection (1) of this section shall be coordinated by the state board for community and technical colleges and shall be conducted under procedures adopted by the state board.

(6) Receipts from payment of interest or principal or any other subsidies to which institutions as lenders are entitled, that are paid by or on behalf of borrowers of funds under subsections (3) through (8) of this section, shall be deposited in each institution's financial aid fund and shall be used to cover the costs of making the guaranteed long-term loans under this section and maintaining necessary records and making collections under subsection (5) of this section: **PROVIDED**, That such costs shall not exceed five percent of aggregate outstanding loan principal. Institutions shall maintain accurate records of such costs, and all receipts beyond those necessary to pay such costs, shall be deposited in the institution's financial aid fund.

(7) The governing boards of the state universities, the regional universities, and The Evergreen State College, and the state board for community and technical colleges, on behalf of the community colleges and technical colleges, shall each adopt necessary rules and regulations to implement this section.

(8) First priority for any guaranteed long-term loans made under this section shall be directed toward students who would not normally have access to educational loans from private financial institutions in Washington state, and maximum use shall be made of secondary markets in the support of loan consolidation.

(9) Short-term loans, not to exceed one year, may be made from the institutional financial aid fund to students enrolled in the institution. No such loan shall be made to any student who is known by the institution to be in default or delinquent in the payment of any outstanding student loan. A short-term loan may be made only if the institution has ample evidence that the student has the capability of repaying the loan within the time frame specified by the institution for repayment.

(10) Any moneys deposited in the institutional financial aid fund that are not used in making long-term or short-term loans may be used by the institution for locally-administered financial aid programs for needy students, such as need-based institutional employment programs or need-based tuition and fee scholarship or grant programs. These funds shall be used in addition to and not to replace institutional funds that would otherwise support these locally-administered financial aid programs. First priority in the use of these funds shall be given to needy students who have accumulated excessive educational loan burdens. An excessive educational loan burden is a burden that will be difficult to repay given employment opportunities and average starting salaries in the student's chosen fields of study. Second priority in the use of these funds shall be given to needy single parents, to assist these students with their educational expenses, including expenses associated with child care and transportation. [1995 1st sp.s. c 9 § 10. Prior: 1993 c 385 § 1; 1993 c 173 § 1; 1985 c 390 § 35;

1983 1st ex.s. c 64 § 1; 1982 1st ex.s. c 37 § 13; 1981 c 257 § 9.]

**Intent—Purpose—Effective date—1995 1st sp.s. c 9:** See notes following RCW 28B.15.031.

**Effective date—Severability—1982 1st ex.s. c 37:** See notes following RCW 28B.15.012.

**Severability—1981 c 257:** See note following RCW 28B.15.031.

## Chapter 28B.20

### UNIVERSITY OF WASHINGTON

#### Sections

28B.20.283	Washington technology center—Findings.
28B.20.289	Washington technology center—Administration—Board of directors.
28B.20.293	Washington technology center—Role of department of community, trade, and economic development.

**28B.20.283 Washington technology center—Findings.** The legislature finds that the development and commercialization of new technology is a vital part of economic development.

The legislature also finds that it is in the interests of the state of Washington to provide a mechanism to transfer and apply research and technology developed at the institutions of higher education to the private sector in order to create new products and technologies which provide job opportunities in advanced technology for the citizens of this state.

It is the intent of the legislature that the University of Washington, the Washington State University, and the department of community, trade, and economic development work cooperatively with the private sector in the development and implementation of a world class technology transfer program. [1995 c 399 § 25; 1992 c 142 § 1.]

**28B.20.289 Washington technology center—Administration—Board of directors.** (1) The technology center shall be administered by the board of directors of the technology center.

(2) The board shall consist of the following members: Fourteen members from among individuals who are associated with or employed by technology-based industries and have broad business experience and an understanding of high technology; eight members from the state's universities with graduate science and engineering programs; the executive director of the Spokane Intercollegiate Research and Technology Institute or his or her designated representative; the provost of the University of Washington or his or her designated representative; the provost of the Washington State University or his or her designated representative; and the director of the department of community, trade, and economic development or his or her designated representative. The term of office for each board member, excluding the executive director of the Spokane Intercollegiate Research and Technology Institute, the provost of the University of Washington, the provost of the Washington State University, and the director of the department of community, trade, and economic development, shall be three years. The executive director of the technology center shall be an ex officio, nonvoting member of the board. The board shall meet at least quarterly. Board members shall be appointed

by the governor based on the recommendations of the existing board of the technology center, and the research universities. The governor shall stagger the terms of the first group of appointees to ensure the long term continuity of the board.

(3) The duties of the board include:

(a) Developing the general operating policies for the technology center;

(b) Appointing the executive director of the technology center;

(c) Approving the annual operating budget of the technology center;

(d) Establishing priorities for the selection and funding of research projects that guarantee the greatest potential return on the state's investment;

(e) Approving and allocating funding for research projects conducted by the technology center, based on the recommendations of the advisory committees for each of the research centers;

(f) In cooperation with the department of community, trade, and economic development, developing a biennial work plan and five-year strategic plan for the technology center that are consistent with the state-wide technology development and commercialization goals;

(g) Coordinating with the University of Washington, Washington State University, and other participating institutions of higher education in the development of training, research, and development programs to be conducted at the technology center that shall be targeted to meet industrial needs;

(h) Assisting the department of community, trade, and economic development in the department's efforts to develop state science and technology public policies and coordinate publicly funded programs;

(i) Reviewing annual progress reports on funded research projects that are prepared by the advisory committees for each of the research centers;

(j) Providing an annual report to the governor and the legislature detailing the activities and performance of the technology center; and

(k) Submitting annually to the department of community, trade, and economic development an updated strategic plan and a statement of performance measured against the mission, roles, and contractual obligations of the technology center. [1995 c 399 § 26; 1992 c 142 § 4.]

**28B.20.293 Washington technology center—Role of department of community, trade, and economic development.** The department of community, trade, and economic development shall contract with the University of Washington for the expenditure of state-appropriated funds for the operation of the Washington technology center. The department of community, trade, and economic development shall provide guidance to the technology center regarding expenditure of state-appropriated funds and the development of the center's strategic plan. The director of the department of community, trade, and economic development shall not withhold funds appropriated for the technology center if the technology center complies with the provisions of its contract with the department of community, trade, and economic development. The department shall be responsible

to the legislature for the contractual performance of the center. [1995 c 399 § 27; 1992 c 142 § 6.]

### Chapter 28B.30

#### WASHINGTON STATE UNIVERSITY

##### Sections

28B.30.537 IMPACT center—Duties.

**28B.30.537 IMPACT center—Duties.** The IMPACT center shall:

(1) Coordinate the teaching, research, and extension expertise of the college of agriculture and home economics at Washington State University to assist in:

(a) The design and development of information and strategies to expand the long-term international markets for Washington agricultural products; and

(b) The dissemination of such information and strategies to Washington exporters, overseas users, and public and private trade organizations;

(2) Research and identify current impediments to increased exports of Washington agricultural products, and determine methods of surmounting those impediments and opportunities for exporting new agricultural products and commodities to foreign markets;

(3) Prepare curricula to present and distribute information concerning international trade in agricultural commodities and products to students, exporters, international traders, and the public;

(4) Provide high-quality research and graduate education and professional nondegree training in international trade in agricultural commodities in cooperation with other existing programs;

(5) Ensure that activities of the center adequately reflect the objectives for the state's agricultural market development programs established by the department of agriculture as the lead state agency for such programs under chapter 43.23 RCW;

(6) Link itself through cooperative agreements with the center for international trade in forest products at the University of Washington, the state department of agriculture, the department of community, trade, and economic development, Washington's agriculture businesses and associations, and other state agency data collection, processing, and dissemination efforts; and

(7) Subject to RCW 40.07.040, report biennially to the governor and the legislature on the IMPACT center, state agricultural commodities marketing programs, and the center's success in obtaining nonstate funding for its operation. [1995 c 399 § 28. Prior: 1987 c 505 § 14; 1987 c 195 § 3; 1985 c 39 § 2; 1984 c 57 § 2.]

Effective date—1985 c 39: See note following RCW 28B.30.535.

### Chapter 28B.35

#### REGIONAL UNIVERSITIES

##### Sections

28B.35.380 Repealed.

**28B.35.380 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

### Chapter 28B.40

#### THE EVERGREEN STATE COLLEGE

##### Sections

28B.40.380 Repealed.

**28B.40.380 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

### Chapter 28B.50

#### COMMUNITY AND TECHNICAL COLLEGES

(Formerly: Community colleges)

##### Sections

28B.50.030	Definitions.
28B.50.095	College board—Registration at more than one community and technical college.
28B.50.258	Training in rural natural resources impact areas.
28B.50.262	Wood product manufacturing and wood technology degree program.
28B.50.551	Leave provisions generally.
28B.50.8742	Technical colleges—Employee option to reenroll in public employees' benefits trust.
28B.50.8744	Technical colleges—Payment to public employees' and retirees' insurance account.

**28B.50.030 Definitions.** As used in this chapter, unless the context requires otherwise, the term:

(1) "System" shall mean the state system of community and technical colleges, which shall be a system of higher education.

(2) "Board" shall mean the work force training and education coordinating board.

(3) "College board" shall mean the state board for community and technical colleges created by this chapter.

(4) "Director" shall mean the administrative director for the state system of community and technical colleges.

(5) "District" shall mean any one of the community and technical college districts created by this chapter.

(6) "Board of trustees" shall mean the local community and technical college board of trustees established for each college district within the state.

(7) "Occupational education" shall mean that education or training that will prepare a student for employment that does not require a baccalaureate degree.

(8) "K-12 system" shall mean the public school program including kindergarten through the twelfth grade.

(9) "Common school board" shall mean a public school district board of directors.

(10) "Community college" shall include those higher education institutions that conduct education programs under RCW 28B.50.020.

(11) "Technical college" shall include those higher education institutions with the sole mission of conducting occupational education, basic skills, literacy programs, and offering on short notice, when appropriate, programs that meet specific industry needs. The programs of technical colleges shall include, but not be limited to, continuous enrollment, competency-based instruction, industry-experi-

enced faculty, curriculum integrating vocational and basic skills education, and curriculum approved by representatives of employers and labor. For purposes of this chapter, technical colleges shall include Lake Washington Vocational-Technical Institute, Renton Vocational-Technical Institute, Bates Vocational-Technical Institute, Clover Park Vocational Institute, and Bellingham Vocational-Technical Institute.

(12) "Adult education" shall mean all education or instruction, including academic, vocational education or training, basic skills and literacy training, and "occupational education" provided by public educational institutions, including common school districts for persons who are eighteen years of age and over or who hold a high school diploma or certificate. However, "adult education" shall not include academic education or instruction for persons under twenty-one years of age who do not hold a high school degree or diploma and who are attending a public high school for the sole purpose of obtaining a high school diploma or certificate, nor shall "adult education" include education or instruction provided by any four year public institution of higher education.

(13) "Dislocated forest product worker" shall mean a forest products worker who: (a)(i) Has been terminated or received notice of termination from employment and is unlikely to return to employment in the individual's principal occupation or previous industry because of a diminishing demand for his or her skills in that occupation or industry; or (ii) is self-employed and has been displaced from his or her business because of the diminishing demand for the business's services or goods; and (b) at the time of last separation from employment, resided in or was employed in a rural natural resources impact area.

(14) "Forest products worker" shall mean a worker in the forest products industries affected by the reduction of forest fiber enhancement, transportation, or production. The workers included within this definition shall be determined by the employment security department, but shall include workers employed in the industries assigned the major group standard industrial classification codes "24" and "26" and the industries involved in the harvesting and management of logs, transportation of logs and wood products, processing of wood products, and the manufacturing and distribution of wood processing and logging equipment. The commissioner may adopt rules further interpreting these definitions. For the purposes of this subsection, "standard industrial classification code" means the code identified in RCW 50.29.025(6)(c).

(15) "Dislocated salmon fishing worker" means a salmon products worker who: (a)(i) Has been terminated or received notice of termination from employment and is unlikely to return to employment in the individual's principal occupation or previous industry because of a diminishing demand for his or her skills in that occupation or industry; or (ii) is self-employed and has been displaced from his or her business because of the diminishing demand for the business's services or goods; and (b) at the time of last separation from employment, resided in or was employed in a rural natural resources impact area.

(16) "Salmon fishing worker" means a worker in the salmon industry affected by 1994 or future salmon disasters. The workers included within this definition shall be determined by the employment security department, but shall

include workers employed in the industries involved in the commercial and recreational harvesting of salmon including buying and processing salmon. The commissioner may adopt rules further interpreting these definitions.

(17) "Rural natural resources impact area" means:

(a) A nonmetropolitan county, as defined by the 1990 decennial census, that meets two of the five criteria set forth in subsection (18) of this section; or

(b) A nonurbanized area, as defined by the 1990 decennial census, that is located in a metropolitan county that meets two of the five criteria set forth in subsection (18) of this section.

(18) For the purposes of designating rural natural resources impact areas, the following criteria shall be considered:

(a) A lumber and wood products employment location quotient at or above the state average;

(b) A commercial salmon fishing employment location quotient at or above the state average;

(c) Projected or actual direct lumber and wood products job losses of one hundred positions or more;

(d) Projected or actual direct commercial salmon fishing job losses of one hundred positions or more; and

(e) An unemployment rate twenty percent or more above the state average. The counties that meet these criteria shall be determined by the employment security department for the most recent year for which data is available. For the purposes of administration of programs under this chapter, the United States post office five-digit zip code delivery areas will be used to determine residence status for eligibility purposes. For the purpose of this definition, a zip code delivery area that is located wholly or partially in an urbanized area or within two miles of an urbanized area is considered urbanized. The office of financial management shall make available a zip code listing of the areas to all agencies and organizations providing services under this chapter. [1995 c 226 § 17; 1992 c 21 § 5. Prior: 1991 c 315 § 15; 1991 c 238 § 22; 1985 c 461 § 14; 1982 1st ex.s. c 53 § 24; 1973 c 62 § 12; 1969 ex.s. c 261 § 18; 1969 ex.s. c 223 § 28B.50.030; prior: 1967 ex.s. c 8 § 3.]

**Severability—Conflict with federal requirements—Effective date—1995 c 226:** See notes following RCW 43.31.601.

**Intent—1991 c 315:** See note following RCW 50.12.270.

**Severability—Conflict with federal requirements—Effective date—1991 c 315:** See RCW 50.70.900 through 50.70.902.

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

**Severability—1982 1st ex.s. c 53:** See note following RCW 41.06.020.

**Savings—Severability—1973 c 62:** See notes following RCW 28B.10.510.

**Severability—1969 ex.s. c 261:** See note following RCW 28B.50.020.

**28B.50.095 College board—Registration at more than one community and technical college.** In addition to other powers and duties, the college board may issue rules and regulations permitting a student to register at more than one community and technical college, provided that such student shall pay tuition and fees as if the student were registered at a single college, but not to exceed tuition and fees charged a full-time student as established under chapter

28B.15 RCW. [1995 1st sp.s. c 9 § 11; 1991 c 238 § 36; 1983 c 3 § 40; 1973 c 129 § 1.]

**Intent—Purpose—Effective date—1995 1st sp.s. c 9:** See notes following RCW 28B.15.031.

**28B.50.258 Training in rural natural resources impact areas.** To the extent that funds are specifically appropriated therefor, the state board for community and technical colleges shall provide training and retraining in rural natural resources impact areas as follows:

(1) Disbursement of funds to individual community colleges for supplemental slots in cases where enrollment demand exceeds allocation;

(2) Pilot projects for innovative approaches to literacy and employment training. Pilot projects may include, but are not limited to:

(a) Training for cranberry industry research, coordinated by the Washington State University coastal research unit, Long Beach;

(b) Training through Grays Harbor Community College for dislocated forest products workers to fill positions as safety training and vessel inspectors. They shall contract with those organizations deemed appropriate to carry out this program;

(c) Training through Skagit Valley Community College for dislocated forest products workers in natural resources technical programs in stream enhancement, including waters upstream or downstream as well as adjacent to state lands; water quality enhancement; irrigation repair; and the building of shellfish beds;

(d) Training for agricultural development, diversification, marketing, and processing programs in rural natural resources impact areas.

Nothing in subsection (2) of this section shall be construed to provide priority for the projects listed in subsection (2) of this section.

For the purposes of this section, the number of full-time equivalent students to be served during any biennium shall be determined by the applicable omnibus appropriations act and shall be in addition to the community college enrollment level funded by the applicable omnibus appropriations act. [1995 c 226 § 18; 1991 c 315 § 16.]

**Sunset Act application:** See note following RCW 43.31.601.

**Severability—Conflict with federal requirements—Effective date—1995 c 226:** See notes following RCW 43.31.601.

**Intent—1991 c 315:** See note following RCW 50.12.270.

**Severability—Conflict with federal requirements—Effective date—1991 c 315:** See RCW 50.70.900 through 50.70.902.

**28B.50.262 Wood product manufacturing and wood technology degree program.** The state board for community and technical colleges shall develop, in conjunction with the center for international trade in forest products, the Washington State University wood materials and engineering laboratory, and the department of community, trade, and economic development, a competency-based technical degree program in wood product manufacturing and wood technology and make it available in every college district that serves a rural natural resources impact area. [1995 c 226 § 19; 1994 c 282 § 3.]

**Sunset Act application:** See note following RCW 43.31.601.

**Sunset Act application:** See note following chapter 76.56 RCW digest.

**Severability—Conflict with federal requirements—Effective date—1995 c 226:** See notes following RCW 43.31.601.

**Effective date—1994 c 282:** See note following RCW 76.56.020.

**28B.50.551 Leave provisions generally.** The board of trustees of each college district shall adopt for each community and technical college under its jurisdiction written policies on granting leaves to employees of the district and those colleges, including but not limited to leaves for attendance at official or private institutions and conferences; professional leaves for personnel consistent with the provisions of RCW 28B.10.650; leaves for illness, injury, bereavement and emergencies, and except as otherwise in this section provided, all with such compensation as the board of trustees may prescribe, except that the board shall grant to all such persons leave with full compensation for illness, injury, bereavement and emergencies as follows:

(1) For persons under contract to be employed, or otherwise employed, for at least three quarters, not more than twelve days per year, commencing with the first day on which work is to be performed; provisions of any contract in force on June 12, 1980, which conflict with requirements of this subsection shall continue in effect until contract expiration; after expiration, any new contract executed between the parties shall be consistent with this subsection;

(2) Such leave entitlement may be accumulated after the first three-quarter period of employment for full time employees, and may be taken at any time;

(3) Leave for illness, injury, bereavement and emergencies heretofore accumulated pursuant to law, rule, regulation or policy by persons presently employed by college districts and community and technical colleges shall be added to such leave accumulated under this section;

(4) Except as otherwise provided in this section or other law, accumulated leave under this section not taken at the time such person retires or ceases to be employed by college districts or community and technical colleges shall not be compensable;

(5) Accumulated leave for illness, injury, bereavement and emergencies shall be transferred from one college district to another or between a college district and the following: Any state agency, any educational service district, any school district, or any other institution of higher education as defined in RCW 28B.10.016;

(6) Leave accumulated by a person in a college district or community and technical college prior to leaving that district or college may, under the policy of the board of trustees, be granted to such person when he or she returns to the employment of that district or college; and

(7) Employees of the Seattle Vocational Institute are exempt from this section until July 1, 1993. [1995 c 119 § 1; 1991 c 238 § 59; 1980 c 182 § 3; 1977 ex.s. c 173 § 2; 1975 1st ex.s. c 275 § 148; 1973 c 62 § 22; 1969 ex.s. c 283 § 7. Formerly RCW 28.85.551.]

**Severability—1980 c 182:** See note following RCW 41.04.340.

**Effective date—Severability—1977 ex.s. c 173:** See notes following RCW 28B.10.650.

**Savings—Severability—1973 c 62:** See notes following RCW 28B.10.510.

**Severability—1969 ex.s. c 283:** See note following RCW 28A.150.050.

**28B.50.8742 Technical colleges—Employee option to reenroll in public employees' benefits trust.** Employees of technical colleges who were members of the [a] public employees' benefits trust and as a result of chapter 238, Laws of 1991, were required to enroll in public employees' benefits board-sponsored plans, must decide whether to reenroll in the trust by January 1, 1996, or the expiration of the current collective bargaining agreements, whichever is later. Employees of a bargaining unit or administrative or managerial employees otherwise not included in a bargaining unit shall be required to transfer by group. Administrative or managerial employees shall transfer in accordance with rules established by the health care authority. If employee groups elect to transfer, they are eligible to reenroll in the public employees' benefits board-sponsored plans. This one-time reenrollment option in the public employees' benefits board-sponsored plans is available to be exercised in January 2001, or only every five years thereafter, until exercised. [1995 1st sp.s. c 6 § 10.]

**Effective date—1995 1st sp.s. c 6:** See note following RCW 28A.400.410.

**28B.50.8744 Technical colleges—Payment to public employees' and retirees' insurance account.** (1) In a manner prescribed by the state health care authority, technical colleges who have employees enrolled in a benefits trust shall remit to the health care authority for deposit in the public employees' and retirees' insurance account established in RCW 41.05.120 the amount specified for remittance in the omnibus appropriations act.

(2) The remittance requirements of this section do not apply to employees of a technical college who receive insurance benefits through contracts with the health care authority. [1995 1st sp.s. c 6 § 19.]

**Effective date—1995 1st sp.s. c 6:** See note following RCW 28A.400.410.

## Chapter 28B.65

### HIGH-TECHNOLOGY EDUCATION AND TRAINING

#### Sections

28B.65.040	Washington high-technology coordinating board created—Members—Travel expenses.
28B.65.050	Board—Duties—Rules—Termination of board.
28B.65.060	Board—Staff support.

**28B.65.040 Washington high-technology coordinating board created—Members—Travel expenses.** (1) The Washington high-technology coordinating board is hereby created.

(2) The board shall be composed of eighteen members as follows:

(a) Eleven shall be citizen members appointed by the governor, with the consent of the senate, for four-year terms. In making the appointments the governor shall ensure that a balanced geographic representation of the state is achieved and shall attempt to choose persons experienced in high-



technology fields, including at least one representative of labor. Any person appointed to fill a vacancy occurring before a term expires shall be appointed only for the remainder of that term; and

(b) Seven of the members shall be as follows: One representative from each of the state's two research universities, one representative of the state college and regional universities, the director for the state system of community and technical colleges or the director's designee, the superintendent of public instruction or the superintendent's designee, a representative of the higher education coordinating board, and the director of the department of community, trade, and economic development or the director's designee.

(3) Members of the board shall not receive any salary for their services, but shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060 for each day actually spent in attending to duties as a member of the board.

(4) A citizen member of the board shall not be, during the term of office, a member of the governing board of any public or private educational institution, or an employee of any state or local agency. [1995 c 399 § 29. Prior: 1985 c 381 § 1; 1985 c 370 § 86; 1984 c 66 § 1; 1983 1st ex.s. c 72 § 5.]

**Severability—Effective dates—1985 c 370:** See RCW 28B.80.911 and 28B.80.912.

**28B.65.050 Board—Duties—Rules—Termination of board.** (1) The board shall oversee, coordinate, and evaluate the high-technology programs.

(2) The board shall:

(a) Determine the specific high-technology occupational fields in which technical training is needed and advise the institutions of higher education and the higher education coordinating board on their findings;

(b) Identify economic areas and high-technology industries in need of technical training and research and development critical to economic development and advise the institutions of higher education and the higher education coordinating board on their findings;

(c) Oversee and coordinate the Washington high-technology education and training program to insure high standards, efficiency, and effectiveness;

(d) Work cooperatively with the superintendent of public instruction to identify the skills prerequisite to the high-technology programs in the institutions of higher education;

(e) Work cooperatively with and provide any information or advice which may be requested by the higher education coordinating board during the board's review of new baccalaureate degree program proposals which are submitted under this chapter. Nothing in this chapter shall be construed as altering or superseding the powers or prerogatives of the higher education coordinating board over the review of new degree programs as established in \*section 6(2) of this 1985 act;

(f) Work cooperatively with the department of community, trade, and economic development to identify the high-technology education and training needs of existing Washington businesses and businesses with the potential to locate in Washington;

(g) Work towards increasing private sector participation and contributions in Washington high-technology programs;

(h) Identify and evaluate the effectiveness of state sponsored research related to high technology;

(i) Establish and maintain a plan, including priorities, to guide high-technology program development in public institutions of higher education, which plan shall include an assessment of current high-technology programs, steps to increase existing programs, new initiatives and programs necessary to promote high technology, and methods to coordinate and target high-technology programs to changing market opportunities in business and industry; and

(j) Prepare and submit to the legislature before the first day of each regular session an annual report on Washington high-technology programs including, but not limited to:

(i) An evaluation of each program;

(ii) A determination of the feasibility of expanding the program; and

(iii) Recommendations, including recommendations for further legislation as the board deems necessary.

(3) The board may adopt rules under chapter 34.05 RCW as it deems necessary to carry out the purposes of this chapter.

(4) The board shall cease to exist on June 30, 1987, unless extended by law for an additional fixed period of time. [1995 c 399 § 30. Prior: 1985 c 381 § 2; 1985 c 370 § 87; 1983 1st ex.s. c 72 § 6.]

**\*Reviser's note:** A literal translation of "section 6(2) of this 1985 act" would be RCW 28B.80.350(2), however, material relating to new degree programs is found in RCW 28B.80.340.

**Severability—Effective dates—1985 c 370:** See RCW 28B.80.911 and 28B.80.912.

**28B.65.060 Board—Staff support.** Staff support for the high-technology coordinating board shall be provided by the department of community, trade, and economic development. [1995 c 399 § 31; 1985 c 381 § 3; 1983 1st ex.s. c 72 § 7.]

**Chapter 28B.80**

**HIGHER EDUCATION COORDINATING BOARD**  
(Formerly: Council for postsecondary education in the state of Washington)

Sections	
28B.80.160	Board to coordinate state participation within student exchange compact programs—Criteria—Washington interstate commission on higher education professional student exchange program trust fund.
28B.80.245	Washington scholars award—Board to award grants.
28B.80.246	Washington scholars award waivers or grants—Transfers between colleges and universities.
28B.80.272	Washington award for vocational excellence—Grants—Definitions.
28B.80.360	Administrative responsibilities—Report to the legislature.
28B.80.550	Repealed.
28B.80.555	Repealed.
28B.80.570	Rural natural resources impact areas—Program for dislocated workers—Definitions.
28B.80.575	Rural natural resources impact areas—Program for dislocated workers—Duties.
28B.80.580	Rural natural resources impact areas—Program for dislocated workers—Placebound students—Waiver from tuition and fees.

28B.80.585 Rural natural resources impact areas—Program for dislocated workers—Priority.

**28B.80.160 Board to coordinate state participation within student exchange compact programs—Criteria—Washington interstate commission on higher education professional student exchange program trust fund.** In the development of any such plans as called for within RCW 28B.80.150, the board shall use at least the following criteria:

(1) Students who are eligible to attend compact-authorized programs in other states shall meet the Washington residency requirements of chapter 28B.15 RCW prior to being awarded tuition assistance.

(2) For recipients named after January 1, 1995, the tuition assistance shall be in the form of loans that may be completely forgiven in exchange for the student's service within the state of Washington after graduation. The requirements for such service and provisions for loan forgiveness shall be determined in rules adopted by the board.

(3) If appropriations are insufficient to fund all students qualifying under subsection (1) of this section, then the plans shall include criteria for student selection that would be in the best interest in meeting the state's educational needs, as well as recognizing the financial needs of students.

(4) Receipts from the payment of principal or interest or any other subsidies to which the board as administrator is entitled, that are paid by or on behalf of participants under this section, shall be deposited with the board and placed in an account created in this section and shall be used to cover the costs of granting the scholarships, maintaining necessary records, and making collections. The board shall maintain accurate records of these costs, and all receipts beyond those necessary to pay such costs shall be used to grant conditional loans to eligible students.

(5) The Washington interstate commission on higher education professional student exchange program trust fund is created in the custody of the state treasurer. All receipts from loan repayment shall be deposited into the fund. Only the higher education coordinating board, or its designee, may authorize expenditures from the fund. No appropriation is required for expenditures from this fund. [1995 c 217 § 1; 1985 c 370 § 18; 1974 ex.s. c 4 § 4.]

**Effective date—1995 c 217:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 3, 1995]." [1995 c 217 § 3.]

**Severability—1974 ex.s. c 4:** See note following RCW 28B.80.150.

**28B.80.245 Washington scholars award—Board to award grants.** (1) Recipients of the Washington scholars award under RCW 28A.600.100 through 28A.600.150 who choose to attend an independent college or university in this state, as defined in subsection (4) of this section, and recipients of the award named after June 30, 1994, who choose to attend a public college or university in the state may receive grants under this section if moneys are available. The higher education coordinating board shall distribute grants to eligible students under this section from moneys appropriated for this purpose. The individual grants shall not exceed, on a yearly basis, the yearly, full-time,

resident, undergraduate tuition and service and activities fees in effect at the state-funded research universities. Grants to recipients attending an independent institution shall be contingent upon the institution matching on at least a dollar-for-dollar basis, either with actual money or by a waiver of fees, the amount of the grant received by the student from the state. The higher education coordinating board shall establish procedures, by rule, to disburse the awards as direct grants to the students.

(2) To qualify for the grant, recipients shall enter the in-state college or university within three years of high school graduation and maintain a minimum grade point average at the college or university equivalent to 3.30. Students shall be eligible to receive a maximum of twelve quarters or eight semesters of grants for undergraduate study and may transfer among in-state public and independent colleges and universities during that period and continue to receive the grant as provided under RCW 28B.80.246. If the student's cumulative grade point average falls below 3.30 during the first three quarters or two semesters, that student may petition the higher education coordinating board which shall have the authority to establish a probationary period until such time as the student's grade point average meets required standards.

(3) No grant shall be awarded to any student who is pursuing a degree in theology.

(4) As used in this section, "independent college or university" means a private, nonprofit educational institution, the main campus of which is permanently situated in the state, open to residents of the state, providing programs of education beyond the high school level leading at least to the baccalaureate degree, and accredited by the northwest association of schools and colleges as of June 9, 1988, and other institutions as may be developed that are approved by the higher education coordinating board as meeting equivalent standards as those institutions accredited under this section.

(5) As used in this section, "public college or university" means an institution of higher education as defined in RCW 28B.10.016. [1995 1st sp.s. c 5 § 3; 1990 c 33 § 560; 1988 c 210 § 1.]

**Severability—Effective date—1995 1st sp.s. c 5:** See notes following RCW 28A.600.130.

**Purpose—Statutory references—Severability—1990 c 33:** See RCW 28A.900.100 through 28A.900.102.

**Application—1988 c 210 § 1:** "RCW 28B.80.245 shall apply to persons holding the Washington scholars award as of June 9, 1988, as well as persons holding the award after June 9, 1988." [1988 c 210 § 3.]

**28B.80.246 Washington scholars award waivers or grants—Transfers between colleges and universities.** Students receiving grants under RCW 28B.80.245 or waivers under RCW 28B.15.543 are entitled to transfer among in-state public and independent colleges or universities and to continue to receive award benefits, as provided in this section, in the form of a grant or waiver of tuition and services and activities fees while enrolled at such institutions during the period of eligibility. The total grants or waivers for any one student shall not exceed twelve quarters or eight semesters of undergraduate study.

(1) Scholars named to the award on or before June 30, 1994, may transfer between in-state public institutions, or

from an eligible independent college or university to an in-state public institution of higher education, and are entitled to receive the waiver of tuition and services and activities fees.

(2) Scholars named to the award on or before June 30, 1994, may transfer from an in-state public institution to an eligible independent college or university, or between eligible independent colleges or universities, and continue to receive a grant contingent upon available funding.

(3) Scholars named to the award after June 30, 1994, may transfer among in-state public or private colleges and universities and continue to receive the grant contingent upon available funding.

(4) In addition, scholars who transfer to an eligible independent institution may receive the grant contingent upon the agreement of the school to match on at least a dollar-for-dollar basis, either with actual money or by a waiver of fees, the amount of the grant received by the student from the state. [1995 1st sp.s. c 5 § 4; 1988 c 210 § 2.]

**Severability—Effective date—1995 1st sp.s. c 5:** See notes following RCW 28A.600.130.

**28B.80.272 Washington award for vocational excellence—Grants—Definitions.** (1) Recipients of the Washington award for vocational excellence under RCW 28C.04.520 through 28C.04.550, who receive the award after June 30, 1994, may receive a grant, if funds are available. The grant shall be used to attend a postsecondary institution located in the state of Washington. Recipients may attend an institution of higher education as defined in RCW 28B.10.016, or an independent college or university, or a licensed private vocational school. The higher education coordinating board shall distribute grants to eligible students under this section from moneys appropriated for this purpose. The individual grants shall not exceed, on a yearly basis, the yearly, full-time, resident, undergraduate tuition and service and activities fees in effect at the state-funded research universities. In consultation with the work force training and education coordinating board, the higher education coordinating board shall establish procedures, by rule, to disburse the awards as direct grants to the students.

(2) To qualify for the grant, recipients shall enter the postsecondary institution within three years of high school graduation and maintain a minimum grade point average at the institution equivalent to 3.00, or, at a technical college, an above average rating. Students shall be eligible to receive a maximum of two years of grants for undergraduate study and may transfer among in-state eligible postsecondary institutions during that period and continue to receive the grant.

(3) No grant may be awarded to any student who is pursuing a degree in theology.

(4) As used in this section, "independent college or university" means a private, nonprofit educational institution, the main campus of which is permanently situated in the state, open to residents of the state, providing programs of education beyond the high school level leading at least to the baccalaureate degree, and accredited by the Northwest association of schools and colleges as of June 9, 1988, and other institutions as may be developed that are approved by

the higher education coordinating board as meeting equivalent standards as those institutions accredited under this section.

(5) As used in this section, "licensed private vocational school" means a private postsecondary institution, located in the state, licensed by the work force training and education coordinating board under chapter 28C.10 RCW, and offering postsecondary education in order to prepare persons for a vocation or profession, as defined in RCW 28C.10.020(7). [1995 1st sp.s. c 7 § 8.]

**Severability—1995 1st sp.s. c 7:** See note following RCW 28C.04.520.

**28B.80.360 Administrative responsibilities—Report to the legislature.** The board shall perform the following administrative responsibilities:

(1) Administer the programs set forth in the following statutes: RCW 28A.600.100 through 28A.600.150 (Washington scholars); chapter 28B.04 RCW (displaced homemakers); chapter 28B.85 RCW (degree-granting institutions); RCW 28B.10.210 through 28B.10.220 (blind students subsidy); RCW 28B.10.800 through 28B.10.824 (student financial aid program); chapter 28B.12 RCW (work study); RCW 28B.15.067 (establishing tuition and fees); RCW 28B.15.543 (tuition waivers for Washington scholars); RCW 28B.15.760 through 28B.15.766 (math and science loans); RCW 28B.80.150 through 28B.80.170 (student exchange compact); RCW 28B.80.240 (student aid programs); and RCW 28B.80.210 (federal programs).

(2) Study the delegation of the administration of the following: RCW 28B.65.040 through 28B.65.060 (high-technology board); chapter 28B.85 RCW (degree-granting institutions); RCW 28B.80.150 through 28B.80.170 (student exchange compact programs); RCW 28B.80.200 (state commission for federal law purposes); RCW 28B.80.210 (enumerated federal programs); RCW 28B.80.230 (receipt of federal funds); RCW 28B.80.240 (student financial aid programs); RCW 28A.600.120 through 28A.600.150 (Washington scholars); RCW 28B.15.543 (Washington scholars); RCW 28B.04.020 through 28B.04.110 (displaced homemakers); RCW 28B.10.215 and 28B.10.220 (blind students); RCW 28B.10.790, 28B.10.792, and 28B.10.802 through 28B.10.844 (student financial aid); RCW 28B.12.040 through 28B.12.070 (student work study); RCW 28B.15.100 (reciprocity agreement); RCW 28B.15.730 through 28B.15.736 (Oregon reciprocity); RCW 28B.15.750 through 28B.15.754 (Idaho reciprocity); RCW 28B.15.756 and 28B.15.758 (British Columbia reciprocity); and RCW 28B.15.760 through 28B.15.764 (math/science loans). The board shall report the results of its study and recommendations to the legislature. [1995 1st sp.s. c 9 § 12; 1990 c 33 § 561; 1986 c 136 § 20; 1985 c 370 § 7.]

**Intent—Purpose—Effective date—1995 1st sp.s. c 9:** See notes following RCW 28B.15.031.

**Purpose—Statutory references—Severability—1990 c 33:** See RCW 28A.900.100 through 28A.900.102.

**Severability—Effective date—1986 c 136:** See RCW 28B.85.900 and 28B.85.902.

**28B.80.550 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**28B.80.555 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**28B.80.570 Rural natural resources impact areas—Program for dislocated workers—Definitions.** Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 28B.80.575 through 28B.80.585.

(1) "Board" means the higher education coordinating board.

(2) "Dislocated forest products worker" means a forest products worker who: (a)(i) Has been terminated or received notice of termination from employment and is unlikely to return to employment in the individual's principal occupation or previous industry because of a diminishing demand for his or her skills in that occupation or industry; or (ii) is self-employed and has been displaced from his or her business because of the diminishing demand for the business's services or goods; and (b) at the time of last separation from employment, resided in or was employed in a rural natural resources impact area.

(3) "Forest products worker" means a worker in the forest products industries affected by the reduction of forest fiber enhancement, transportation, or production. The workers included within this definition shall be determined by the employment security department, but shall include workers employed in the industries assigned the major group standard industrial classification codes "24" and "26" and the industries involved in the harvesting and management of logs, transportation of logs and wood products, processing of wood products, and the manufacturing and distribution of wood processing and logging equipment. The commissioner may adopt rules further interpreting these definitions. For the purposes of this subsection, "standard industrial classification code" means the code identified in RCW 50.29.025(6)(c).

(4) "Dislocated salmon fishing worker" means a salmon products worker who: (a)(i) Has been terminated or received notice of termination from employment and is unlikely to return to employment in the individual's principal occupation or previous industry because of a diminishing demand for his or her skills in that occupation or industry; or (ii) is self-employed and has been displaced from his or her business because of the diminishing demand for the business's services or goods; and (b) at the time of last separation from employment, resided in or was employed in a rural natural resources impact area.

(5) "Salmon fishing worker" means a worker in the salmon industry affected by 1994 or future salmon disasters. The workers included within this definition shall be determined by the employment security department, but shall include workers employed in the industries involved in the commercial and recreational harvesting of salmon including buying and processing salmon. The commissioner may adopt rules further interpreting these definitions.

(6) "Rural natural resources impact area" means:

(a) A nonmetropolitan county, as defined by the 1990 decennial census, that meets two of the five criteria set forth in subsection (7) of this section; or

(b) A nonurbanized area, as defined by the 1990 decennial census, that is located in a metropolitan county

that meets two of the five criteria set forth in subsection (7) of this section.

(7) For the purposes of designating rural natural resources impact areas, the following criteria shall be considered:

(a) A lumber and wood products employment location quotient at or above the state average;

(b) A commercial salmon fishing employment location quotient at or above the state average;

(c) Projected or actual direct lumber and wood products job losses of one hundred positions or more;

(d) Projected or actual direct commercial salmon fishing job losses of one hundred positions or more; and

(e) An unemployment rate twenty percent or more above the state average. The counties that meet these criteria shall be determined by the employment security department for the most recent year for which data is available. For the purposes of administration of programs under this chapter, the United States post office five-digit zip code delivery areas will be used to determine residence status for eligibility purposes. For the purpose of this definition, a zip code delivery area that is located wholly or partially in an urbanized area or within two miles of an urbanized area is considered urbanized. The office of financial management shall make available a zip code listing of the areas to all agencies and organizations providing services under this chapter. [1995 c 226 § 20; 1992 c 21 § 6; 1991 c 315 § 18.]

**Sunset Act application:** See note following RCW 43.31.601.

**Severability—Conflict with federal requirements—Effective date—1995 c 226:** See notes following RCW 43.31.601.

**Intent—1991 c 315:** See note following RCW 50.12.270.

**Severability—Conflict with federal requirements—Effective date—1991 c 315:** See RCW 50.70.900 through 50.70.902.

**28B.80.575 Rural natural resources impact areas—Program for dislocated workers—Duties.** The board shall administer a program designed to provide upper division higher education opportunities to dislocated forest products workers, their spouses, and others in rural natural resources impact areas. In administering the program, the board shall have the following powers and duties:

(1) Distribute funding for institutions of higher education to service placebound students in the rural natural resources impact areas meeting the following criteria, as determined by the employment security department: (a) A lumber and wood products employment location quotient at or above the state average; (b) a commercial salmon fishing employment location quotient at or above the state average; (c) a direct lumber and wood products job loss of one hundred positions or more; (d) projected or actual direct commercial salmon fishing job losses of one hundred positions or more; and (e) an annual unemployment rate twenty percent above the state average; and

(2) Monitor the program and report on student progress and outcome. [1995 c 269 § 1001; 1995 c 226 § 21; 1991 c 315 § 19.]

**Reviser's note:** This section was amended by 1995 c 226 § 21 and by 1995 c 269 § 1001, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Sunset Act application:** See note following RCW 43.31.601.

**Effective date—1995 c 269:** See note following RCW 13.40.025.

**Part headings not law—Severability—1995 c 269:** See notes following RCW 13.40.005.

**Severability—Conflict with federal requirements—Effective date—1995 c 226:** See notes following RCW 43.31.601.

**Intent—1991 c 315:** See note following RCW 50.12.270.

**Severability—Conflict with federal requirements—Effective date—1991 c 315:** See RCW 50.70.900 through 50.70.902.

**28B.80.580 Rural natural resources impact areas—Program for dislocated workers—Placebound students—Waiver from tuition and fees.** (1) The board shall contract with institutions of higher education to provide upper division classes to serve additional placebound students in the rural natural resources impact areas meeting the following criteria, as determined by the employment security department: (a) A lumber and wood products employment location quotient at or above the state average; (b) a commercial salmon fishing employment location quotient at or above the state average; (c) a direct lumber and wood products job loss of one hundred positions or more; (d) projected or actual direct commercial salmon fishing job losses of one hundred positions or more; and (e) an annual unemployment rate twenty percent above the state average; and which are not served by an existing state-funded upper division degree program. The number of full-time equivalent students served in this manner shall be determined by the applicable omnibus appropriations act. The board may direct that all the full-time equivalent enrollments be served in one of the eligible rural natural resources impact areas if it should determine that this would be the most viable manner of establishing the program and using available resources. The institutions shall utilize telecommunication technology, if available, to carry out the purposes of this section. Subject to the limitations of RCW 28B.15.910, the institutions providing the service may waive all or a portion of the tuition, and service and activities fees for dislocated forest products workers or their unemployed spouses enrolled as one of the full-time equivalent students allocated to the college under this section.

(2) Unemployed spouses of eligible dislocated forest products workers may participate in the program, but tuition and fees may be waived under the program only for the worker or the spouse and not both.

(3) Subject to the limitations of RCW 28B.15.910, for any eligible participant, all or a portion of tuition may be waived for a maximum of four semesters or six quarters within a two-year time period. The participant must be enrolled for a minimum of ten credits per semester or quarter. [1995 c 226 § 22; 1993 sp.s. c 18 § 34; 1992 c 231 § 31; 1991 c 315 § 20.]

**Sunset Act application:** See note following RCW 43.31.601.

**Severability—Conflict with federal requirements—Effective date—1995 c 226:** See notes following RCW 43.31.601.

**Effective date—1993 sp.s. c 18:** See note following RCW 28B.10.265.

**Effective date—1992 c 231:** See note following RCW 28B.10.016.

**Intent—1991 c 315:** See note following RCW 50.12.270.

**Severability—Conflict with federal requirements—Effective date—1991 c 315:** See RCW 50.70.900 through 50.70.902.

**28B.80.585 Rural natural resources impact areas—Program for dislocated workers—Priority.** Dislocated forest products and salmon products workers and their spouses shall receive priority for attendance in upper division courses allocated under RCW 28B.80.580. Remaining allocations may be distributed to others in the rural natural resources impact area. [1995 c 226 § 23; 1991 c 315 § 21.]

**Sunset Act application:** See note following RCW 43.31.601.

**Severability—Conflict with federal requirements—Effective date—1995 c 226:** See notes following RCW 43.31.601.

**Intent—1991 c 315:** See note following RCW 50.12.270.

**Severability—Conflict with federal requirements—Effective date—1991 c 315:** See RCW 50.70.900 through 50.70.902.

## Chapter 28B.85

### DEGREE-GRANTING INSTITUTIONS

#### Sections

28B.85.200	Degree-granting private vocational schools—Account in tuition recovery trust fund.
28B.85.210	Degree-granting private vocational schools—Account in tuition recovery trust fund—Use of funds.

**28B.85.200 Degree-granting private vocational schools—Account in tuition recovery trust fund.** The board shall deposit all moneys received under RCW 28B.85.210 into a separate account in the tuition recovery trust fund established under RCW 28C.10.082. Moneys deposited in the fund by the board shall be spent only for the purposes under RCW 28B.85.210. Claims against the fund made by students in degree programs shall be limited to the assets in the board's separate account in the tuition recovery trust fund. Claims against the fund made by students in nondegree programs shall be limited to assets deposited by the work force training and education coordinating board in the tuition recovery trust fund. Disbursements from its account in the fund shall be made on authorization of the board. [1995 c 176 § 1; 1994 c 38 § 3.]

**Effective date—1995 c 176:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 1, 1995]." [1995 c 176 § 3.]

**28B.85.210 Degree-granting private vocational schools—Account in tuition recovery trust fund—Use of funds.** (1) The board shall maintain and administer a separate account for degree-granting private vocational schools in the tuition recovery trust fund established under RCW 28C.10.082. The board shall require any degree-granting private vocational school subject to this chapter to make cash deposits into the board's account in the tuition recovery trust fund in an amount determined by the board.

(2) All funds collected for the board's account in the tuition recovery trust fund are payable to the state for the benefit and protection of any student or enrollee of a degree-granting private vocational school's degree programs authorized under this chapter, or in the case of a minor, his or her parent or guardian for purposes including but not limited to the settlement of claims related to school closures and complaints filed under RCW 28B.85.090(1). The board's account shall be liable for settlement of claims and costs of administration, but shall not be liable to pay out or

recover penalties assessed under RCW 28B.85.100 or 28B.85.110. No liability accrues to the state of Washington from claims made against the fund.

(3) The board shall establish by rule a minimum operating balance that is required to be on deposit in its account in the fund by a specified date and maintained thereafter. If disbursements reduce the account below the minimum amount, each participating degree-granting private vocational school shall be assessed a pro rata share of the deficiency created, based on the incremental scale of each school's liability specified in subsection (5) of this section. The board shall adopt by rule schedules of times and amounts for effecting payments of assessments.

(4) To be and remain authorized under this chapter each degree-granting private vocational school shall, in addition to other requirements under this chapter, make cash deposits into the board's account in the tuition recovery trust fund as a means to assure payment of claims brought under this chapter.

(5) The amount of liability that can be satisfied by this account on behalf of each individual degree-granting private vocational school authorized under this chapter shall be established by the board, based on an incremental scale that recognizes the average amount of unearned prepaid tuition paid for degree programs that is in possession of the degree-granting private vocational school.

(6) The account's liability with respect to each participating degree-granting private vocational school commences on the date of its initial deposit into the fund and ceases one year from the date it is no longer authorized under this chapter.

(7) The board shall adopt by rule a matrix for calculating the deposits into the account required of each degree-granting private vocational school.

(8) No vested right or interest in deposited funds is created or implied for the depositor, either at any time during the operation of the fund or at any such future time that the board's account in the fund may be dissolved. All funds deposited are payable to the state for the purposes described under this section. No deposits made into the fund by any degree-granting private vocational school are transferable. If the majority ownership interest in a school is conveyed through sale or other means to different ownership, all contributions made to the date of conveyance accrue to the fund. The new owner commences contributions under provisions applying to new applicants. The board shall maintain its account in the fund, serve appropriate notices to affected entities when scheduled deposits are due, collect deposits, and make disbursements to settle claims against its account.

(9) To settle claims adjudicated under RCW 28B.85.090(1) and claims resulting when a degree-granting private vocational school ceases to provide educational services, the board may make disbursements from its account following the procedure in this subsection.

(a) The board shall attempt to notify all potential claimants. The unavailability of records and other circumstances surrounding a school closure may make it impossible or unreasonable for the board to ascertain the names and locations of each potential claimant but the board shall make reasonable inquiries to secure that information from all likely sources. The board shall then proceed to settle the claims on

the basis of information in its possession. The board is not responsible or liable for claims or for handling claims that may subsequently appear or be discovered.

(b) Thirty days after identified potential claimants have been notified, if a claimant refuses or neglects to file a claim verification as requested in such notice, the board shall be relieved of further duty or action on behalf of the claimant under this chapter.

(c) After verification and review, the board may disburse funds from its account in the tuition recovery trust fund to settle or compromise the claims. However, the liability of its account for claims against the closed degree-granting private vocational school shall not exceed the maximum amount of liability assigned to that degree-granting private vocational school under subsection (5) of this section.

(d) In the instance of claims against a closed school, the board shall seek to recover such disbursed funds from the assets of the defaulted degree-granting private vocational school, including but not limited to asserting claims as a creditor in bankruptcy proceedings.

(10) If funds are disbursed to settle claims against a currently authorized degree-granting private vocational school, the board shall make demand upon the authorized school for recovery. The board shall adopt by rule schedules of times and amounts for effecting recoveries. A degree-granting private vocational school's failure to perform subjects its authorization to suspension or revocation under RCW 28B.85.080 in addition to any other remedies available to the board. [1995 c 176 § 2; 1994 c 38 § 4.]

Effective date—1995 c 176: See note following RCW 28B.85.200.

## Chapter 28B.90

### FOREIGN DEGREE-GRANTING BRANCH CAMPUSES

#### Sections

28B.90.005 Findings.

**28B.90.005 Findings.** The legislature finds that it has previously declared in RCW 28B.107.005 that it is important to the economic future of the state to promote international awareness and understanding, and in RCW 1.20.100, that the state's economy and economic well-being depends heavily on foreign trade and international exchange.

The legislature finds that it is appropriate that such policies should be implemented by encouraging universities and colleges domiciled in foreign countries to establish branch campuses in Washington and that it is also important to those foreign colleges and universities that their status as authorized foreign degree-granting institutions be recognized by this state to facilitate the establishment and operation of such branch campuses.

In the furtherance of such policy, the legislature adopts the foreign degree-granting institution approved branch campus act. [1995 c 335 § 404; 1993 c 181 § 1.]

Part headings, table of contents not law—1995 c 335: See note following RCW 28A.150.360.

**Chapter 28B.102**  
**FUTURE TEACHERS CONDITIONAL**  
**SCHOLARSHIP PROGRAM**

## Sections

28B.102.900 Repealed.

**28B.102.900 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**Title 28C**  
**VOCATIONAL EDUCATION**

## Chapters

28C.04 Vocational education.

28C.18 Work force training and education.

**Chapter 28C.04**  
**VOCATIONAL EDUCATION**

## Sections

28C.04.440	Job skills program—Interagency agreement by commission and the department of community, trade, and economic development and the employment security department.
28C.04.460	Job skills program—Duties of department of community, trade, and economic development.
28C.04.520	Washington award for vocational excellence—Intent.
28C.04.525	Washington award for vocational excellence—Establishment—Purposes.
28C.04.530	Washington award for vocational excellence—Board's duties.
28C.04.535	Washington award for vocational excellence—Granted annually—Notice—Presentation.
28C.04.540	Washington award for vocational excellence—Contributions.
28C.04.545	Washington award for vocational excellence—Fee waivers—Grants.

**28C.04.440 Job skills program—Interagency agreement by commission and the department of community, trade, and economic development and the employment security department.** The department of community, trade, and economic development and the employment security department shall each enter into an interagency agreement with the \*commission on vocational education to establish cooperative working arrangements for the purposes of RCW 28C.04.410 through 28C.04.480. [1995 c 399 § 32; 1985 c 466 § 40; 1983 1st ex.s. c 21 § 6.]

**\*Reviser's note:** The commission on vocational education and its powers and duties, pursuant to the Sunset Act, chapter 43.131 RCW, were terminated June 30, 1986, and repealed June 30, 1987. See 1983 c 197 §§ 17 and 43.

**Effective date—Severability—1985 c 466:** See notes following RCW 43.31.085.

**Severability—1983 1st ex.s. c 21:** See note following RCW 28C.04.400.

**28C.04.460 Job skills program—Duties of department of community, trade, and economic development.** The department of community, trade, and economic develop-

ment or its successor shall for the purposes of RCW 28C.04.410 through 28C.04.480:

(1) Work cooperatively with the \*commission on vocational education to market the job skills program to business and economic development agencies and other firms;

(2) Recruit industries from outside the state to participate in the job skills training program; and

(3) Refer business and industry interested in developing a job skills training program to the \*commission on vocational education. [1995 c 399 § 33; 1985 c 466 § 41; 1983 1st ex.s. c 21 § 8.]

**\*Reviser's note:** The commission on vocational education and its powers and duties, pursuant to the Sunset Act, chapter 43.131 RCW, were terminated June 30, 1986, and repealed June 30, 1987. See 1983 c 197 §§ 17 and 43.

**Effective date—Severability—1985 c 466:** See notes following RCW 43.31.085.

**Severability—1983 1st ex.s. c 21:** See note following RCW 28C.04.400.

**28C.04.520 Washington award for vocational excellence—Intent.** Every year community colleges, technical colleges, and high schools graduate students who have distinguished themselves by their outstanding performance in their occupational training programs. The legislature intends to recognize and honor these students by establishing a Washington award for vocational excellence. [1995 1st sp.s. c 7 § 1; 1984 c 267 § 1.]

**Severability—1995 1st sp.s. c 7:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1995 1st sp.s. c 7 § 9.]

**28C.04.525 Washington award for vocational excellence—Establishment—Purposes.** The Washington award for vocational excellence program is established. The purposes of this annual program are to:

(1) Maximize public awareness of the achievements, leadership ability, and community contributions of the students enrolled in occupational training programs in high schools, community colleges, and technical colleges;

(2) Emphasize the dignity of work in our society;

(3) Instill respect for those who become skilled in crafts and technology;

(4) Recognize the value of vocational education and its contribution to the economy of this state;

(5) Foster business, labor, and community involvement in vocational-technical training programs and in this award program; and

(6) Recognize the outstanding achievements of up to three vocational or technical students, at least two of whom should be graduating high school students, in each legislative district. Students who have completed at least one year of a vocational-technical program in a community college or public technical college may also be recognized. [1995 1st sp.s. c 7 § 2; 1987 c 231 § 3; 1984 c 267 § 2.]

**Severability—1995 1st sp.s. c 7:** See note following RCW 28C.04.520.

**Effective date—1987 c 231 § 3:** "Section 3 of this act shall take effect January 1, 1988." [1987 c 231 § 6.]

**28C.04.530 Washington award for vocational excellence—Board's duties.** (1) The work force training and education coordinating board shall have the responsibility for the development and administration of the Washington award for vocational excellence program. The work force training and education coordinating board shall develop the program in consultation with other state agencies and private organizations having interest and responsibility in vocational education, including but not limited to: The state board for community and technical colleges, the office of the superintendent of public instruction, a voluntary professional association of vocational educators, and representatives from business, labor, and industry.

(2) The work force training and education coordinating board shall establish a planning committee to develop the criteria for screening and selecting the students who will receive the award. This criteria shall include but not be limited to the following characteristics: Proficiency in their chosen fields, attendance, attitude, character, leadership, and civic contributions. [1995 1st sp.s. c 7 § 3; 1987 c 231 § 2; 1984 c 267 § 3.]

**Severability—1995 1st sp.s. c 7:** See note following RCW 28C.04.520.

**28C.04.535 Washington award for vocational excellence—Granted annually—Notice—Presentation.** The Washington award for vocational excellence shall be granted annually. The work force training and education coordinating board shall notify the students receiving the award, their vocational instructors, local chambers of commerce, the legislators of their respective districts, and the governor, after final selections have been made. The work force training and education coordinating board, in conjunction with the governor's office, shall prepare appropriate certificates to be presented to the selected students. Awards shall be presented in public ceremonies at times and places determined by the work force training and education coordinating board in cooperation with the office of the governor. [1995 1st sp.s. c 7 § 4; 1984 c 267 § 4.]

**Severability—1995 1st sp.s. c 7:** See note following RCW 28C.04.520.

**28C.04.540 Washington award for vocational excellence—Contributions.** The work force training and education coordinating board may accept any and all donations, grants, bequests, and devices, conditional or otherwise, or money, property, service, or other things of value which may be received from any federal, state, or local agency, any institution, person, firm, or corporation, public and private, to be held, used, or applied for the purposes of the Washington award for vocational excellence program. The work force training and education coordinating board shall encourage maximum participation from business, labor, and community groups. The work force training and education coordinating board shall also coordinate, where feasible, the contribution activities of the various participants.

The work force training and education coordinating board shall not make expenditures from funds collected under this section until February 15, 1985. [1995 1st sp.s. c 7 § 5; 1984 c 267 § 5.]

**Severability—1995 1st sp.s. c 7:** See note following RCW 28C.04.520.

**28C.04.545 Washington award for vocational excellence—Fee waivers—Grants.** (1) The respective governing boards of the public technical colleges shall provide fee waivers for a maximum of two years for those recipients of the Washington award for vocational excellence established under RCW 28C.04.520 through 28C.04.540 who received the award before June 30, 1994. To qualify for the waiver, recipients shall enter the public technical college within three years of receiving the award. An above average rating at the \*vocational-technical institute in the first year shall be required to qualify for the second-year waiver.

(2) Students named by the work force training and education coordinating board after June 30, 1994, as recipients of the Washington award for vocational excellence under RCW 28C.04.520 through 28C.04.550 shall be eligible to receive a grant for undergraduate course work as authorized under RCW 28B.80.272. [1995 1st sp.s. c 7 § 6; 1987 c 231 § 4; 1984 c 267 § 7.]

**\*Reviser's note:** Vocational-technical institutes are now referred to as technical colleges pursuant to 1991 c 238.

**Severability—1995 1st sp.s. c 7:** See note following RCW 28C.04.520.

## Chapter 28C.18

### WORK FORCE TRAINING AND EDUCATION

#### Sections

28C.18.050	Board designation and functions for federal purposes—Monitoring state plans for consistency.
28C.18.070	Intent—"Program" clarified.
28C.18.080	Comprehensive plan—Contents—Updates—Agency operating plans—Reports to the legislature.
28C.18.090	Additional board duties—Program evaluation by operating agencies.
28C.18.100	Assessments by board—Biennial report to legislature and governor.
28C.18.110	Identification of policies and methods to promote efficiency and sharing of resources—Report to governor and legislature.

#### **28C.18.050 Board designation and functions for federal purposes—Monitoring state plans for consistency.**

(1) The board shall be designated as the state board of vocational education as provided for in P.L. 98-524, as amended, and shall perform such functions as is necessary to comply with federal directives pertaining to the provisions of such law.

(2) The board shall perform the functions of the human resource investment council as provided for in the federal job training partnership act, P.L. 97-300, as amended.

(3) The board shall provide policy advice for any federal act pertaining to work force development that is not required by state or federal law to be provided by another state body.

(4) Upon enactment of new federal initiatives relating to work force development, the board shall advise the governor and the legislature on mechanisms for integrating the federal initiatives into the state's work force development system and make recommendations on the legislative or administra-



tive measures necessary to streamline and coordinate state efforts to meet federal guidelines.

(5) The board shall monitor for consistency with the state comprehensive plan for work force training and education the policies and plans established by the state job training coordinating council, the advisory council on adult education, and the Washington state plan for adult basic education, and provide guidance for making such policies and plans consistent with the state comprehensive plan for work force training and education. [1995 c 130 § 3; 1991 c 238 § 6.]

**28C.18.070 Intent—"Program" clarified.** (1) The legislature continues to recognize the vital role that work force development efforts play in equipping the state's workers with the skills they need to succeed in an economy that requires higher levels of skill and knowledge. The legislature also recognizes that businesses are increasingly relying on the state's work force development programs and expect them to be responsive to their changing skill requirements. The state benefits from a work force development system that allows firms and workers to be highly competitive in global markets.

(2) The establishment of the work force training and education coordinating board was an integral step in developing a strategic approach to work force development. For the coordinating board to carry out its intended role, the board must be able to give unambiguous guidance to operating agencies, the governor, and the legislature. It is the intent of chapter 130, Laws of 1995, to clarify the preeminent role intended for the work force training and education coordinating board in coordination and policy development of the state's work force development efforts.

(3) In the event that federal work force development funds are block granted to the state, it is the intent of the legislature to seek the broadest possible input, from local and state-wide organizations concerned with work force development, on the allocation of the federal funds.

(4) For purposes of RCW 28C.18.080 through 28C.18.110, the term "program" shall not refer to the activities of individual institutions such as individual community or technical colleges, common schools, service delivery areas, or job service centers; nor shall it refer to individual fields of study or courses. [1995 c 130 § 1.]

**28C.18.080 Comprehensive plan—Contents—Updates—Agency operating plans—Reports to the legislature.** (1) The state comprehensive plan for work force training and education shall be updated every two years and presented to the governor and the appropriate legislative policy committees. Following public hearings, the legislature shall, by concurrent resolution, approve or recommend changes to the initial plan and the updates. The plan shall then become the state's work force training policy unless legislation is enacted to alter the policies set forth in the plan.

(2) The comprehensive plan shall include work force training role and mission statements for the work force development programs of operating agencies represented on the board and sufficient specificity regarding expected

actions by the operating agencies to allow them to carry out actions consistent with the comprehensive plan.

(3) Operating agencies represented on the board shall have operating plans for their work force development efforts that are consistent with the comprehensive plan and that provide detail on implementation steps they will take to carry out their responsibilities under the plan. Each operating agency represented on the board shall provide an annual progress report to the board.

(4) The comprehensive plan shall include recommendations to the legislature and the governor on the modification, consolidation, initiation, or elimination of work force training and education programs in the state.

(5) The board shall report to the appropriate legislative policy committees by December 1 of each year on its progress in implementing the comprehensive plan and on the progress of the operating agencies in meeting their obligations under the plan. [1995 c 130 § 2.]

**28C.18.090 Additional board duties—Program evaluation by operating agencies.** (1) The board shall specify, by December 31, 1995, the common core data to be collected by the operating agencies of the state training system and the standards for data collection and maintenance required in RCW 28C.18.060(8).

(2) The minimum standards for program evaluation by operating agencies required in RCW 28C.18.060(9) shall include biennial program evaluations; the first of such evaluations shall be completed by the operating agencies July 1, 1996. The program evaluation of adult basic skills education shall be provided by the advisory council on adult education.

(3) The board shall complete, by January 1, 1996, its first outcome-based evaluation and, by September 1, 1996, its nonexperimental net-impact and cost-benefit evaluations of the training system. The outcome, net-impact, and cost-benefit evaluations shall for the first evaluations, include evaluations of each of the following programs: Secondary vocational-technical education, work-related adult basic skills education, postsecondary work force training, job training partnership act titles II and III, as well as of the system as a whole.

(4) The board shall use the results of its outcome, net-impact, and cost-benefit evaluations to develop and make recommendations to the legislature and the governor for the modification, consolidation, initiation, or elimination of work force training and education programs in the state.

The board shall perform the requirements of this section in cooperation with the operating agencies. [1995 c 130 § 4.]

**28C.18.100 Assessments by board—Biennial report to legislature and governor.** The board shall, by January 1, 1996, and biennially thereafter: (1) Assess the total demand for training from the perspective of workers, and from the perspective of employers; (2) assess the available supply of publicly and privately provided training which workers and employers are demanding; (3) assess the costs to the state of meeting the demand; and (4) present the legislature and the governor with a strategy for bridging the

gap between the supply and the demand for training services. [1995 c 130 § 5.]

**28C.18.110 Identification of policies and methods to promote efficiency and sharing of resources—Report to governor and legislature.** The board shall, in cooperation with the operating agencies, by January 1, 1996:

(1) Identify policies to reduce administrative and other barriers to efficient operation of the state's work force development system and barriers to improved coordination of work force development in the state. These policies shall include waivers of statutory requirements and administrative rules, as well as implementation of one-stop access to work force development services and school-to-work transition;

(2) Identify ways for operating agencies to share resources, instructors, and curricula through collaboration with other public and private entities to increase training opportunities and reduce costs; and

(3) Report to the governor and the appropriate legislative committees its recommendations for any statutory changes necessary to enhance operational efficiencies or improve coordination. The board shall work with the operating agencies of the state's work force development system to reduce administrative barriers that do not require statutory changes. [1995 c 130 § 6.]

## Title 29 ELECTIONS

### Chapters

- 29.04** General provisions.
- 29.19** Presidential primary.
- 29.27** Certificates and notices.
- 29.51** Polling place regulations during voting hours.
- 29.62** Canvassing the returns.

### Chapter 29.04 GENERAL PROVISIONS

#### Sections

- 29.04.160 Computer file of registered voters—Duplicate copy provided—Restrictions and penalties.
- 29.04.180 Write-in voting—Candidates, declaration.

**29.04.160 Computer file of registered voters—Duplicate copy provided—Restrictions and penalties.** As soon as any or all of the voter registration data from the counties has been received under RCW 29.04.150 and processed, the secretary of state shall provide a duplicate copy of this data to the political party organization or other individual making the request, at cost, shall provide a duplicate copy of the master state-wide computer tape or data file of registered voters to the statute law committee without cost, and shall provide a duplicate copy of the master state-wide computer tape or electronic data file of registered voters to the department of information services for purposes of creating the jury source list without cost. Restrictions as to the commercial use of the information on

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the state-wide computer tape or data file of registered voters, and penalties for its misuse, shall be the same as provided in RCW 29.04.110 and 29.04.120 as now existing or hereafter amended. [1995 c 135 § 2. Prior: 1993 c 441 § 2; 1993 c 408 § 10; 1977 ex.s. c 226 § 1; 1975-'76 2nd ex.s. c 46 § 3.]

**Intent—1995 c 135:** "The only intent of the legislature in this act is to correct multiple amendments and delete obsolete provisions. It is not the intent of the legislature to change the substance or effect of any presently effective statute." [1995 c 135 § 1.]

**Effective date—1993 c 441:** See note following RCW 29.04.150.

**Severability—Effective dates—1993 c 408:** See notes following RCW 2.36.054.

### **29.04.180 Write-in voting—Candidates, declaration.**

Any person who desires to be a write-in candidate and have such votes counted at a primary or election may, if the jurisdiction of the office sought is entirely within one county, file a declaration of candidacy with the county auditor not later than the day before the primary or election. If the jurisdiction of the office sought encompasses more than one county the declaration of candidacy shall be filed with the secretary of state not later than the day before the primary or election. Declarations of candidacy for write-in candidates must be accompanied by a filing fee in the same manner as required of other candidates filing for the office as provided in RCW 29.15.050.

Votes cast for write-in candidates who have filed such declarations of candidacy and write-in votes for persons appointed by political parties pursuant to RCW 29.18.160 need only specify the name of the candidate in the appropriate location on the ballot in order to be counted. Write-in votes cast for any other candidate, in order to be counted, must designate the office sought and position number or political party, if applicable.

No person may file as a write-in candidate where:

(1) At a general election, the person attempting to file either filed as a write-in candidate for the same office at the preceding primary or the person's name appeared on the ballot for the same office at the preceding primary;

(2) The person attempting to file as a write-in candidate has already filed a valid write-in declaration for that primary or election, unless one or the other of the two filings is for the office of precinct committeeperson;

(3) The name of the person attempting to file already appears on the ballot as a candidate for another office, unless one of the two offices for which he or she is a candidate is precinct committeeperson.

The declaration of candidacy shall be similar to that required by RCW 29.15.010. No write-in candidate filing under RCW 29.04.180 may be included in any voter's pamphlet produced under chapter 29.80 RCW unless that candidate qualifies to have his or her name printed on the general election ballot. The legislative authority of any jurisdiction producing a local voter's pamphlet under chapter 29.81A RCW may provide, by ordinance, for the inclusion of write-in candidates in such pamphlets. [1995 c 158 § 1; 1990 c 59 § 100; 1988 c 181 § 1.]

**Intent—Effective date—1990 c 59:** See notes following RCW 29.01.006.

**Chapter 29.19  
PRESIDENTIAL PRIMARY**

Sections

29.19.020	Date.
29.19.040	Repealed.
29.19.045	Procedures—Ballot form and arrangement.
29.19.050	Repealed.
29.19.055	Allocation of delegates—Party declarations.
29.19.060	Repealed.
29.19.070	Rules.
29.19.080	Costs.

**29.19.020 Date.** (1) On the fourth Tuesday in May of each year in which a president of the United States is to be nominated and elected, a presidential primary shall be held at which voters may vote for the nominee of a major political party for the office of president. The secretary of state may propose an alternative date for the primary no later than the first day of August of the year before the year in which a president is to be nominated and elected.

(2) No later than the first day of September of the year before the year in which a presidential nominee is selected, the state committee of any major political party that will use the primary results for candidates of that party may propose an alternative date for that primary.

(3) If an alternative date is proposed under subsection (1) or (2) of this section, a committee consisting of the chair and the vice-chair of the state committee of each major political party, the secretary of state, the majority leader and minority leader of the senate, and the speaker and the minority leader of the house of representatives shall meet and, if affirmed by a two-thirds vote of the members of the committee, the date of the primary shall be changed. The committee shall meet and decide on the proposed alternate date not later than the first day of October of the year before the year in which a presidential nominee is selected. The secretary of state shall convene and preside over the meeting of the committee. A committee member other than a legislator may appoint, in writing, a designee to serve on his or her behalf. A legislator who is a member of the committee may appoint, in writing, another legislator to serve on his or her behalf.

(4) If an alternate date is approved under this section, the secretary of state shall adopt rules under RCW 29.19.070 to adjust the deadlines in RCW 29.19.030 and related provisions of this chapter to correspond with the date that has been approved. [1995 1st sp.s. c 20 § 1; 1989 c 4 § 2 (Initiative Measure No. 99).]

**Effective date—1995 1st sp.s. c 20:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [June 15, 1995]." [1995 1st sp.s. c 20 § 7.]

**29.19.040 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**29.19.045 Procedures—Ballot form and arrangement.** (1) Except where necessary to accommodate the national or state rules of a major political party or where this chapter specifically provides otherwise, the presidential primary must be conducted in substantially the same manner as a state partisan primary under this title.

(2) Except as provided under this chapter or by rule of the secretary of state adopted under RCW 29.19.070, the arrangement and form of presidential primary ballots must be substantially as provided for a partisan primary under this title. Whenever requested by a major political party, a separate ballot containing only the candidates of that party who have qualified under RCW 29.19.030 must be provided for a voter who requests a ballot of that party. A primary ballot, containing the names of all the candidates who have qualified for a place on the ballot under RCW 29.19.030, must be provided for nonaffiliated voters.

(3) The ballot must list alphabetically the names of all candidates for the office of president. The ballot must indicate the political party of each candidate adjacent to the name of that candidate. Each ballot must include a blank space to allow the voter to write in the name of any other candidate.

(4) A presidential primary ballot with votes for more than one candidate is void, and notice to this effect, stated in clear, simple language and printed in large type, must appear on the face of each presidential primary ballot or on or about each voting device. [1995 1st sp.s. c 20 § 2.]

**Effective date—1995 1st sp.s. c 20:** See note following RCW 29.19.020.

**29.19.050 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**29.19.055 Allocation of delegates—Party declarations.** (1) A major political party may, under national or state party rules, base the allocation of delegates from this state to the national nominating convention of that party in whole or in part on the participation in precinct caucuses and conventions conducted under the rules of that party.

(2) If requested by a major political party, the secretary of state shall adopt rules under RCW 29.19.070 to provide for any declaration required by that party.

(3) Voters who subscribe to a specific political party declaration under this section must be given ballots that are readily distinguishable from those given to other voters. Votes cast by persons making these declarations must be tabulated and reported separately from other votes cast at the primary and may be used by a major political party in its allocation of delegates under the rules of that party.

(4) For a political party that requires a specific voter declaration under this section, the secretary of state shall prescribe rules for providing, to the state and county committees of that political party, a copy of the declarations or a list of the voters who participated in the presidential nominating process of that party. [1995 1st sp.s. c 20 § 3.]

**Effective date—1995 1st sp.s. c 20:** See note following RCW 29.19.020.

**29.19.060 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**29.19.070 Rules.** The secretary of state as chief election officer may make rules in accordance with chapter 34.05 RCW to facilitate the operation, accomplishment, and purpose of this chapter. The secretary of state shall adopt rules consistent with this chapter to comply with national or

state political party rules. [1995 1st sp.s. c 20 § 4; 1989 c 4 § 7 (Initiative Measure No. 99).]

**Effective date—1995 1st sp.s. c 20:** See note following RCW 29.19.020.

**29.19.080 Costs.** Subject to available funds specifically appropriated for this purpose, whenever a presidential primary is held as provided by this chapter, the state of Washington shall assume all costs of holding the primary if it is held alone. If any other election or elections are held at the same time, the state is liable only for a prorated share of the costs. The county auditor shall determine the costs, including the state's prorated share, if applicable, in the same manner as provided under RCW 29.13.045 and shall file a certified claim with the secretary of state. The secretary of state shall include in his or her biennial budget requests sufficient funds to carry out this section. Reimbursements for primary costs must be from appropriations specifically provided by law for that purpose. [1995 1st sp.s. c 20 § 5; 1989 c 4 § 8 (Initiative Measure No. 99).]

**Effective date—1995 1st sp.s. c 20:** See note following RCW 29.19.020.

### Chapter 29.27

#### CERTIFICATES AND NOTICES

##### Sections

29.27.060 Certification of measures—Ballot titles—Exceptions.

**29.27.060 Certification of measures—Ballot titles—Exceptions.** (1) When a proposed constitution or constitutional amendment, initiative measure, referendum bill, or other question is to be submitted to the people of the state for state-wide popular vote, the attorney general shall prepare a concise statement posed as a question and not exceeding twenty-five words containing the essential features thereof expressed in such a manner as to clearly identify the proposition to be voted upon.

Questions to be submitted to the people of a county or municipality shall also be advertised as provided for nominees for office, and in such cases there shall also be printed on the ballot a concise statement posed as a question and not exceeding seventy-five 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 city or town attorney for the city or town, and by the prosecuting attorney for the county or any other unit of local government, other than a city or town, the majority area of which is situated in the county.

The concise statement constitutes the ballot title.

(2) The secretary of state shall certify to the county auditors the ballot title for a proposed constitution, constitutional amendment or other state-wide question at the same time and in the same manner as the ballot titles to initiatives and referendums.

(3) Subsection (1) of this section does not apply to referendum measures filed on an enactment of the state legislature or on an enactment of the legislative authority of a unit of local government, nor does it apply to the extent that other provisions of state law provide otherwise for a specific type of ballot question or proposition. [1995 c 185

§ 1; 1993 c 256 § 8; 1985 c 252 § 1; 1977 c 4 § 3; 1973 1st ex.s. c 118 § 1; 1965 c 9 § 29.27.060. Prior: 1953 c 242 § 1; 1913 c 135 § 1; 1889 p 405 § 14; RRS § 5271.]

**Severability—Effective date—1993 c 256:** See notes following RCW 29.79.500.

**Severability—1977 c 4:** See note following RCW 84.52.052.

*Ballot titles to initiatives and referendums:* RCW 29.79.040 through 29.79.070.

*Review of proposed initiatives by code reviser:* RCW 29.79.015.

### Chapter 29.51

#### POLLING PLACE REGULATIONS DURING VOTING HOURS

##### Sections

29.51.170 Recodified as RCW 29.62.180.

**29.51.170 Recodified as RCW 29.62.180.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

### Chapter 29.62

#### CANVASSING THE RETURNS

##### Sections

29.62.015 County canvassing board—Membership, delegation of authority, public meetings.

29.62.020 County canvassing board—Absentee ballots—Unofficial returns.

29.62.030 Procedure when member a candidate.

29.62.140 Repealed.

29.62.180 Write-in voting—Declaration of candidacy—Counting of vote.

**29.62.015 County canvassing board—Membership, delegation of authority, public meetings.** (1) The county canvassing board consists of three members, designated in writing and filed in the office of the county auditor not later than the day before the first day duties are to be undertaken by the board, as follows:

(a) The county auditor shall designate one member, who shall be the auditor or a deputy auditor;

(b) The county prosecutor shall designate one member, who shall be the prosecutor or a deputy prosecutor; and

(c) The chair of the county legislative authority shall designate one member, who shall be a member of the county legislative authority.

(2) The members designated to the county canvassing board may not include individuals who are candidates for an office to be voted upon at the primary or election to be canvassed, unless no other individuals qualify under subsection (1) of this section.

(3) The county canvassing board may, under rules adopted by the secretary of state, delegate in writing, or at a public meeting, the performance of any task assigned by law to the board. The rules shall not authorize delegation of the responsibility of certifying the returns of a primary or election, of determining the validity of challenged ballots, or of determining the validity of special ballots referred to them by the county auditor.

(4) Meetings of the county canvassing board are public meetings under chapter 42.30 RCW. [1995 c 139 § 1.]

**29.62.020 County canvassing board—Absentee ballots—Unofficial returns.** (1) No later than the tenth day after a special election or primary and no later than the fifteenth day after a general election, the county auditor shall convene the county canvassing board to process the absentee ballots and canvass the votes cast at that primary or election. On the tenth day after a special election or a primary and on the fifteenth day after a general election, the canvassing board shall complete the canvass and certify the results. Each absentee ballot that was returned before the closing of the polls on the date of the primary or election for which it was issued, and each absentee ballot with a date of mailing on or before the date of the primary or election for which it was issued and received on or before the date on which the primary or election is certified, shall be included in the canvass report.

(2) At the request of any caucus of the state legislature, the county auditor shall transmit copies of all unofficial returns of state and legislative primaries or elections prepared by or for the county canvassing board to either the secretary of the senate or the chief clerk of the house. [1995 c 139 § 2; 1987 c 54 § 2; 1965 c 9 § 29.62.020. Prior: 1957 c 195 § 15; prior: 1919 c 163 § 21, part; Code 1881 § 3095, part; 1868 p 20 § 1, part; 1865 p 39 § 6, part; RRS § 5340, part.]

*Absentee ballots, canvassing: RCW 29.36.060.*

**29.62.030 Procedure when member a candidate.** If the primary or election is one at which a member, or the officer designating a member, of the canvassing board is a candidate for an office, decisions regarding the determination of a voter's intent with respect to a vote cast for that specific office shall be made by the other two members of the board not designated by that officer. If the two disagree, the vote shall not be counted unless the number of those votes could affect the result of the primary or election, in which case the secretary of state or a designee shall make the decision on those votes. This section does not restrict participation in decisions as to the acceptance or rejection of entire ballots, unless the office in question is the only one for which the voter cast a vote. [1995 c 139 § 3; 1965 c 9 § 29.62.030. Prior: 1957 c 195 § 16; prior: (i) Code 1881 § 3098; 1865 p 39 § 8; RRS § 5345. (ii) 1919 c 163 § 21, part; Code 1881 § 3095, part; 1868 p 20 § 1, part; 1865 p 39 § 6, part; RRS § 5340, part.]

**29.62.140 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**29.62.180 Write-in voting—Declaration of candidacy—Counting of vote.** For any office at any election or primary, any voter may write in on the ballot the name of any person for an office who has filed as a write-in candidate for the office in the manner provided by RCW 29.04.180 and such vote shall be counted the same as if the name had been printed on the ballot and marked by the voter. No write-in vote made for any person who has not filed a declaration of candidacy pursuant to RCW 29.04.180

is valid if that person filed for the same office, either as a regular candidate or a write-in candidate, at the preceding primary. Any abbreviation used to designate office, position, or political party shall be accepted if the canvassing board can determine, to their satisfaction, the voter's intent.

Write-in votes cast for an office need not be tallied if, assuming all of these write-in votes were cast for the same person, the write-in votes could not have altered the outcome of the primary or election. [1995 c 158 § 2; 1988 c 181 § 5; 1973 1st ex.s. c 121 § 1; 1967 ex.s. c 109 § 28; 1965 ex.s. c 101 § 14; 1965 c 9 § 29.51.170. Prior: (i) 1931 c 14 § 1; 1909 c 82 § 12; RRS § 5213. (ii) 1933 c 85 § 2; RRS § 5213-2. (iii) 1905 c 39 § 1, part; 1889 p 405 § 15, part; RRS § 5272, part. Formerly RCW 29.51.170.]

## Title 30

### BANKS AND TRUST COMPANIES

#### Chapters

- 30.04** General provisions.
- 30.08** Organization and powers.
- 30.22** Financial institution individual account deposit act.

#### Chapter 30.04

#### GENERAL PROVISIONS

##### Sections

- 30.04.111 Limit on loans and extensions of credit to one person—Exceptions.
- 30.04.215 Engaging in other business activities.

**30.04.111 Limit on loans and extensions of credit to one person—Exceptions.** The total loans and extensions of credit by a bank or trust company to a person outstanding at any one time shall not exceed twenty percent of the capital and surplus of such bank or trust company. The following loans and extensions of credit shall not be subject to this limitation:

(1) Loans or extensions of credit arising from the discount of commercial or business paper evidencing an obligation to the person negotiating it with recourse;

(2) Loans or extensions of credit secured by bonds, notes, certificates of indebtedness, or treasury bills of the United States or by other such obligations wholly guaranteed as to principal and interest by the United States;

(3) Loans or extensions of credit to or secured by unconditional takeout commitments or guarantees of any department, agency, bureau, board, commission, or establishment of the United States or any corporation wholly owned directly or indirectly by the United States;

(4) Loans or extensions of credit fully secured by a segregated deposit account or accounts in the lending bank;

(5) Loans or extensions of credit secured by collateral having a readily ascertained market value of at least one hundred fifteen percent of the outstanding amount of the loan or extension of credit;

(6) Loans or extensions of credit secured by bills of lading, warehouse receipts, or similar documents transferring

or securing title to readily marketable staples shall be subject to a limitation of thirty-five percent of capital and surplus in addition to the general limitations, if the market value of the staples securing each additional loan or extension of credit at all times equals or exceeds one hundred fifteen percent of the outstanding amount of the loan or extension of credit. The staples shall be fully covered by insurance whenever it is customary to insure the staples;

(7) The purchase of bankers' acceptances of the kind described in section 13 of the federal reserve act and issued by other banks shall not be subject to any limitation based on capital and surplus;

(8) The unpaid purchase price of a sale of bank property, if secured by such property.

For the purposes of this section "capital" shall include the amount of common stock outstanding and unimpaired, the amount of preferred stock outstanding and unimpaired, and capital notes or debentures issued pursuant to chapter 30.36 RCW.

For the purposes of this section "surplus" shall include capital surplus, reflecting the amounts paid in excess of the par or stated value of capital stock, or amounts contributed to the bank other than for capital stock, and undivided profits.

The term "person" shall include an individual, sole proprietor, partnership, joint venture, association, trust, estate, business trust, corporation, sovereign government or agency, instrumentality, or political subdivision thereof, or any similar entity or organization.

The director may prescribe rules to administer and carry out the purposes of this section, including without limitation rules to define or further define terms used in this section and to establish limits or requirements other than those specified in this section for particular classes or categories of loans or extensions of credit, and to determine when a loan putatively made to a person shall, for purposes of this section, be attributed to another person. In adopting the rules, the director shall be guided by rulings of the comptroller of the currency that govern lending limits applicable to national commercial banks. [1995 c 344 § 1; 1994 c 92 § 12; 1986 c 279 § 3.]

**30.04.215 Engaging in other business activities.** (1) Notwithstanding any other provisions of law, in addition to all powers enumerated by this title, and those necessarily implied therefrom, a bank may engage in other business activities that have been determined by the board of governors of the federal reserve system or by the United States Congress to be closely related to the business of banking, as of December 31, 1993.

(2) A bank that desires to perform an activity that is not expressly authorized by subsection (1) of this section shall first apply to the director for authorization to conduct such activity. Within thirty days of the receipt of this application, the director shall determine whether the activity is closely related to the business of banking, whether the public convenience and advantage will be promoted, whether the activity is apt to create an unsafe or unsound practice by the bank and whether the applicant is capable of performing such an activity. If the director finds the activity to be closely related to the business of banking and the bank is

otherwise qualified, he or she shall forthwith inform the applicant that the activity is authorized. If the director determines that such activity is not closely related to the business of banking or the bank is not otherwise qualified, he or she shall forthwith inform the applicant in writing. The applicant shall have the right to appeal from an unfavorable determination in accordance with the procedures of the Administrative Procedure Act, chapter 34.05 RCW. In determining whether a particular activity is closely related to the business of banking, the director shall be guided by the rulings of the board of governors of the federal reserve system and the comptroller of the currency in making determinations in connection with the powers exercisable by bank holding companies, and the activities performed by other commercial banks or their holding companies.

(3) Notwithstanding any restrictions, limitations, and requirements of law, in addition to all powers, express or implied, that a bank has under the laws of this state, a bank shall have the powers and authorities conferred as of August 31, 1994, upon [a] federally chartered bank doing business in this state. A bank may exercise the powers and authorities conferred on a federally chartered bank after this date, only if the director finds that the exercise of such powers and authorities:

(a) Serves the convenience and advantage of depositors, borrowers, or the general public; and

(b) Maintains the fairness of competition and parity between state-chartered banks and federally chartered banks.

As used in this section, "powers and authorities" include without limitation powers and authorities in corporate governance and operational matters.

The restrictions, limitations, and requirements applicable to specific powers or authorities of federally chartered banks shall apply to banks exercising those powers or authorities permitted under this subsection but only insofar as the restrictions, limitations, and requirements relate to exercising the powers or authorities granted banks solely under this subsection.

(4) Any activity which may be performed by a bank, except the taking of deposits, may be performed by (a) a corporation or (b) another entity approved by the director, which in either case is owned in whole or in part by the bank. [1995 c 344 § 2; 1995 c 134 § 2. Prior: 1994 c 256 § 37; 1994 c 92 § 20; 1986 c 279 § 10; 1983 c 157 § 8; 1969 c 136 § 7.]

**Reviser's note:** This section was amended by 1995 c 134 § 2 and by 1995 c 344 § 2, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Findings—Construction—1994 c 256:** See RCW 43.320.007.

**Severability—1983 c 157:** See note following RCW 30.04.060.

## Chapter 30.08

### ORGANIZATION AND POWERS

#### Sections

- 30.08.020 Notice of intention to organize—Proposed articles of incorporation—Contents.
- 30.08.040 Notice to file articles—Articles approved or refused—Hearing.
- 30.08.095 Schedule of fees to be established.
- 30.08.180 Reports of resources and liabilities.

30.08.190 Time of filing—Availability—Penalty.

**30.08.020 Notice of intention to organize—Proposed articles of incorporation—Contents.** Persons desiring to incorporate a bank or trust company shall file with the director a notice of their intention to organize a bank or trust company in such form and containing such information as the director shall prescribe by rule, together with proposed articles of incorporation, which shall be submitted for examination to the director at his or her office in Olympia.

The proposed articles of incorporation shall state:

- (1) The name of such bank or trust company.
- (2) The city, village or locality and county where the head office of such corporation is to be located.
- (3) The nature of its business, whether that of a commercial bank, or a trust company.
- (4) The amount of its capital stock, which shall be divided into shares of a par or no par value as may be provided in the articles of incorporation.
- (5) The names and places of residence and mailing addresses of the persons who as directors are to manage the corporation until the first annual meeting of its stockholders.
- (6) If there is to be preferred or special classes of stock, a statement of preferences, voting rights, if any, limitations and relative rights in respect of the shares of each class; or a statement that the shares of each class shall have the attributes as shall be determined by the bank's board of directors from time to time with the approval of the director.
- (7) Any provision granting the shareholders the preemptive right to acquire additional shares of the bank and any provision granting shareholders the right to cumulate their votes.
- (8) Any provision, not inconsistent with law, which the incorporators elect to set forth in the articles of incorporation for the regulation of the affairs of the corporation, including any provision restricting the transfer of shares, any provision which under this title is required or permitted to be set forth in the bylaws, and any provision permitted by RCW 23B.17.030.
- (9) Any provision the incorporators elect to set forth, not inconsistent with law or the purposes for which the bank is organized, or any provision limiting any of the powers granted in this title.

It shall not be necessary to set forth in the articles of incorporation any of the corporate powers granted in this title. The articles of incorporation shall be signed by all of the incorporators. [1995 c 134 § 3. Prior: 1994 c 256 § 42; 1994 c 92 § 43; 1986 c 279 § 18; 1981 c 73 § 1; 1973 1st ex.s. c 104 § 4; 1959 c 118 § 1; 1957 c 248 § 1; 1955 c 33 § 30.08.020; prior: (i) 1923 c 115 § 3; 1917 c 80 § 20; RRS § 3227. (ii) 1929 c 174 § 1; 1923 c 115 § 4; 1917 c 80 § 21; RRS § 3228.]

**Findings—Construction—1994 c 256:** See RCW 43.320.007.

**Effective date—1981 c 73:** "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1981." [1981 c 73 § 3.]

**30.08.040 Notice to file articles—Articles approved or refused—Hearing.** After the director is satisfied of the above facts, and, within six months of the date the notice of intention to organize has been received in his or her office,

the director shall notify the incorporators to file executed articles of incorporation with the director in triplicate. Unless the director otherwise consents in writing, such articles shall be in the same form and shall contain the same information as the proposed articles and shall be filed with the director within ten days of such notice. Within thirty days after the receipt of such articles of incorporation, the director shall endorse upon each of the triplicates thereof, over his or her official signature, the word "approved," or the word "refused," with the date of such endorsement. In case of refusal the director shall forthwith return one of the triplicates, so endorsed, together with a statement explaining the reason for refusal to the person from whom the articles were received, which refusal shall be conclusive, unless the incorporators, within ten days of the issuance of such notice of refusal, shall request a hearing pursuant to the Administrative Procedure Act, chapter 34.05 RCW, as now or hereafter amended. [1995 c 134 § 4. Prior: 1994 c 256 § 43; 1994 c 92 § 45; 1981 c 302 § 15; 1973 1st ex.s. c 104 § 6; 1955 c 33 § 30.08.040; prior: 1929 c 72 § 3, part; 1923 c 115 § 5, part; 1917 c 80 § 22, part; RRS § 3229, part.]

**Findings—Construction—1994 c 256:** See RCW 43.320.007.

**Severability—1981 c 302:** See note following RCW 19.76.100.

**30.08.095 Schedule of fees to be established.** The director shall collect fees for the following services:

- For filing application for certificate of authority and attendant investigation as outlined in the law;
- For filing application for certificate conferring trust powers upon a state or national bank;
- For filing articles of incorporation, or amendments thereof, or other certificates required to be filed in his or her office;
- For filing merger agreement and attendant investigation;
- For filing application to relocate main office or branch and attendant investigation;
- For issuing each certificate of authority;
- For furnishing copies of papers filed in his or her office, per page.

The director shall establish the amount of the fee for each of the above transactions, and for other services rendered.

Every bank or trust company shall also pay to the secretary of state for filing any instrument with him or her the same fees as are required of general corporations for filing corresponding instruments, and also the same license fees as are required of general corporations. [1995 c 134 § 5. Prior: 1994 c 256 § 49; 1994 c 92 § 56; 1981 c 302 § 19; 1973 1st ex.s. c 104 § 8; 1969 c 136 § 4; 1955 c 33 § 30.08.095; prior: 1929 c 72 § 1; 1923 c 115 § 1; 1917 c 80 § 12; RRS § 3219. Formerly RCW 30.04.080.]

**Findings—Construction—1994 c 256:** See RCW 43.320.007.

**Severability—1981 c 302:** See note following RCW 19.76.100.

*Indemnification of directors, officers, employees, etc. by corporation authorized:* RCW 23B.08.320, 23B.08.500 through 23B.08.580, 23B.08.600, and 23B.17.030.

**30.08.180 Reports of resources and liabilities.** Every bank and trust company shall make at least three regular reports each year to the director, as of the dates which he or she shall designate, according to form pre-

scribed by him or her, verified by the president, manager or cashier and attested by at least two directors, which shall exhibit under appropriate heads the resources and liabilities of such corporation. The dates designated by the director shall be the dates designated by the comptroller of the currency of the United States for reports of national banking associations.

Every such corporation shall also make such special reports as the director shall call for. [1995 c 344 § 3; 1994 c 92 § 60; 1955 c 33 § 30.08.180. Prior: 1919 c 209 § 4; 1917 c 80 § 5; RRS § 3212.]

**30.08.190 Time of filing—Availability—Penalty.** (1) Every regular report shall be filed with the director within thirty days from the date of issuance of the notice. Every special report shall be filed with the director within such time as shall be specified by him or her in the notice therefor.

(2) The director shall provide a copy of any regular report free of charge to any person that submits a written request for the report.

(3) Every bank and trust company which fails to file any report, required to be filed under subsection (1) of this section and within the time specified, shall be subject to a penalty of fifty dollars per day for each day's delay. A civil action for the recovery of any such penalty may be brought by the attorney general in the name of the state. [1995 c 344 § 4; 1995 c 134 § 6. Prior: 1994 c 256 § 51; 1994 c 92 § 61; 1977 c 38 § 1; 1955 c 33 § 30.08.190; prior: 1917 c 80 § 6; RRS § 3213.]

**Reviser's note:** This section was amended by 1995 c 134 § 6 and by 1995 c 344 § 4, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Findings—Construction—1994 c 256:** See RCW 43.320.007.

## Chapter 30.22

### FINANCIAL INSTITUTION INDIVIDUAL ACCOUNT DEPOSIT ACT

#### Sections

30.22.041	Definitions.
30.22.240	Records—Disclosure—Requests by law enforcement—Fees.
30.22.245	Records—Admission as evidence—Certificate.
30.22.250	No duty to request information.
30.22.901	Severability—1995 c 186.

**30.22.041 Definitions.** The definitions in this section apply throughout this section and RCW 30.22.240 and 30.22.245.

(1) "Customer" means any person, partnership, limited partnership, corporation, trust, or other legal entity that is transacting or has transacted business with a financial institution, that is using or has used the services of an institution, or for which a financial institution has acted or is acting as a fiduciary.

(2) "Financial institution" means state and national banks and trust companies, state and federal savings banks, state and federal savings and loan associations, and state and federal credit unions.

(3) "Law enforcement officer" means an employee of a public law enforcement agency organized under the authority

of a county, city, or town and designated to obtain deposit account information by the chief law enforcement officer of that agency. [1995 c 186 § 1.]

**30.22.240 Records—Disclosure—Requests by law enforcement—Fees.** (1) If a financial institution discloses information in good faith concerning its customer or customers in accordance with this section, it shall not be liable to its customers or others for such disclosure or its consequences. Good faith will be presumed if the financial institution follows the procedures set forth in this section.

(2) A request for financial records made by a law enforcement officer shall be submitted to the financial institution in writing stating that the officer is conducting a criminal investigation of actual or attempted withdrawals from an account at the institution and that the officer reasonably believes a statutory notice of dishonor has been given pursuant to RCW 62A.3-515, fifteen days have elapsed, and the item remains unpaid. The request shall include the name and number of the account and be accompanied by a copy of:

(a) The front and back of at least one unpaid check or draft drawn on the account that has been presented for payment no fewer than two times or has been drawn on a closed account; and

(b) A statement of the dates or time period relevant to the investigation.

(3) To the extent permitted by federal law, under subsection (2) of this section a financial institution shall within a reasonable time disclose to a requesting law enforcement officer so much of the following information as has been requested concerning the account upon which the dishonored check or draft was drawn, to the extent the records can be located:

(a) The date the account was opened; the details and amount of the opening deposit to the account; and if closed, the reason the account was closed, the date the account was closed, and balance at date of closing;

(b) A copy of the statements of the account for the relevant period including dates under investigation and the preceding and following thirty days and the closing statement, if the account was closed;

(c) A copy of the front and back of the signature card; and

(d) If the account was closed by the financial institution, the name of the person notified of its closing and a copy of the notice of the account's closing and whether such notice was returned undelivered.

(4) Financial institutions may charge requesting parties a reasonable fee for the actual costs of providing services under this chapter. These fees may not exceed rates charged to federal agencies for similar requests. In the event an investigation results in conviction, the court may order the defendant to pay costs incurred by law enforcement under chapter 186, Laws of 1995. [1995 c 186 § 2.]

**30.22.245 Records—Admission as evidence—Certificate.** Records obtained pursuant to this chapter shall be admitted as evidence in all courts of this state, under Washington rule of evidence 902, when accompanied by a certificate substantially in the following form:



CERTIFICATE

1. The accompanying documents are true and correct copies of the records of [name of financial institution]. The records were made in the regular course of business of the financial institution at or near the time of the acts, events, or conditions which they reflect.
2. They are produced in response to a request made under RCW 30.22.240.
3. The undersigned is authorized to execute this certificate. I CERTIFY, under penalty of perjury under the laws of the State of Washington, that the foregoing statements are true and correct.

Date	Signature
Place of Signing	Type or Print Name/ Title/Telephone No.

[1995 c 186 § 3.]

**30.22.250 No duty to request information.** RCW 9.38.015 does not create a duty for financial institutions to request the information set forth in RCW 9.38.015(1). [1995 c 186 § 5.]

**30.22.901 Severability—1995 c 186.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1995 c 186 § 7.]

**Title 31**

**MISCELLANEOUS LOAN AGENCIES**

**Chapters**

- 31.04 Consumer loan act.**
- 31.45 Check cashers and sellers.**

**Chapter 31.04**

**CONSUMER LOAN ACT**

(Formerly: Industrial loan companies)

**Sections**

- 31.04.125 Loan restrictions—Interest calculations.
- 31.04.145 Examinations—Director's duties—Costs.

**31.04.125 Loan restrictions—Interest calculations.**

(1) No licensee may make a loan with a repayment period greater than six years and fifteen days after the loan origination date except for open-end loans or loans secured by real estate or personal property used as a residence.

(2) No licensee may make a loan using any method of calculating interest other than the simple interest method; except that the add-on method of calculating interest may be used for a loan not secured by real property or personal property used as a residence when the repayment period does

not exceed three years and fifteen days after the loan origination date.

(3) No licensee may make a loan using the add-on method to calculate interest that does not provide for a refund to the borrower or a credit to the borrower's account of any unearned interest when the loan is repaid before the original maturity date in full by cash, by a new loan, by refinancing, or otherwise before the final due date. The refund must be calculated using the actuarial method, unless a sum equal to two or more installments has been prepaid and the account is not in arrears and continues to be paid ahead, in which case the interest on the account must be recalculated by the simple interest method with the refund of unearned interest made as if the loan had been made using the simple interest method. When computing an actuarial refund, the lender may round the annual rate used to the nearest quarter of one percent.

In computing a required refund of unearned interest, a prepayment made on or before the fifteenth day after the scheduled payment date is deemed to have been made on the payment date preceding the prepayment. In the case of prepayment before the first installment due date, the company may retain an amount not to exceed one-thirtieth of the first month's interest charge for each day between the origination date of the loan and the actual date of prepayment.

(4) No licensee may provide credit life or disability insurance in an amount greater than that required to pay off the total balance owing on the date of the borrower's death net of refunds in the case of credit life insurance, or all minimum payments that become due on the loan during the covered period of disability in the case of credit disability insurance. The lender may not require any such insurance.

(5) Except in the case of loans by mail, where the borrower has sufficient time to review papers before returning them, no licensee may prepare loan papers in advance of the loan closing without having reviewed with the borrower the terms and conditions of the loan to include the type and amount of insurance, if any, requested by the borrower. [1995 c 9 § 1; 1991 c 208 § 13.]

**31.04.145 Examinations—Director's duties—Costs.**

For the purpose of discovering violations of this chapter or securing information lawfully required under this chapter, the director may at any time, either personally or by a designee, investigate the loans and business and examine, wherever located, the books, accounts, records, and files used in the business of every licensee and of every person who is engaged in the business described in RCW 31.04.035, whether the person acts or claims to act as principal or agent, or under or without the authority of this chapter. For that purpose the director and designated representative shall have free access to the offices and places of business, books, accounts, papers, records, files, safes, and vaults of all such persons. The director and persons designated by the director may require the attendance of and examine under oath all persons whose testimony may be required about the loans or the business or the subject matter of any investigation, examination, or hearing. The director shall make such an examination of the affairs, business, office, and records of each licensee as determined by rule. The licensee so

examined shall pay to the director the actual cost of examining and supervising each licensed place of business. [1995 c 9 § 2; 1994 c 92 § 169; 1991 c 208 § 15.]

### Chapter 31.45

#### CHECK CASHERS AND SELLERS

##### Sections

31.45.010	Definitions.
31.45.030	License required—Small loan endorsement—Application—Fee—Bond—Deposit in lieu of bond—Director's duties.
31.45.040	Application for license or small loan endorsement—Financial responsibility—Director's investigation.
31.45.050	License or small loan endorsement—Renewal—Fee—Notice.
31.45.070	Licensee—Permissible transactions—Restrictions.
31.45.073	Making small loans—Endorsement required—Interest—Fees—Postdated check or draft as security.
31.45.077	Small loan endorsement—Application—Form—Information—Exemption from disclosure—Fees.

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

(1) "Check casher" means an individual, partnership, unincorporated association, or corporation that, for compensation, engages, in whole or in part, in the business of cashing checks, drafts, money orders, or other commercial paper serving the same purpose.

(2) "Check seller" means an individual, partnership, unincorporated association, or corporation that, for compensation, engages, in whole or in part, in the business of selling checks, drafts, money orders, or other commercial paper serving the same purpose.

(3) "Licensee" means a check casher or seller licensed by the director to engage in business in accordance with this chapter. For purposes of the enforcement powers of this chapter, including the power to issue cease and desist orders under RCW 31.45.110, "licensee" also means a check casher or seller who fails to obtain the license required by this chapter.

(4) "Small loan" means a loan of up to five hundred dollars for a period of thirty-one days or less.

(5) "Director" means the director of financial institutions. [1995 c 18 § 1; 1994 c 92 § 274; 1993 c 143 § 1; 1991 c 355 § 1.]

**31.45.030 License required—Small loan endorsement—Application—Fee—Bond—Deposit in lieu of bond—Director's duties.** (1) Except as provided in RCW 31.45.020, no check casher or seller may engage in business without first obtaining a license from the director in accordance with this chapter. A license is required for each location where a licensee engages in the business of cashing or selling checks or drafts.

(2) Each application for a license shall be in writing in a form prescribed by the director and shall contain the following information:

(a) The legal name, residence, and business address of the applicant and, if the applicant is a partnership, association, or corporation, of every member, officer, and director thereof;

(b) The location where the initial registered office of the applicant will be located in this state;

(c) The complete address of any other locations at which the applicant proposes to engage in business as a check casher or seller;

(d) Such other data, financial statements, and pertinent information as the director may require with respect to the applicant, its directors, trustees, officers, members, or agents.

(3) Any information in the application regarding the personal residential address or telephone number of the applicant is exempt from the public records disclosure requirements of chapter 42.17 RCW.

(4) The application shall be filed together with an investigation and supervision fee established by rule by the director. Such fees collected shall be deposited to the credit of the banking examination fund in accordance with RCW 43.320.110.

(5)(a) Before granting a license to sell checks, drafts, or money orders under this chapter, the director shall require that the licensee file with the director a surety bond running to the state of Washington, which bond shall be issued by a surety insurer which meets the requirements of chapter 48.28 RCW, and be in a format acceptable to the director. The director shall adopt rules to determine the penal sum of the bond that shall be filed by each licensee. The bond shall be conditioned upon the licensee paying all persons who purchase checks, drafts, or money orders from the licensee the face value of any check, draft, or money order which is dishonored by the drawee bank, savings bank, or savings and loan association due to insufficient funds or by reason of the account having been closed. The bond shall only be liable for the face value of the dishonored check, draft, or money order, and shall not be liable for any interest or consequential damages.

(b) Before granting a small loan endorsement under this chapter, the director shall require that the licensee file with the director a surety bond, in a format acceptable to the director, issued by a surety insurer that meets the requirements of chapter 48.28 RCW. The director shall adopt rules to determine the penal sum of the bond that shall be filed by each licensee. A licensee who wishes to engage in both check selling and making small loans may combine the penal sums of the bonding requirements and file one bond in a form acceptable to the director. The bond shall run to the state of Washington as obligee, and shall run to the benefit of the state and any person or persons who suffer loss by reason of the licensee's violation of this chapter or any rules adopted under this chapter. The bond shall only be liable for damages suffered by borrowers as a result of the licensee's violation of this chapter or rules adopted under this chapter, and shall not be liable for any interest or consequential damages.

(c) The bond shall be continuous and may be canceled by the surety upon the surety giving written notice to the director and licensee of its intent to cancel the bond. The cancellation is effective thirty days after the notice is received by the director. Whether or not the bond is renewed, continued, reinstated, reissued, or otherwise extended, replaced, or modified, including increases or decreases in the penal sum, it shall be considered one continuous obligation, and the surety upon the bond shall not be liable in an aggregate or cumulative amount exceeding

the penal sum set forth on the face of the bond. In no event shall the penal sum, or any portion thereof, at two or more points in time be added together in determining the surety's liability. The bond shall not be liable for any liability of the licensee for tortious acts, whether or not such liability is imposed by statute or common law, or is imposed by contract. The bond shall not be a substitute or supplement to any liability or other insurance required by law or by the contract. If the surety desires to make payment without awaiting court action against it, the penal sum of the bond shall be reduced to the extent of any payment made by the surety in good faith under the bond.

(d) Any person who is a purchaser of a check, draft, or money order from the licensee having a claim against the licensee for the dishonor of any check, draft, or money order by the drawee bank, savings bank, or savings and loan association due to insufficient funds or by reason of the account having been closed, or who obtained a small loan from the licensee and was damaged by the licensee's violation of this chapter or rules adopted under this chapter, may bring suit upon such bond or deposit in the superior court of the county in which the check, draft, or money order was purchased, or in the superior court of a county in which the licensee maintains a place of business. Jurisdiction shall be exclusively in the superior court. Any such action must be brought not later than one year after the dishonor of the check, draft, or money order on which the claim is based. In the event valid claims against a bond or deposit exceed the amount of the bond or deposit, each claimant shall only be entitled to a pro rata amount, based on the amount of the claim as it is valid against the bond, or deposit, without regard to the date of filing of any claim or action.

(e) In lieu of the surety bond required by this section, the applicant for a check seller license may file with the director a deposit consisting of cash or other security acceptable to the director in an amount equal to the penal sum of the required bond. In lieu of the surety bond required by this section, the applicant for a small loan endorsement may file with the director a deposit consisting of cash or other security acceptable to the director in an amount equal to the penal sum of the required bond, or may demonstrate to the director net worth in excess of three times the amount of the penal sum of the required bond.

The director may adopt rules necessary for the proper administration of the security or to establish reporting requirements to ensure that the net worth requirements continue to be met. A deposit given instead of the bond required by this section is not an asset of the licensee for the purpose of complying with the liquid asset provisions of this chapter. A deposit given instead of the bond required by this section is a fund held in trust for the benefit of eligible claimants under this section and is not an asset of the estate of any licensee that seeks protection voluntarily or involuntarily under the bankruptcy laws of the United States.

(f) Such security may be sold by the director at public auction if it becomes necessary to satisfy the requirements of this chapter. Notice of the sale shall be served upon the licensee who placed the security personally or by mail. If notice is served by mail, service shall be addressed to the licensee at its address as it appears in the records of the

director. Bearer bonds of the United States or the state of Washington without a prevailing market price must be sold at public auction. Such bonds having a prevailing market price may be sold at private sale not lower than the prevailing market price. Upon any sale, any surplus above amounts due shall be returned to the licensee, and the licensee shall deposit with the director additional security sufficient to meet the amount required by the director. A deposit given instead of the bond required by this section shall not be deemed an asset of the licensee for the purpose of complying with the liquid asset provisions of this chapter. [1995 c 18 § 4; 1994 c 92 § 276; 1993 c 176 § 1; 1991 c 355 § 3.]

**Effective date—1993 c 176:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [April 30, 1993]." [1993 c 176 § 2.]

**31.45.040 Application for license or small loan endorsement—Financial responsibility—Director's investigation.** (1) The director shall conduct an investigation of every applicant to determine the financial responsibility, experience, character, and general fitness of the applicant. The director shall issue the applicant a license to engage in the business of cashing or selling checks, or both, or a small loan endorsement, if the director determines to his or her satisfaction that:

(a) The applicant is financially responsible and appears to be able to conduct the business of cashing or selling checks or making small loans in an honest, fair, and efficient manner with the confidence and trust of the community; and

(b) The applicant has the required bonds, or has provided an acceptable alternative form of financial security.

(2) The director may refuse to issue a license or small loan endorsement if he or she finds that the applicant, or any person who is a director, officer, partner, agent, or substantial stockholder of the applicant, has been convicted of a felony in any jurisdiction or is associating or consorting with any person who has been convicted of a felony in any jurisdiction. The term "substantial stockholder" as used in this subsection, means a person owning or controlling ten percent or more of the total outstanding shares of the applicant corporation.

(3) No license or small loan endorsement may be issued to an applicant whose license to conduct business under this chapter had been revoked by the director within the twelve-month period preceding the application.

(4) A license or small loan endorsement issued under this chapter shall be conspicuously posted in the place of business of the licensee. The license is not transferable or assignable.

(5) A license or small loan endorsement issued in accordance with this chapter remains in force and effect for a period of five years from the date it is issued unless earlier surrendered, suspended, or revoked. However, the initial small loan endorsement is effective until the next expiration date of the underlying license, unless earlier surrendered, suspended, or revoked.

(6) The director's investigation and fees required under this chapter shall differentiate between check cashing and check selling and making small loans, and take into consideration the level of risk and potential harm to the public

related to each such activity. [1995 c 18 § 5; 1994 c 92 § 277; 1991 c 355 § 4.]

**31.45.050 License or small loan endorsement—Renewal—Fee—Notice.** (1) A license or small loan endorsement may be renewed upon the filing of an application containing such information as the director may require and by the payment of a fee in an amount determined by the director as necessary to cover the costs of supervision. Such fees collected shall be deposited to the credit of the banking examination fund in accordance with RCW 43.320.110. The director shall renew the license in accordance with the standards for issuance of a new license.

(2) If a licensee intends to do business at a new location, to close an existing place of business, or to relocate an existing place of business, the licensee shall provide written notification of that intention to the director no less than thirty days before the proposed establishing, closing, or moving of a place of business. [1995 c 18 § 6; 1994 c 92 § 278; 1991 c 355 § 5.]

**31.45.070 Licensee—Permissible transactions—Restrictions.** (1) No licensee may engage in a loan business or the negotiation of loans or the discounting of notes, bills of exchange, checks, or other evidences of debt on the same premises where a check cashing or selling business is conducted, unless the licensee:

- (a) Is conducting the activities of pawnbroker as defined in RCW 19.60.010;
- (b) Is a properly licensed consumer loan company;
- (c) Is conducting other lending activity permitted in the state of Washington; or
- (d) Has a small loan endorsement.

(2) Except as otherwise permitted in this chapter, no licensee may at any time cash or advance any moneys on a postdated check or draft. However, a licensee may cash a check payable on the first banking day following the date of cashing if:

(a) The check is drawn by the United States, the state of Washington, or any political subdivision of the state, or by any department or agency of the state or its subdivisions; or

(b) The check is a payroll check drawn by an employer to the order of its employee in payment for services performed by the employee.

(3) Except as otherwise permitted in this chapter, no licensee may agree to hold a check or draft for later deposit. A licensee shall deposit all checks and drafts cashed by the licensee as soon as practicable.

(4) No licensee may issue or cause to be issued any check, draft, or money order, or other commercial paper serving the same purpose, that is drawn upon the trust account of a licensee without concurrently receiving the full principal amount, in cash, or by check, draft, or money order from a third party believed to be valid.

(5) No licensee may advertise, print, display, publish, distribute, or broadcast or cause or permit to be advertised, printed, displayed, published, distributed, or broadcast, any statement or representation that is false, misleading, or deceptive, or that omits material information, or that refers

to the supervision of the licensee by the state of Washington or any department or official of the state.

(6) Each licensee shall comply with all applicable federal statutes governing currency transaction reporting. [1995 c 18 § 7; 1994 c 92 § 280; 1991 c 355 § 7.]

**31.45.073 Making small loans—Endorsement required—Interest—Fees—Postdated check or draft as security.** (1) No licensee may engage in the business of making small loans without first obtaining a small loan endorsement to its license from the director in accordance with this chapter. An endorsement will be required for each location where a licensee engages in the business of making small loans, but a small loan endorsement may authorize a licensee to make small loans at a location different than the licensed locations where it cashes or sells checks or drafts. A licensee may have more than one endorsement.

(2) A licensee that has obtained the required small loan endorsement may charge interest or fees for small loans not to exceed in the aggregate fifteen percent of the principal amount borrowed. The director may determine by rule which fees, if any, are not subject to the fifteen percent limitation.

(3) In connection with making a small loan, a licensee may advance moneys on the security of a postdated check or draft provided the time period between the date the loan is granted and the date of the postdated check does not exceed thirty-one days. A licensee shall deposit all postdated checks or drafts as soon as practicable after the date of the check or draft has passed.

(4) No person may at any time cash or advance any moneys on a postdated check or draft in excess of the amount of goods or services purchased without first obtaining a small loan endorsement to a check casher or check seller license. [1995 c 18 § 2.]

**31.45.077 Small loan endorsement—Application—Form—Information—Exemption from disclosure—Fees.** (1) Each application for a small loan endorsement to a check casher or check seller license must be in writing and in a form prescribed by the director and shall contain the following information:

(a) The legal name, residence, and business address of the applicant, and if the applicant is a partnership, corporation, or association, the name and address of every member, partner, officer, and director thereof;

(b) The street and mailing address of each location where the licensee will engage in the business of making small loans;

(c) A surety bond, or other security allowed under RCW 31.45.030, in the amount required; and

(d) Any other pertinent information, including financial statements, as the director may require with respect to the licensee and its directors, officers, trustees, members, or employees.

(2) Any information in the application regarding the licensee's personal residential address or telephone number is exempt from the public records disclosure requirements of chapter 42.17 RCW.

(3) The application shall be filed together with an investigation and supervision fee established by rule by the

director. Fees collected shall be deposited to the credit of the banking examination fund in accordance with RCW 43.320.110. [1995 c 18 § 3.]

## Title 32

### MUTUAL SAVINGS BANKS

#### Chapters

#### 32.32 Conversion of mutual savings bank to capital stock savings bank.

#### Chapter 32.32

#### CONVERSION OF MUTUAL SAVINGS BANK TO CAPITAL STOCK SAVINGS BANK

#### Sections

#### 32.32.025 Definitions.

**32.32.025 Definitions.** As used in this chapter, the following definitions apply, unless the context otherwise requires:

(1) Except as provided in RCW 32.32.230, an "affiliate" of, or a person "affiliated" with, a specified person, is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

(2) The term "amount", when used in regard to securities, means the principal amount if relating to evidences of indebtedness, the number of shares if relating to shares, and the number of units if relating to any other kind of security.

(3) An "applicant" is a mutual savings bank which has applied to convert pursuant to this chapter.

(4) The term "associate", when used to indicate a relationship with any person, means (a) any corporation or organization (other than the applicant or a majority-owned subsidiary of the applicant) of which the person is an officer or partner or is, directly or indirectly, the beneficial owner of ten percent or more of any class of equity securities, (b) any trust or other estate in which the person has a substantial beneficial interest or as to which the person serves as trustee or in a similar fiduciary capacity, and (c) any relative who would be a "class A beneficiary" if the person were a decedent.

(5) The term "broker" means any person engaged in the business of effecting transactions in securities for the account of others.

(6) The term "capital stock" includes permanent stock, guaranty stock, permanent reserve stock, any similar certificate evidencing nonwithdrawable capital, or preferred stock, of a savings bank converted under this chapter or of a subsidiary institution or holding company.

(7) The term "charter" includes articles of incorporation, articles of reincorporation, and certificates of incorporation, as amended, effecting (either with or without filing with any governmental agency) the organization or creation of an incorporated person.

(8) Except as provided in RCW 32.32.230, the term "control" (including the terms "controlling", "controlled by",

and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

(9) The term "dealer" means any person who engages either for all or part of his or her time, directly or indirectly, as agent, broker, or principal, in the business of offering, buying, selling, or otherwise dealing or trading in securities issued by another person.

(10) The term "deposits" refers to the deposits of a savings bank that is converting under this chapter, and may refer in addition to the deposits or share accounts of any other financial institution that is converting to the stock form in connection with a merger with and into a savings bank.

(11) The term "director" means any director of a corporation, any trustee of a mutual savings bank, or any person performing similar functions with respect to any organization whether incorporated or unincorporated.

(12) The term "eligibility record date" means the record date for determining eligible account holders of a converting mutual savings bank.

(13) The term "eligible account holder" means any person holding a qualifying deposit as determined in accordance with RCW 32.32.180.

(14) The term "employee" does not include a director or officer.

(15) The term "equity security" means any stock or similar security; or any security convertible, with or without consideration, into such a security, or carrying any warrant or right to subscribe to or purchase such a security; or any such warrant or right.

(16) The term "market maker" means a dealer who, with respect to a particular security, (a) regularly publishes bona fide, competitive bid and offer quotations in a recognized interdealer quotation system; or (b) furnishes bona fide competitive bid and offer quotations on request; and (c) is ready, willing, and able to effect transaction in reasonable quantities at his or her quoted prices with other brokers or dealers.

(17) The term "material", when used to qualify a requirement for the furnishing of information as to any subject, limits the information required to those matters as to which an average prudent investor ought reasonably to be informed before purchasing an equity security of the applicant.

(18) The term "mutual savings bank" means a mutual savings bank organized and operating under Title 32 RCW.

(19) Except as provided in RCW 32.32.435, the term "offer", "offer to sell", or "offer of sale" shall include every attempt or offer to dispose of, or solicitation of an offer to buy, a security or interest in a security, for value. These terms shall not include preliminary negotiations or agreements between an applicant and any underwriter or among underwriters who are or are to be in privity of contract with an applicant.

(20) The term "officer", for purposes of the purchase of stock in a conversion under this chapter or the sale of this stock, means the chairman of the board, president, vice president, secretary, treasurer or principal financial officer, comptroller or principal accounting officer, and any other

person performing similar functions with respect to any organization whether incorporated or unincorporated.

(21) Except as provided in RCW 32.32.435, the term "person" means an individual, a corporation, a partnership, an association, a joint-stock company, a trust, any unincorporated organization, or a government or political subdivision thereof.

(22) The term "proxy" includes every form of authorization by which a person is or may be deemed to be designated to act for a stockholder in the exercise of his or her voting rights in the affairs of an institution. Such an authorization may take the form of failure to dissent or object.

(23) The terms "purchase" and "buy" include every contract to purchase, buy, or otherwise acquire a security or interest in a security for value.

(24) The terms "sale" and "sell" include every contract to sell or otherwise dispose of a security or interest in a security for value; but these terms do not include an exchange of securities in connection with a merger or acquisition approved by the director.

(25) The term "savings account" means deposits established in a mutual savings bank and includes certificates of deposit.

(26) Except as provided in RCW 32.32.435, the term "security" includes any note, stock, treasury stock, bond, debenture, transferable share, investment contract, voting-trust certificate, or in general, any instrument commonly known as a "security"; or any certificate of interest or participation in, temporary or interim certificate for, receipt for, or warrant or right to subscribe to or purchase any of the foregoing.

(27) The term "series of preferred stock" refers to a subdivision, within a class of preferred stock, each share of which has preferences, limitations, and relative rights identical with those of other shares of the same series.

(28) The term "subscription offering" refers to the offering of shares of capital stock, through nontransferable subscription rights issued to: (a) Eligible account holders as required by RCW 32.32.045; (b) supplemental eligible account holders as required by RCW 32.32.055; (c) directors, officers, and employees, as permitted by RCW 32.32.140; and (d) eligible account holders and supplemental eligible account holders as permitted by RCW 32.32.145.

(29) A "subsidiary" of a specified person is an affiliate controlled by the person, directly or indirectly through one or more intermediaries.

(30) The term "supplemental eligibility record date" means the supplemental record date for determining supplemental eligible account holders of a converting savings bank required by RCW 32.32.055. The date shall be the last day of the calendar quarter preceding director approval of the application for conversion.

(31) The term "supplemental eligible account holder" means any person holding a qualifying deposit, except officers, directors, and their associates, as of the supplemental eligibility record date.

(32) The term "underwriter" means any person who has purchased from an applicant with a view to, or offers or sells for an applicant in connection with, the distribution of any security, or participates or has a direct or indirect participation in the direct or indirect underwriting of any such

undertaking; but the term does not include a person whose interest is limited to a commission from an underwriter or dealer not in excess of the usual and customary distributors' or sellers commission. The term "principal underwriter" means an underwriter in privity of contract with the applicant or other issuer of securities as to which that person is the underwriter.

Terms defined in other chapters of this title, when used in this chapter, shall have the meanings given in those definitions, to the extent those definitions are not inconsistent with the definitions contained in this chapter unless the context otherwise requires. [1995 c 134 § 7. Prior: 1994 c 256 § 105; 1994 c 92 § 352; 1985 c 56 § 16; 1981 c 85 § 4.]

Findings—Construction—1994 c 256: See RCW 43.320.007.

## Title 34

### ADMINISTRATIVE LAW

#### Chapters

- 34.05 Administrative Procedure Act.
- 34.08 Washington State Register Act of 1977.
- 34.12 Office of administrative hearings.

#### Chapter 34.05

### ADMINISTRATIVE PROCEDURE ACT

#### Sections

- 34.05.230 Interpretive and policy statements—Petition to convert to rules.
- 34.05.310 Prenotice inquiry—Negotiated and pilot rules.
- 34.05.313 Feasibility studies—Pilot projects.
- 34.05.320 Notice of proposed rule—Contents—Distribution by agency—Institutions of higher education.
- 34.05.322 Scope of rule-making authority.
- 34.05.325 Public participation—Concise explanatory statement.
- 34.05.328 Significant legislative rules, other selected rules.
- 34.05.330 Petition for adoption, amendment, repeal—Agency action—Appeal.
- 34.05.354 Expedited repeal.
- 34.05.355 Repealed.
- 34.05.370 Rule-making file.
- 34.05.461 Entry of orders.
- 34.05.514 Petition for review—Where filed.
- 34.05.518 Direct review by court of appeals.
- 34.05.522 Refusal of review by court of appeals.
- 34.05.534 Exhaustion of administrative remedies.
- 34.05.570 Judicial review.
- 34.05.645 Decision on rule—Quorum required—Rule suspension.
- 34.05.655 Petition for review.
- 34.05.665 Submission of rule for review—State employees protected.
- 34.05.671 Reports—Advisory boards—Staff.
- 34.05.675 Inspection of properties—Oaths, subpoenas, witnesses, depositions.
- 34.05.681 Enforcement—Committee subpoena—Refusal to testify.

**34.05.230 Interpretive and policy statements—Petition to convert to rules.** (1) If the adoption of rules is not feasible and practicable, an agency is encouraged to advise the public of its current opinions, approaches, and likely courses of action by means of interpretive or policy statements. Current interpretive and policy statements are

advisory only. An agency is encouraged to convert long-standing interpretive and policy statements into rules.

(2) A person may petition an agency requesting the conversion of interpretive and policy statements into rules. Upon submission, the agency shall notify the joint administrative rules review committee of the petition. Within sixty days after submission of a petition, the agency shall either deny the petition in writing, stating its reasons for the denial, or initiate rule-making proceedings in accordance with this chapter.

(3) Each agency shall maintain a roster of interested persons, consisting of persons who have requested in writing to be notified of all interpretive and policy statements issued by that agency. Each agency shall update the roster once each year and eliminate persons who do not indicate a desire to continue on the roster. Whenever an agency issues an interpretive or policy statement, it shall send a copy of the statement to each person listed on the roster. The agency may charge a nominal fee to the interested person for this service. [1995 c 403 § 702; 1988 c 288 § 203.]

**Findings—Short title—Intent—1995 c 403:** See note following RCW 34.05.328.

**Part headings not law—Severability—1995 c 403:** See RCW 43.05.903 and 43.05.904.

**34.05.310 Prenotice inquiry—Negotiated and pilot rules.** (1) To meet the intent of providing greater public access to administrative rule making and to promote consensus among interested parties, agencies shall solicit comments from the public on a subject of possible rule making before filing with the code reviser a notice of proposed rule making under RCW 34.05.320. The agency shall prepare a statement of inquiry that:

- (a) Identifies the specific statute or statutes authorizing the agency to adopt rules on this subject;
- (b) Discusses why rules on this subject may be needed and what they might accomplish;
- (c) Identifies other federal and state agencies that regulate this subject, and describes the process whereby the agency would coordinate the contemplated rule with these agencies;
- (d) Discusses the process by which the rule might be developed, including, but not limited to, negotiated rule making, pilot rule making, or agency study;
- (e) Specifies the process by which interested parties can effectively participate in the decision to adopt a new rule and formulation of a proposed rule before its publication.

The statement of inquiry shall be filed with the code reviser for publication in the state register at least thirty days before the date the agency files notice of proposed rule making under RCW 34.05.320 and shall be sent to any party that has requested receipt of the agency's statements of inquiry.

(2) Agencies are encouraged to develop and use new procedures for reaching agreement among interested parties before publication of notice and the adoption hearing on a proposed rule. Examples of new procedures include, but are not limited to:

- (a) Negotiated rule making by which representatives of an agency and of the interests that are affected by a subject of rule making, including, where appropriate, county and city

representatives, seek to reach consensus on the terms of the proposed rule and on the process by which it is negotiated; and

(b) Pilot rule making which includes testing the feasibility of complying with or administering draft new rules or draft amendments to existing rules through the use of volunteer pilot groups in various areas and circumstances, as provided in RCW 34.05.313 or as otherwise provided by the agency.

(3)(a) An agency must make a determination whether negotiated rule making, pilot rule making, or another process for generating participation from interested parties prior to development of the rule is appropriate.

(b) An agency must include a written justification in the rule-making file if an opportunity for interested parties to participate in the rule-making process prior to publication of the proposed rule has not been provided.

(4) This section does not apply to:

- (a) Emergency rules adopted under RCW 34.05.350;
- (b) Rules relating only to internal governmental operations that are not subject to violation by a nongovernment party;

(c) Rules adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of state-wide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule;

(d) Rules that only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect;

(e) Rules the content of which is explicitly and specifically dictated by statute;

(f) Rules that set or adjust fees or rates pursuant to legislative standards; or

(g) Rules that adopt, amend, or repeal:

(i) A procedure, practice, or requirement relating to agency hearings; or

(ii) A filing or related process requirement for applying to an agency for a license or permit. [1995 c 403 § 301; 1994 c 249 § 1; 1993 c 202 § 2; 1989 c 175 § 5; 1988 c 288 § 301.]

**Application—1995 c 403 §§ 201, 301-305, 401-405, and 801:** See note following RCW 34.05.328.

**Findings—Short title—Intent—1995 c 403:** See note following RCW 34.05.328.

**Part headings not law—Severability—1995 c 403:** See RCW 43.05.903 and 43.05.904.

**Severability—1994 c 249:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1994 c 249 § 38.]

**Application—1994 c 249:** "This act applies prospectively only and not retroactively." [1994 c 249 § 36.]

**Finding—Intent—1993 c 202:** "The legislature finds that while the 1988 Administrative Procedure Act expanded public participation in the agency rule-making process, there continue to be instances when participants have developed adversarial relationships with each other, resulting in the inability to identify all of the issues, the failure to focus on solutions to problems, unnecessary delays, litigation, and added cost to the agency, affected parties, and the public in general.

When interested parties work together, it is possible to negotiate development of a rule that is acceptable to all affected, and that conforms to the intent of the statute the rule is intended to implement.

After a rule is adopted, unanticipated negative impacts may emerge. Examples include excessive costs of administration for the agency and compliance by affected parties, technical conditions that may be physically or economically unfeasible to meet, problems of interpretation due to lack of clarity, and reporting requirements that duplicate or conflict with those already in place.

It is therefore the intent of the legislature to encourage flexible approaches to developing administrative rules, including but not limited to negotiated rule making and a process for testing the feasibility of adopted rules, often called the pilot rule process. However, nothing in chapter 202, Laws of 1993 shall be construed to create any mandatory duty for an agency to use the procedures in RCW 34.05.310 or 34.05.313 in any particular instance of rule making. Agencies shall determine, in their discretion, when it is appropriate to use these procedures." [1993 c 202 § 1.]

**Effective date—1989 c 175:** See note following RCW 34.05.010.

*Rules coordinator duties regarding business:* RCW 43.17.310.

### **34.05.313 Feasibility studies—Pilot projects. (1)**

During the development of a rule or after its adoption, an agency may develop methods for measuring or testing the feasibility of complying with or administering the rule and for identifying simple, efficient, and economical alternatives for achieving the goal of the rule. A pilot project shall include public notice, participation by volunteers who are or will be subject to the rule, a high level of involvement from agency management, reasonable completion dates, and a process by which one or more parties may withdraw from the process or the process may be terminated. Volunteers who agree to test a rule and attempt to meet the requirements of the draft rule, to report periodically to the proposing agency on the extent of their ability to meet the requirements of the draft rule, and to make recommendations for improving the draft rule shall not be obligated to comply fully with the rule being tested nor be subject to any enforcement action or other sanction for failing to comply with the requirements of the draft rule.

(2) An agency conducting a pilot rule project authorized under subsection (1) of this section may waive one or more provisions of agency rules otherwise applicable to participants in such a pilot project if the agency first determines that such a waiver is in the public interest and necessary to conduct the project. Such a waiver may be only for a stated period of time, not to exceed the duration of the project.

(3) The findings of the pilot project should be widely shared and, where appropriate, adopted as amendments to the rule.

(4) If an agency conducts a pilot rule project in lieu of meeting the requirements of the regulatory fairness act, chapter 19.85 RCW, the agency shall ensure the following conditions are met:

(a) If over ten small businesses are affected, there shall be at least ten small businesses in the test group and at least one-half of the volunteers participating in the pilot test group shall be small businesses.

(b)(i) If there are at least one hundred businesses affected, the participation by small businesses in the test group shall be as follows:

(A) Not less than twenty percent of the small businesses must employ twenty-six to fifty employees;

(B) Not less than twenty percent of the small businesses must employ eleven to twenty-six employees; and

(C) Not less than twenty percent of the small businesses must employ zero to ten employees.

(ii) If there do not exist a sufficient number of small businesses in each size category set forth in (b)(i) of this subsection willing to participate in the pilot project to meet the minimum requirements of that subsection, then the agency must comply with this section to the maximum extent practicable.

(c) The agency may not terminate the pilot project before completion.

(d) Before filing the notice of proposed rule making pursuant to RCW 34.05.320, the agency must prepare a report of the pilot rule project that includes:

(i) A description of the difficulties small businesses had in complying with the pilot rule;

(ii) A list of the recommended revisions to the rule to make compliance with the rule easier or to reduce the cost of compliance with the rule by the small businesses participating in the pilot rule project;

(iii) A written statement explaining the options it considered to resolve each of the difficulties described and a statement explaining its reasons for not including a recommendation by the pilot test group to revise the rule; and

(iv) If the agency was unable to meet the requirements set forth in (b)(i) of this subsection, a written explanation of why it was unable to do so and the steps the agency took to include small businesses in the pilot project. [1995 c 403 § 303; 1993 c 202 § 4.]

**Application—1995 c 403 §§ 201, 301-305, 401-405, and 801:** See note following RCW 34.05.328.

**Findings—Short title—Intent—1995 c 403:** See note following RCW 34.05.328.

**Part headings not law—Severability—1995 c 403:** See RCW 43.05.903 and 43.05.904.

**Finding—Intent—1993 c 202:** See note following RCW 34.05.310.

### **34.05.320 Notice of proposed rule—Contents—Distribution by agency—Institutions of higher education.**

(1) At least twenty days before the rule-making hearing at which the agency receives public comment regarding adoption of a rule, the agency shall cause notice of the hearing to be published in the state register. The publication constitutes the proposal of a rule. The notice shall include all of the following:

(a) A title, a description of the rule's purpose, and any other information which may be of assistance in identifying the rule or its purpose;

(b) Citations of the statutory authority for adopting the rule and the specific statute the rule is intended to implement;

(c) A summary of the rule and a statement of the reasons supporting the proposed action;

(d) The agency personnel, with their office location and telephone number, who are responsible for the drafting, implementation, and enforcement of the rule;

(e) The name of the person or organization, whether private, public, or governmental, proposing the rule;

(f) Agency comments or recommendations, if any, regarding statutory language, implementation, enforcement, and fiscal matters pertaining to the rule;



(g) Whether the rule is necessary as the result of federal law or federal or state court action, and if so, a copy of such law or court decision shall be attached to the purpose statement;

(h) When, where, and how persons may present their views on the proposed rule;

(i) The date on which the agency intends to adopt the rule;

(j) A short explanation of the rule, its purpose, and anticipated effects, including in the case of a proposal that would modify existing rules, a short description of the changes the proposal would make;

(k) A copy of the small business economic impact statement prepared under chapter 19.85 RCW, or an explanation for why the agency did not prepare the statement; and

(1) A statement indicating whether RCW 34.05.328 applies to the rule adoption.

(2) Upon filing notice of the proposed rule with the code reviser, the adopting agency shall have copies of the notice on file and available for public inspection and shall forward three copies of the notice to the rules review committee.

(3) No later than three days after its publication in the state register, the agency shall cause a copy of the notice of proposed rule adoption to be mailed to each person, city, and county that has made a request to the agency for a mailed copy of such notices. An agency may charge for the actual cost of providing a requesting party mailed copies of these notices.

(4) In addition to the notice required by subsections (1) and (2) of this section, an institution of higher education shall cause the notice to be published in the campus or standard newspaper of the institution at least seven days before the rule-making hearing. [1995 c 403 § 302; 1994 c 249 § 14; 1992 c 197 § 8; 1989 c 175 § 7; 1988 c 288 § 303; 1982 c 221 § 2; 1982 c 6 § 7; 1980 c 186 § 10; 1977 ex.s. c 84 § 1. Formerly RCW 34.04.045.]

**Application—1995 c 403 §§ 201, 301-305, 401-405, and 801:** See note following RCW 34.05.328.

**Findings—Short title—Intent—1995 c 403:** See note following RCW 34.05.328.

**Part headings not law—Severability—1995 c 403:** See RCW 43.05.903 and 43.05.904.

**Severability—Application—1994 c 249:** See notes following RCW 34.05.310.

**Effective date—1989 c 175:** See note following RCW 34.05.010.

**Severability—1982 c 6:** See RCW 19.85.900.

**Severability—1980 c 186:** "If any provision of this 1980 act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1980 c 186 § 29.]

**Small business economic impact statement—Purpose—Contents:** RCW 19.85.040.

**34.05.322 Scope of rule-making authority.** For rules implementing statutes enacted after July 23, 1995, an agency may not rely solely on the section of law stating a statute's intent or purpose, or on the enabling provisions of the statute establishing the agency, or on any combination of such provisions, for its statutory authority to adopt the rule. An agency may use the statement of intent or purpose or the

agency enabling provisions to interpret ambiguities in a statute's other provisions. [1995 c 403 § 118.]

**Findings—Short title—Intent—1995 c 403:** See note following RCW 34.05.328.

**Part headings not law—Severability—1995 c 403:** See RCW 43.05.903 and 43.05.904.

**34.05.325 Public participation—Concise explanatory statement.** (1) The agency shall make a good faith effort to insure that the information on the proposed rule published pursuant to RCW 34.05.320 accurately reflects the rule to be presented and considered at the oral hearing on the rule. Written comment about a proposed rule, including supporting data, shall be accepted by an agency if received no later than the time and date specified in the notice, or such later time and date established at the rule-making hearing.

(2) The agency shall provide an opportunity for oral comment to be received by the agency in a rule-making hearing.

(3) If the agency possesses equipment capable of receiving telefacsimile transmissions or recorded telephonic communications, the agency may provide in its notice of hearing filed under RCW 34.05.320 that interested parties may comment on proposed rules by these means. If the agency chooses to receive comments by these means, the notice of hearing shall provide instructions for making such comments, including, but not limited to, appropriate telephone numbers to be used; the date and time by which comments must be received; required methods to verify the receipt and authenticity of the comments; and any limitations on the number of pages for telefacsimile transmission comments and on the minutes of tape recorded comments. The agency shall accept comments received by these means for inclusion in the official record if the comments are made in accordance with the agency's instructions.

(4) The agency head, a member of the agency head, or a presiding officer designated by the agency head shall preside at the rule-making hearing. Rule-making hearings shall be open to the public. The agency shall cause a record to be made of the hearing by stenographic, mechanical, or electronic means. Unless the agency head presides or is present at substantially all the hearings, the presiding official shall prepare a memorandum for consideration by the agency head, summarizing the contents of the presentations made at the rule-making hearing. The summarizing memorandum is a public document and shall be made available to any person in accordance with chapter 42.17 RCW.

(5) Rule-making hearings are legislative in character and shall be reasonably conducted by the presiding official to afford interested persons the opportunity to present comment. Rule-making hearings may be continued to a later time and place established on the record without publication of further notice under RCW 34.05.320.

(6)(a) Before it files an adopted rule with the code reviser, an agency shall prepare a concise explanatory statement of the rule:

(i) Identifying the agency's reasons for adopting the rule;

(ii) Describing differences between the text of the proposed rule as published in the register and the text of the

rule as adopted, other than editing changes, stating the reasons for differences; and

(iii) Summarizing all comments received regarding the proposed rule, and responding to the comments by category or subject matter, indicating how the final rule reflects agency consideration of the comments, or why it fails to do so.

(b) The agency shall provide the concise explanatory statement to any person upon request or from whom the agency received comment. [1995 c 403 § 304; 1994 c 249 § 7; 1992 c 57 § 1; 1988 c 288 § 304.]

**Application—1995 c 403 §§ 201, 301-305, 401-405, and 801:** See note following RCW 34.05.328.

**Findings—Short title—Intent—1995 c 403:** See note following RCW 34.05.328.

**Part headings not law—Severability—1995 c 403:** See RCW 43.05.903 and 43.05.904.

**Severability—Application—1994 c 249:** See notes following RCW 34.05.310.

**34.05.328 Significant legislative rules, other selected rules.** (1) Before adopting a rule described in subsection (5) of this section, an agency shall:

(a) Clearly state in detail the general goals and specific objectives of the statute that the rule implements;

(b) Determine that the rule is needed to achieve the general goals and specific objectives stated under (a) of this subsection, and analyze alternatives to rule making and the consequences of not adopting the rule;

(c) Determine that the probable benefits of the rule are greater than its probable costs, taking into account both the qualitative and quantitative benefits and costs and the specific directives of the statute being implemented;

(d) Determine, after considering alternative versions of the rule and the analysis required under (b) and (c) of this subsection, that the rule being adopted is the least burdensome alternative for those required to comply with it that will achieve the general goals and specific objectives stated under (a) of this subsection;

(e) Determine that the rule does not require those to whom it applies to take an action that violates requirements of another federal or state law;

(f) Determine that the rule does not impose more stringent performance requirements on private entities than on public entities unless required to do so by federal or state law;

(g) Determine if the rule differs from any federal regulation or statute applicable to the same activity or subject matter and, if so, determine that the difference is justified by the following:

(i) A state statute that explicitly allows the agency to differ from federal standards; or

(ii) Substantial evidence that the difference is necessary to achieve the general goals and specific objectives stated under (a) of this subsection; and

(h) Coordinate the rule, to the maximum extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter.

(2) In making its determinations pursuant to subsection (1) (b) through (g) of this section, the agency shall place in the rule-making file documentation of sufficient quantity and

quality so as to persuade a reasonable person that the determinations are justified.

(3) Before adopting rules described in subsection (5) of this section, an agency shall place in the rule-making file a rule implementation plan for rules filed under each adopting order. The plan shall describe how the agency intends to:

(a) Implement and enforce the rule, including a description of the resources the agency intends to use;

(b) Inform and educate affected persons about the rule;

(c) Promote and assist voluntary compliance; and

(d) Evaluate whether the rule achieves the purpose for which it was adopted, including, to the maximum extent practicable, the use of interim milestones to assess progress and the use of objectively measurable outcomes.

(4) After adopting a rule described in subsection (5) of this section regulating the same activity or subject matter as another provision of federal or state law, an agency shall do all of the following:

(a) Provide to the business assistance center a list citing by reference the other federal and state laws that regulate the same activity or subject matter;

(b) Coordinate implementation and enforcement of the rule with the other federal and state entities regulating the same activity or subject matter by making every effort to do one or more of the following:

(i) Deferring to the other entity;

(ii) Designating a lead agency; or

(iii) Entering into an agreement with the other entities specifying how the agency and entities will coordinate implementation and enforcement.

If the agency is unable to comply with this subsection (4)(b), the agency shall report to the legislature pursuant to (c) of this subsection;

(c) Report to the joint administrative rules review committee:

(i) The existence of any overlap or duplication of other federal or state laws, any differences from federal law, and any known overlap, duplication, or conflict with local laws; and

(ii) Make recommendations for any legislation that may be necessary to eliminate or mitigate any adverse effects of such overlap, duplication, or difference.

(5)(a) Except as provided in (b) of this subsection, this section applies to:

(i) Significant legislative rules of the departments of ecology, labor and industries, health, revenue, and natural resources, the employment security department, the forest practices board, the office of the insurance commissioner, and to the legislative rules of the department of fish and wildlife implementing chapter 75.20 RCW; and

(ii) Any rule of any agency, if this section is voluntarily made applicable to the rule by the agency, or is made applicable to the rule by a majority vote of the joint administrative rules review committee within forty-five days of receiving the notice of proposed rule making under RCW 34.05.320.

(b) This section does not apply to:

(i) Emergency rules adopted under RCW 34.05.350;

(ii) Rules relating only to internal governmental operations that are not subject to violation by a nongovernment party;

(iii) Rules adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of state-wide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule;

(iv) Rules that only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect;

(v) Rules the content of which is explicitly and specifically dictated by statute; or

(vi) Rules that set or adjust fees or rates pursuant to legislative standards.

(c) For purposes of this subsection:

(i) A "procedural rule" is a rule that adopts, amends, or repeals (A) any procedure, practice, or requirement relating to any agency hearings; (B) any filing or related process requirement for making application to an agency for a license or permit; or (C) any policy statement pertaining to the consistent internal operations of an agency.

(ii) An "interpretive rule" is a rule, the violation of which does not subject a person to a penalty or sanction, that sets forth the agency's interpretation of statutory provisions it administers.

(iii) A "significant legislative rule" is a rule other than a procedural or interpretive rule that (A) adopts substantive provisions of law pursuant to delegated legislative authority, the violation of which subjects a violator of such rule to a penalty or sanction; (B) establishes, alters, or revokes any qualification or standard for the issuance, suspension, or revocation of a license or permit; or (C) adopts a new, or makes significant amendments to, a policy or regulatory program.

(d) In the notice of proposed rule making under RCW 34.05.320, an agency shall state whether this section applies to the proposed rule pursuant to (a)(i) of this subsection, or if the agency will apply this section voluntarily.

(6) By January 31, 1996, and by January 31st of each even-numbered year thereafter, the office of financial management, after consulting with state agencies, counties, and cities, and business, labor, and environmental organizations, shall report to the governor and the legislature regarding the effects of this section on the regulatory system in this state. The report shall document:

(a) The rules proposed to which this section applied and to the extent possible, how compliance with this section affected the substance of the rule, if any, that the agency ultimately adopted;

(b) The costs incurred by state agencies in complying with this section;

(c) Any legal action maintained based upon the alleged failure of any agency to comply with this section, the costs to the state of such action, and the result;

(d) The extent to which this section has adversely affected the capacity of agencies to fulfill their legislatively prescribed mission;

(e) The extent to which this section has improved the acceptability of state rules to those regulated; and

(f) Any other information considered by the office of financial management to be useful in evaluating the effect of this section. [1995 c 403 § 201.]

**Findings—Short title—Intent—1995 c 403:** "(1) The legislature finds that:

(a) One of its fundamental responsibilities, to the benefit of all the citizens of the state, is the protection of public health and safety, including health and safety in the workplace, and the preservation of the extraordinary natural environment with which Washington is endowed;

(b) Essential to this mission is the delegation of authority to state agencies to implement the policies established by the legislature; and that the adoption of administrative rules by these agencies helps assure that these policies are clearly understood, fairly applied, and uniformly enforced;

(c) Despite its importance, Washington's regulatory system must not impose excessive, unreasonable, or unnecessary obligations; to do so serves only to discredit government, makes enforcement of essential regulations more difficult, and detrimentally affects the economy of the state and the well-being of our citizens.

(2) The legislature therefore enacts chapter 403, Laws of 1995, to be known as the regulatory reform act of 1995, to ensure that the citizens and environment of this state receive the highest level of protection, in an effective and efficient manner, without stifling legitimate activities and responsible economic growth. To that end, it is the intent of the legislature, in the adoption of chapter 403, Laws of 1995, that:

(a) Unless otherwise authorized, substantial policy decisions affecting the public be made by those directly accountable to the public, namely the legislature, and that state agencies not use their administrative authority to create or amend regulatory programs;

(b) When an agency is authorized to adopt rules imposing obligations on the public, that it do so responsibly: The rules it adopts should be justified and reasonable, with the agency having determined, based on common sense criteria established by the legislature, that the obligations imposed are truly in the public interest;

(c) Governments at all levels better coordinate their regulatory efforts to avoid confusing and frustrating the public with overlapping or contradictory requirements;

(d) The public respect the process whereby administrative rules are adopted, whether or not they agree with the result: Members of the public affected by administrative rules must have the opportunity for a meaningful role in their development; the bases for agency action must be legitimate and clearly articulated;

(e) Members of the public have adequate opportunity to challenge administrative rules with which they have legitimate concerns through meaningful review of the rule by the executive, the legislature, and the judiciary. While it is the intent of the legislature that upon judicial review of a rule, a court should not substitute its judgment for that of an administrative agency, the court should determine whether the agency decision making was rigorous and deliberative; whether the agency reached its result through a process of reason; and whether the agency took a hard look at the rule before its adoption;

(f) In order to achieve greater compliance with administrative rules at less cost, that a cooperative partnership exist between agencies and regulated parties that emphasizes education and assistance before the imposition of penalties; and

(g) Workplace safety and health in this state not be diminished, whether provided by constitution, by statute, or by rule." [1995 c 403 § 1.]

**Application—1995 c 403 §§ 201, 301-305, 401-405, and 801:** "Sections 201, 301 through 305, 401 through 405, and 801 of this act shall apply to all rule making for which a statement of proposed rule making under RCW 34.05.320 is filed after July 23, 1995." [1995 c 403 § 1102.]

**Part headings not law—Severability—1995 c 403:** See RCW 43.05.903 and 43.05.904.

**34.05.330 Petition for adoption, amendment, repeal—Agency action—Appeal.** (1) Any person may petition an agency requesting the adoption, amendment, or repeal of any rule. The office of financial management shall prescribe by rule the format for such petitions and the procedure for their submission, consideration, and disposition and provide a standard form that may be used to petition any agency. Within sixty days after submission of a petition, the

agency shall either (a) deny the petition in writing, stating (i) its reasons for the denial, specifically addressing the concerns raised by the petitioner, and, where appropriate, (ii) the alternative means by which it will address the concerns raised by the petitioner, or (b) initiate rule-making proceedings in accordance with this chapter.

(2) If an agency denies a petition to repeal or amend a rule submitted under subsection (1) of this section, the petitioner, within thirty days of the denial, may appeal the denial to the governor. The governor shall immediately file notice of the appeal with the code reviser for publication in the Washington state register. Within forty-five days after receiving the appeal, the governor shall either (a) deny the petition in writing, stating (i) his or her reasons for the denial, specifically addressing the concerns raised by the petitioner, and, (ii) where appropriate, the alternative means by which he or she will address the concerns raised by the petitioner; (b) for agencies listed in RCW 43.17.010, direct the agency to initiate rule-making proceedings in accordance with this chapter; or (c) for agencies not listed in RCW 43.17.010, recommend that the agency initiate rule-making proceedings in accordance with this chapter. The governor's response to the appeal shall be published in the Washington state register and copies shall be submitted to the chief clerk of the house of representatives and the secretary of the senate.

(3) In petitioning for repeal or amendment of a rule under this section, a person is encouraged to address, among other concerns:

- (a) Whether the rule is authorized;
- (b) Whether the rule is needed;
- (c) Whether the rule conflicts with or duplicates other federal, state, or local laws;
- (d) Whether alternatives to the rule exist that will serve the same purpose at less cost;
- (e) Whether the rule applies differently to public and private entities;
- (f) Whether the rule serves the purposes for which it was adopted;
- (g) Whether the costs imposed by the rule are unreasonable;
- (h) Whether the rule is clearly and simply stated; and
- (i) Whether the rule is different than a federal law applicable to the same activity or subject matter without adequate justification.

(4) The business assistance center and the office of financial management shall coordinate efforts among agencies to inform the public about the existence of this rules review process.

(5) The office of financial management shall initiate the rule making required by subsection (1) of this section by September 1, 1995. [1995 c 403 § 703; 1988 c 288 § 305; 1967 c 237 § 5; 1959 c 234 § 6. Formerly RCW 34.04.060.]

**Findings—Short title—Intent—1995 c 403:** See note following RCW 34.05.328.

**Part headings not law—Severability—1995 c 403:** See RCW 43.05.903 and 43.05.904.

**34.05.354 Expedited repeal.** (1) Not later than June 30th of each year, each agency shall submit to the code reviser, according to procedures and time lines established

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by the code reviser, rules that it determines should be repealed by the expedited repeal procedures provided for in this section. An agency shall file a copy of a preproposal notice of inquiry, as provided in RCW 34.05.310(1), that identifies the rule as one that is proposed for expedited repeal.

(2) An agency may propose the expedited repeal of rules meeting one or more of the following criteria:

(a) The statute on which the rule is based has been repealed and has not been replaced by another statute providing statutory authority for the rule;

(b) The statute on which the rule is based has been declared unconstitutional by a court with jurisdiction, there is a final judgment, and no statute has been enacted to replace the unconstitutional statute;

(c) The rule is no longer necessary because of changed circumstances; or

(d) Other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.

(3) The agency shall also send a copy of the preproposal notice of inquiry to any person who has requested notification of copies of proposals for the expedited repeal of rules or of agency rule making. The preproposal notice of inquiry shall include a statement that any person who objects to the repeal of the rule must file a written objection to the repeal within thirty days after the preproposal notice of inquiry is published. The notice of inquiry shall also include an explanation of the reasons the agency believes the expedited repeal of the rule is appropriate.

(4) The code reviser shall publish all rules proposed for expedited repeal in a separate section of a regular edition of the Washington state register or in a special edition of the Washington state register. The publication shall be not later than July 31st of each year, or in the first register published after that date.

(5) Any person may file a written objection to the expedited repeal of a rule. The notice shall be filed with the agency rules coordinator within thirty days after the notice of inquiry has been published in the Washington state register. The written objection need not state any reason for objecting to the expedited repeal of the rule.

(6) If no written objections to the expedited repeal of a rule are filed with the agency within thirty days after the preproposal notice of inquiry is published, the agency may enter an order repealing the rule without further notice or an opportunity for a public hearing. The order shall be published in the manner required by this chapter for any other order of the agency adopting, amending, or repealing a rule. If a written objection to the expedited repeal of the rule is filed with the agency within thirty days after the notice of inquiry has been published, the preproposal notice of inquiry published pursuant to this section shall be considered a preproposal notice of inquiry for the purposes of RCW 34.05.310(1) and the agency may initiate rule adoption proceedings in accordance with the provisions of this chapter. [1995 c 403 § 701.]

**Findings—Short title—Intent—1995 c 403:** See note following RCW 34.05.328.

**Part headings not law—Severability—1995 c 403:** See RCW 43.05.903 and 43.05.904.

**34.05.355 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**34.05.370 Rule-making file.** (1) Each agency shall maintain an official rule-making file for each rule that it (a) proposes by publication in the state register, or (b) adopts. The file and materials incorporated by reference shall be available for public inspection.

(2) The agency rule-making file shall contain all of the following:

(a) Copies of all publications in the state register with respect to the rule or the proceeding upon which the rule is based;

(b) Copies of any portions of the agency's public rule-making docket containing entries relating to the rule or the proceeding on which the rule is based;

(c) All written petitions, requests, submissions, and comments received by the agency and all other written material regarded by the agency as important to adoption of the rule or the proceeding on which the rule is based;

(d) Any official transcript of oral presentations made in the proceeding on which the rule is based or, if not transcribed, any tape recording or stenographic record of them, and any memorandum prepared by a presiding official summarizing the contents of those presentations;

(e) All petitions for exceptions to, amendment of, or repeal or suspension of, the rule;

(f) Citations to data, factual information, studies, or reports on which the agency relies in the adoption of the rule, indicating where such data, factual information, studies, or reports are available for review by the public, but this subsection (2)(f) does not require the agency to include in the rule-making file any data, factual information, studies, or reports gathered pursuant to chapter 19.85 RCW that can be identified to a particular business;

(g) The concise explanatory statement required by RCW 34.05.325(6); and

(h) Any other material placed in the file by the agency.

(3) Internal agency documents are exempt from inclusion in the rule-making file under subsection (2) of this section to the extent they constitute preliminary drafts, notes, recommendations, and intra-agency memoranda in which opinions are expressed or policies formulated or recommended, except that a specific document is not exempt from inclusion when it is publicly cited by an agency in connection with its decision.

(4) Upon judicial review, the file required by this section constitutes the official agency rule-making file with respect to that rule. Unless otherwise required by another provision of law, the official agency rule-making file need not be the exclusive basis for agency action on that rule. [1995 c 403 § 801; 1994 c 249 § 2; 1988 c 288 § 313.]

**Application—1995 c 403 §§ 201, 301-305, 401-405, and 801:** See note following RCW 34.05.328.

**Findings—Short title—Intent—1995 c 403:** See note following RCW 34.05.328.

**Part headings not law—Severability—1995 c 403:** See RCW 43.05.903 and 43.05.904.

**Severability—Application—1994 c 249:** See notes following RCW 34.05.310.

**34.05.461 Entry of orders.** (1) Except as provided in subsection (2) of this section:

(a) If the presiding officer is the agency head or one or more members of the agency head, the presiding officer may enter an initial order if further review is available within the agency, or a final order if further review is not available;

(b) If the presiding officer is a person designated by the agency to make the final decision and enter the final order, the presiding officer shall enter a final order; and

(c) If the presiding officer is one or more administrative law judges, the presiding officer shall enter an initial order.

(2) With respect to agencies exempt from chapter 34.12 RCW or an institution of higher education, the presiding officer shall transmit a full and complete record of the proceedings, including such comments upon demeanor of witnesses as the presiding officer deems relevant, to each agency official who is to enter a final or initial order after considering the record and evidence so transmitted.

(3) Initial and final orders shall include a statement of findings and conclusions, and the reasons and basis therefor, on all the material issues of fact, law, or discretion presented on the record, including the remedy or sanction and, if applicable, the action taken on a petition for a stay of effectiveness. Any findings based substantially on credibility of evidence or demeanor of witnesses shall be so identified. Findings set forth in language that is essentially a repetition or paraphrase of the relevant provision of law shall be accompanied by a concise and explicit statement of the underlying evidence of record to support the findings. The order shall also include a statement of the available procedures and time limits for seeking reconsideration or other administrative relief. An initial order shall include a statement of any circumstances under which the initial order, without further notice, may become a final order.

(4) Findings of fact shall be based exclusively on the evidence of record in the adjudicative proceeding and on matters officially noticed in that proceeding. Findings shall be based on the kind of evidence on which reasonably prudent persons are accustomed to rely in the conduct of their affairs. Findings may be based on such evidence even if it would be inadmissible in a civil trial. However, the presiding officer shall not base a finding exclusively on such inadmissible evidence unless the presiding officer determines that doing so would not unduly abridge the parties' opportunities to confront witnesses and rebut evidence. The basis for this determination shall appear in the order.

(5) Where it bears on the issues presented, the agency's experience, technical competency, and specialized knowledge may be used in the evaluation of evidence.

(6) If a person serving or designated to serve as presiding officer becomes unavailable for any reason before entry of the order, a substitute presiding officer shall be appointed as provided in RCW 34.05.425. The substitute presiding officer shall use any existing record and may conduct any further proceedings appropriate in the interests of justice.

(7) The presiding officer may allow the parties a designated time after conclusion of the hearing for the submission of memos, briefs, or proposed findings.

(8)(a) Except as otherwise provided in (b) of this subsection, initial or final orders shall be served in writing within ninety days after conclusion of the hearing or after

submission of memos, briefs, or proposed findings in accordance with subsection (7) of this section unless this period is waived or extended for good cause shown.

(b) This subsection does not apply to the final order of the shorelines hearings board on appeal under RCW 90.58.180(3).

(9) The presiding officer shall cause copies of the order to be served on each party and the agency. [1995 c 347 § 312; 1989 c 175 § 19; 1988 c 288 § 418.]

**Finding—Severability—Part headings and table of contents lost—1995 c 347:** See notes following RCW 36.70A.470.

**Effective date—1989 c 175:** See note following RCW 34.05.010.

#### **34.05.514 Petition for review—Where filed.** (1)

Except as provided in subsection (2) of this section, proceedings for review under this chapter shall be instituted by paying the fee required under RCW 36.18.020 and filing a petition in the superior court, at the petitioner's option, for (a) Thurston county, (b) the county of the petitioner's residence or principal place of business, or (c) in any county where the property owned by the petitioner and affected by the contested decision is located.

(2) For proceedings involving institutions of higher education, the petition shall be filed either in the county in which the principal office of the institution involved is located or in the county of a branch campus if the action involves such branch. [1995 c 347 § 113; 1995 c 292 § 9; 1994 c 257 § 23; 1988 c 288 § 502.]

**Reviser's note:** This section was amended by 1995 c 292 § 9 and by 1995 c 347 § 113, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Finding—Severability—Part headings and table of contents lost—1995 c 347:** See notes following RCW 36.70A.470.

**Severability—1994 c 257:** See note following RCW 36.70A.270.

#### **34.05.518 Direct review by court of appeals.** (1)

The final decision of an administrative agency in an adjudicative proceeding under this chapter may be directly reviewed by the court of appeals either (a) upon certification by the superior court pursuant to this section or (b) if the final decision is from an environmental board as defined in subsection (3) of this section, upon acceptance by the court of appeals after a certificate of appealability has been filed by the environmental board that rendered the final decision.

(2) For direct review upon certification by the superior court, an application for direct review must be filed with the superior court within thirty days of the filing of the petition for review in superior court. The superior court may certify a case for direct review only if the judicial review is limited to the record of the agency proceeding and the court finds that:

(a) Fundamental and urgent issues affecting the future administrative process or the public interest are involved which require a prompt determination;

(b) Delay in obtaining a final and prompt determination of such issues would be detrimental to any party or the public interest;

(c) An appeal to the court of appeals would be likely regardless of the determination in superior court; and

(d) The appellate court's determination in the proceeding would have significant precedential value.

Procedures for certification shall be established by court rule.

(3)(a) For the purposes of direct review of final decisions of environmental boards, environmental boards include those boards identified in RCW 43.21B.005 and growth management hearings boards as identified in RCW 36.70A.250.

(b) An environmental board may issue a certificate of appealability if it finds that delay in obtaining a final and prompt determination of the issues would be detrimental to any party or the public interest and either:

(i) Fundamental and urgent state-wide or regional issues are raised; or

(ii) The proceeding is likely to have significant precedential value.

(4) The environmental board shall state in the certificate of appealability which criteria it applied, explain how that criteria was met, and file with the certificate a copy of the final decision.

(5) For an appellate court to accept direct review of a final decision of an environmental board, it shall consider the same criteria outlined in subsection (3) of this section.

(6) The procedures for direct review of final decisions of environmental boards include:

(a) Within thirty days after filing the petition for review with the superior court, a party may file an application for direct review with the superior court and serve the appropriate environmental board and all parties of record. The application shall request the environmental board to file a certificate of appealability.

(b) If an issue on review is the jurisdiction of the environmental board, the board may file an application for direct review on that issue.

(c) The environmental board shall have thirty days to grant or deny the request for a certificate of appealability and its decision shall be filed with the superior court and served on all parties of record.

(d) If a certificate of appealability is issued, the parties shall have fifteen days from the date of service to file a notice of discretionary review in the superior court, and the notice shall include a copy of the certificate of appealability and a copy of the final decision.

(e) If the appellate court accepts review, the certificate of appealability shall be transmitted to the court of appeals as part of the certified record.

(f) If a certificate of appealability is denied, review shall be by the superior court. The superior court's decision may be appealed to the court of appeals. [1995 c 382 § 5; 1988 c 288 § 503; 1980 c 76 § 1. Formerly RCW 34.04.133.]

#### **34.05.522 Refusal of review by court of appeals.**

The court of appeals may refuse to accept direct review of a case pursuant to RCW 34.05.518 if it finds that the case does not meet the applicable standard in RCW 34.05.518(2) or (5). Rules of Appellate Procedure 2.3 do not apply in this instance. The refusal to accept such review is not subject to further appellate review, notwithstanding anything in Rule 13.3 of the Rules of Appellate Procedure to the contrary. [1995 c 382 § 6; 1988 c 288 § 504; 1980 c 76 § 2. Formerly RCW 34.04.135.]

**34.05.534 Exhaustion of administrative remedies.**

A person may file a petition for judicial review under this chapter only after exhausting all administrative remedies available within the agency whose action is being challenged, or available within any other agency authorized to exercise administrative review, except:

(1) A petitioner for judicial review of a rule need not have participated in the rule-making proceeding upon which that rule is based, have petitioned for its amendment or repeal, or have appealed a petition for amendment or repeal to the governor;

(2) A petitioner for judicial review need not exhaust administrative remedies to the extent that this chapter or any other statute states that exhaustion is not required; or

(3) The court may relieve a petitioner of the requirement to exhaust any or all administrative remedies upon a showing that:

- (a) The remedies would be patently inadequate;
- (b) The exhaustion of remedies would be futile; or
- (c) The grave irreparable harm that would result from having to exhaust administrative remedies would clearly outweigh the public policy requiring exhaustion of administrative remedies. [1995 c 403 § 803; 1988 c 288 § 507.]

**Findings—Short title—Intent—1995 c 403:** See note following RCW 34.05.328.

**Part headings not law—Severability—1995 c 403:** See RCW 43.05.903 and 43.05.904.

**34.05.570 Judicial review.** (1) Generally. Except to the extent that this chapter or another statute provides otherwise:

(a) The burden of demonstrating the invalidity of agency action is on the party asserting invalidity;

(b) The validity of agency action shall be determined in accordance with the standards of review provided in this section, as applied to the agency action at the time it was taken;

(c) The court shall make a separate and distinct ruling on each material issue on which the court's decision is based; and

(d) The court shall grant relief only if it determines that a person seeking judicial relief has been substantially prejudiced by the action complained of.

(2) Review of rules. (a) A rule may be reviewed by petition for declaratory judgment filed pursuant to this subsection or in the context of any other review proceeding under this section. In an action challenging the validity of a rule, the agency shall be made a party to the proceeding.

(b) The validity of any rule may be determined upon petition for a declaratory judgment addressed to the superior court of Thurston county, when it appears that the rule, or its threatened application, interferes with or impairs or immediately threatens to interfere with or impair the legal rights or privileges of the petitioner. The declaratory judgment order may be entered whether or not the petitioner has first requested the agency to pass upon the validity of the rule in question.

(c) In a proceeding involving review of a rule, the court shall declare the rule invalid only if it finds that: The rule violates constitutional provisions; the rule exceeds the statutory authority of the agency; the rule was adopted

without compliance with statutory rule-making procedures; or the rule is arbitrary and capricious.

(3) Review of agency orders in adjudicative proceedings. The court shall grant relief from an agency order in an adjudicative proceeding only if it determines that:

(a) The order, or the statute or rule on which the order is based, is in violation of constitutional provisions on its face or as applied;

(b) The order is outside the statutory authority or jurisdiction of the agency conferred by any provision of law;

(c) The agency has engaged in unlawful procedure or decision-making process, or has failed to follow a prescribed procedure;

(d) The agency has erroneously interpreted or applied the law;

(e) The order is not supported by evidence that is substantial when viewed in light of the whole record before the court, which includes the agency record for judicial review, supplemented by any additional evidence received by the court under this chapter;

(f) The agency has not decided all issues requiring resolution by the agency;

(g) A motion for disqualification under RCW 34.05.425 or 34.12.050 was made and was improperly denied or, if no motion was made, facts are shown to support the grant of such a motion that were not known and were not reasonably discoverable by the challenging party at the appropriate time for making such a motion;

(h) The order is inconsistent with a rule of the agency unless the agency explains the inconsistency by stating facts and reasons to demonstrate a rational basis for inconsistency; or

(i) The order is arbitrary or capricious.

(4) Review of other agency action.

(a) All agency action not reviewable under subsection (2) or (3) of this section shall be reviewed under this subsection.

(b) A person whose rights are violated by an agency's failure to perform a duty that is required by law to be performed may file a petition for review pursuant to RCW 34.05.514, seeking an order pursuant to this subsection requiring performance. Within twenty days after service of the petition for review, the agency shall file and serve an answer to the petition, made in the same manner as an answer to a complaint in a civil action. The court may hear evidence, pursuant to RCW 34.05.562, on material issues of fact raised by the petition and answer.

(c) Relief for persons aggrieved by the performance of an agency action, including the exercise of discretion, or an action under (b) of this subsection can be granted only if the court determines that the action is:

(i) Unconstitutional;

(ii) Outside the statutory authority of the agency or the authority conferred by a provision of law;

(iii) Arbitrary or capricious; or

(iv) Taken by persons who were not properly constituted as agency officials lawfully entitled to take such action. [1995 c 403 § 802; 1989 c 175 § 27; 1988 c 288 § 516; 1977 ex.s. c 52 § 1; 1967 c 237 § 6; 1959 c 234 § 13. Formerly RCW 34.04.130.]

**Findings—Short title—Intent—1995 c 403:** See note following RCW 34.05.328.

**Part headings not law—Severability—1995 c 403:** See RCW 43.05.903 and 43.05.904.

**Effective date—1989 c 175:** See note following RCW 34.05.010.

**34.05.645 Decision on rule—Quorum required—Rule suspension.** The joint administrative rules review committee shall not render a decision on a rule unless a quorum is present. A quorum shall consist of at least five members of the committee. Once a quorum is established, a majority of the quorum may render any decision except a suspension recommendation. A recommendation to suspend a rule under RCW 34.05.640 shall require a majority vote of the entire membership of the rules review committee. [1995 c 403 § 501.]

**Findings—Short title—Intent—1995 c 403:** See note following RCW 34.05.328.

**Part headings not law—Severability—1995 c 403:** See RCW 43.05.903 and 43.05.904.

**34.05.655 Petition for review.** (1) Any person may petition the rules review committee for a review of that rule. Within thirty days of the receipt of the petition, the rules review committee shall acknowledge receipt of the petition and describe any initial action taken. If the rules review committee rejects the petition, a written statement of the reasons for rejection shall be included.

(2) Within ninety days of receipt of the petition, the rules review committee shall make a final decision on the rule for which the petition for review was not previously rejected. [1995 c 403 § 502.]

**Findings—Short title—Intent—1995 c 403:** See note following RCW 34.05.328.

**Part headings not law—Severability—1995 c 403:** See RCW 43.05.903 and 43.05.904.

**34.05.665 Submission of rule for review—State employees protected.** Any individual employed or holding office in any department or agency of state government may submit rules warranting review to the rules review committee. Any such state employee is protected under chapter 42.40 RCW. [1995 c 403 § 503.]

**Findings—Short title—Intent—1995 c 403:** See note following RCW 34.05.328.

**Part headings not law—Severability—1995 c 403:** See RCW 43.05.903 and 43.05.904.

**34.05.671 Reports—Advisory boards—Staff.** (1) The rules review committee may make reports from time to time to the members of the legislature and to the public with respect to any of its findings or recommendations. The committee shall keep complete minutes of its meetings.

(2) The committee may establish ad hoc advisory boards, including but not limited to, ad hoc economics or science advisory boards to assist the committee in its rules review functions.

(3) The committee may hire staff as needed to perform functions under this chapter. [1995 c 403 § 505.]

**Findings—Short title—Intent—1995 c 403:** See note following RCW 34.05.328.

**Part headings not law—Severability—1995 c 403:** See RCW 43.05.903 and 43.05.904.

**34.05.675 Inspection of properties—Oaths, subpoenas, witnesses, depositions.** In the discharge of any duty imposed under this chapter, the rules review committee may examine and inspect all properties, equipment, facilities, files, records, and accounts of any state office, department, institution, board, committee, commission, or agency, and administer oaths, issue subpoenas, compel the attendance of witnesses and the production of any papers, books, accounts, documents, and testimony, and cause the deposition of witnesses, either residing within or without the state, to be taken in the manner prescribed by law for taking depositions in civil actions in the superior courts. [1995 c 403 § 506.]

**Findings—Short title—Intent—1995 c 403:** See note following RCW 34.05.328.

**Part headings not law—Severability—1995 c 403:** See RCW 43.05.903 and 43.05.904.

**34.05.681 Enforcement—Committee subpoena—Refusal to testify.** In case of the failure on the part of any person to comply with any subpoena issued in [on] behalf of the rules review committee, or on the refusal of any witness to testify to any matters regarding which he or she may be lawfully interrogated, it is the duty of the superior court of any county, or of the judge thereof, on application of the committee, to compel obedience by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from the court or a refusal to testify in the court. [1995 c 403 § 507.]

**Findings—Short title—Intent—1995 c 403:** See note following RCW 34.05.328.

**Part headings not law—Severability—1995 c 403:** See RCW 43.05.903 and 43.05.904.

## Chapter 34.08

### WASHINGTON STATE REGISTER ACT OF 1977

#### Sections

34.08.020 Washington State Register—Created—Publication period—Contents.

**34.08.020 Washington State Register—Created—Publication period—Contents.** There is hereby created a state publication to be called the Washington State Register, which shall be published on no less than a monthly basis. The register shall contain, but is not limited to, the following materials received by the code reviser's office during the pertinent publication period:

(1)(a) The full text of any proposed new or amendatory rule, as defined in RCW 34.05.010, and the citation of any existing rules the repeal of which is proposed, prior to the public hearing on such proposal. Such material shall be considered, when published, to be the official notification of the intended action, and no state agency or official thereof may take action on any such rule except on emergency rules adopted in accordance with RCW 34.05.350, until twenty days have passed since the distribution date of the register in which the rule and hearing notice have been published or a notice regarding the omission of the rule has been published pursuant to RCW 34.05.210(4) as now or hereafter amended;



(b) The small business economic impact statement, if required by RCW 19.85.030, preceding the full text of the proposed new or amendatory rule;

(2) The full text of any new or amendatory rule adopted, and the citation of any existing rule repealed, on a permanent or emergency basis;

(3) Executive orders and emergency declarations of the governor;

(4) Public meeting notices of any and all agencies of state government, including state elected officials whose offices are created by Article III of the state Constitution or RCW 48.02.010;

(5) Rules of the state supreme court which have been adopted but not yet published in an official permanent codification;

(6) Summaries of attorney general opinions and letter opinions, noting the number, date, subject, and other information, and prepared by the attorney general for inclusion in the register;

(7) Juvenile disposition standards and security guidelines proposed and adopted under RCW 13.40.030;

(8) Proposed and adopted rules of the commission on judicial conduct;

(9) The maximum allowable rates of interest and retail installment contract service charges filed by the state treasurer under RCW 19.52.025 and \*63.14.135. In addition, the highest rate of interest permissible for the current month and the maximum retail installment contract service charge for the current year shall be published in each issue of the register. The publication of the maximum allowable interest rate established pursuant to RCW 19.52.025 shall be accompanied by the following advisement: NOTICE: FEDERAL LAW PERMITS FEDERALLY INSURED FINANCIAL INSTITUTIONS IN THE STATE TO CHARGE THE HIGHEST RATE OF INTEREST THAT MAY BE CHARGED BY ANY FINANCIAL INSTITUTION IN THE STATE. THE MAXIMUM ALLOWABLE RATE OF INTEREST SET FORTH ABOVE MAY NOT APPLY TO A PARTICULAR TRANSACTION; and

(10) A list of corporations dissolved during the preceding month filed by the secretary of state under chapter 23B.14 RCW. [1995 c 47 § 9; 1987 c 186 § 8; 1986 c 60 § 3; 1983 c 2 § 8. Prior: 1982 c 6 § 6; 1981 c 299 § 18; 1980 c 186 § 15; 1977 ex.s. c 240 § 3.]

\*Reviser's note: RCW 63.14.135 was repealed by 1995 c 249 § 1.

Severability—1983 c 2: See note following RCW 18.71.030.

Severability—1982 c 6: See RCW 19.85.900.

Severability—1980 c 186: See note following RCW 34.05.320.

*Schedule of regular meetings of state agencies: RCW 42.30.075.*

## Chapter 34.12

### OFFICE OF ADMINISTRATIVE HEARINGS

#### Sections

34.12.020 Definitions.

34.12.042 Repealed.

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

(1) "Office" means the office of administrative hearings.

(2) "Administrative law judge" means any person appointed by the chief administrative law judge to conduct or preside over hearings as provided in this chapter.

(3) "Hearing" means an adjudicative proceeding within the meaning of RCW 34.05.010(1) conducted by a state agency under RCW 34.05.413 through 34.05.476.

(4) "State agency" means any state board, commission, department, or officer authorized by law to make rules or to conduct adjudicative proceedings, except those in the legislative or judicial branches, the growth management hearings boards, the utilities and transportation commission, the pollution control hearings board, the shorelines hearings board, the forest practices appeals board, the environmental hearings office, the board of industrial insurance appeals, the Washington personnel resources board, the public employment relations commission, the personnel appeals board, and the board of tax appeals. [1995 c 331 § 1; 1994 c 257 § 22; 1993 c 281 § 16; 1989 c 175 § 33; 1982 c 189 § 1; 1981 c 67 § 2.]

Severability—1994 c 257: See note following RCW 36.70A.270.

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

Effective date—1989 c 175: See note following RCW 34.05.010.

Effective date—1982 c 189: "This act shall take effect July 1, 1982." [1982 c 189 § 16.]

Effective dates—Severability—1981 c 67: See notes following RCW 34.12.010.

**34.12.042 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

## Title 35

### CITIES AND TOWNS

#### Chapters

**35.02 Incorporation proceedings.**

**35.07 Disincorporation.**

**35.10 Consolidation and annexation of cities and towns.**

**35.13 Annexation of unincorporated areas.**

**35.20 Municipal courts—Cities over four hundred thousand.**

**35.21 Miscellaneous provisions affecting all cities and towns.**

**35.23 Second class cities.**

**35.27 Towns.**

**35.33 Budgets in second and third class cities, towns and first class cities under 300,000.**

**35.34 Biennial budgets.**

**35.41 Fiscal—Municipal revenue bond act.**

**35.44 Local improvements—Assessments and reassessments.**

**35.49 Local improvements—Collection of assessments.**

**35.63 Planning commissions.**

**35.67 Sewerage systems—Refuse collection and disposal.**

**35.76 Streets—Budget and accounting.**

**35.82 Housing authorities law.**

**35.92 Municipal utilities.****Chapter 35.02****INCORPORATION PROCEEDINGS**

## Sections

- 35.02.132 Newly incorporated city or town—Budgets.  
 35.02.260 Duty of department of community, trade, and economic development to assist newly incorporated cities and towns.

**35.02.132 Newly incorporated city or town—Budgets.** The newly elected officials shall adopt an interim budget for the interim period or until January 1 of the following year, whichever occurs first. A second interim budget shall be adopted for any period between January 1 and the official date of incorporation. These interim budgets shall be adopted in consultation with the state auditor.

The governing body shall adopt a budget for the newly incorporated city or town for the period between the official date of incorporation and January 1 of the following year. The mayor or governing body, whichever is appropriate shall prepare or the governing body may direct the interim city manager to prepare a preliminary budget in detail to be made public at least sixty days before the official date of incorporation as a recommendation for the final budget. The mayor, governing body, or the interim city manager shall submit as a part of the preliminary budget a budget message that contains an explanation of the budget document, an outline of the recommended financial policies and programs of the city or town for the ensuing fiscal year, and a statement of the relation of the recommended appropriation to such policies and programs. Immediately following the release of the preliminary budget, the governing body shall cause to be published a notice once each week for two consecutive weeks of a public hearing to be held at least twenty days before the official date of incorporation on the fixing of the final budget. Any taxpayer may appear and be heard for or against any part of the budget. The governing body may make such adjustments and changes as it deems necessary and may adopt the final budget at the conclusion of the public hearing or at any time before the official date of incorporation. [1995 c 301 § 33; 1991 c 360 § 4.]

**35.02.260 Duty of department of community, trade, and economic development to assist newly incorporated cities and towns.** The department of community, trade, and economic development shall identify federal, state, and local agencies that should receive notification that a new city or town is about to incorporate and shall assist newly formed cities and towns during the interim period before the official date of incorporation in providing such notification to the identified agencies. [1995 c 399 § 34; 1991 c 360 § 6.]

**Chapter 35.07****DISINCORPORATION**

## Sections

- 35.07.230 Involuntary dissolution of towns—Authorized.

**35.07.230 Involuntary dissolution of towns—Authorized.** If any town fails for two successive years to hold its regular municipal election, or if the officers elected at the regular election of any town fail for two successive years to qualify and the government of the town ceases to function by reason thereof, the state auditor may petition the superior court of the county for an order, dissolving the town. In addition to stating the facts which would justify the entry of such an order, the petition shall set forth a detailed statement of the assets and liabilities of the town insofar as they can be ascertained. [1995 c 301 § 34; 1965 c 7 § 35.07.230. Prior: 1925 ex.s. c 76 § 1; RRS § 8931-1.]

**Chapter 35.10****CONSOLIDATION AND ANNEXATION OF CITIES AND TOWNS**

## Sections

- 35.10.420 Consolidation—Submission of ballot proposal—Initiation by petition.  
 35.10.460 Consolidation—Ballot questions.  
 35.10.470 Consolidation—Canvass of votes.  
 35.10.480 Consolidation—Elections of officials—Effective date of consolidation.  
 35.10.490 Consolidation—Name of city.  
 35.10.550 Consolidation—Wards.

**35.10.420 Consolidation—Submission of ballot proposal—Initiation by petition.** The submission of a ballot proposal to the voters of two or more contiguous cities for the consolidation of these contiguous cities may also be caused by the filing of a petition with the legislative body of each such city, signed by the voters of each city in number equal to not less than ten percent of voters who voted in the city at the last general municipal election therein, seeking consolidation of such contiguous cities. A copy of the petition shall be forwarded immediately by each city to the auditor of the county or counties within which that city is located.

The county auditor or auditors shall determine the sufficiency of the signatures in each petition within ten days of receipt of the copies and immediately notify the cities proposed to be consolidated of the sufficiency. If each of the petitions is found to have sufficient valid signatures, the auditor or auditors shall call a special election at which the question of whether such cities shall consolidate shall be submitted to the voters of each of such cities. If a general election is to be held more than ninety days but not more than one hundred eighty days after the filing of the last petition, the question shall be submitted at that election. Otherwise the question shall be submitted at a special election to be called for that purpose at the next special election date, as specified in RCW 29.13.020, that occurs ninety or more days after the date when the last petition was filed.

If each of the petitions is found to have sufficient valid signatures, the auditor or auditors also shall notify the county legislative authority of each county in which the cities are located of the proposed consolidation.

Petitions shall conform with the requirements for form prescribed in RCW 35A.01.040, except different colored paper may be used on petitions circulated in the different

cities. A legal description of the cities need not be included in the petitions. [1995 c 196 § 7; 1985 c 281 § 5.]

**35.10.460 Consolidation—Ballot questions.** If a proposal for assumption of indebtedness is to be submitted to the voters of a city in which the indebtedness did not originate, 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 to be paid by the levy of annual property taxes in excess of regular property taxes" and "Against Assumption of Indebtedness to be paid by the levy of annual property taxes in excess of regular property taxes" or words equivalent thereto. If the question of the form or plan of government is to be submitted to the voters, the question shall be separately stated and the ballots shall contain, as a separate proposition to be voted on, the option of a voter to select one of the three forms or plans of government. If the question of the name of the proposed consolidated city is to be submitted to the voters, the question shall be separately stated and the ballots shall contain, as a separate proposition to be voted on, the option of a voter to select one of the names of the proposed consolidated city. [1995 c 196 § 1; 1985 c 281 § 9.]

**35.10.470 Consolidation—Canvass of votes.** The county canvassing board in each county involved shall canvass the returns in each election. The votes cast in each of such cities shall be canvassed separately, and the statement shall show the whole number of votes cast, the number of votes cast in each city for consolidation, and the number of votes cast in each city against such consolidation. If a proposal for assumption or indebtedness was voted upon in a city in which the indebtedness did not originate, the statement shall show the number of votes cast in such a city for assumption of indebtedness and the number of votes cast against assumption of indebtedness. If a question of the form or plan of government was voted upon, the statement shall show the number of votes cast in each city for each of the optional forms or plans of government. If a name for the proposed consolidated city was voted upon, the statement shall show the number of votes cast in each city for each optional name. A certified copy of such statement shall be filed with the legislative body of each of the cities proposed to be consolidated.

If it appears from such statement of canvass that a majority of the votes cast in each of the cities were in favor of consolidation, the consolidation shall be authorized and shall be effective when the newly elected legislative body members assume office, as provided in RCW 35.10.480.

If a question of the form or plan of government was voted upon, that form or plan receiving the greatest combined number of votes shall become the form or plan of government for the consolidated city. If two or three of the forms or plans of government received the same highest number of votes, the form or plan of government shall be chosen by lot between those receiving the same highest number, where the mayor of the largest of the cities proposed to be consolidated draws the lot at a public meeting.

If a proposition to assume indebtedness was submitted to voters of a city in which the indebtedness did not originate, the proposition shall be deemed approved if approved

by a majority of at least three-fifths of the voters of the city, and the number of persons voting on the proposition constitutes not less than forty percent of the number of votes cast in the city at the last preceding general election. Approval of the proposition authorizes annual property taxes to be levied on the property within the city in which the indebtedness did not originate that are in excess of regular property taxes. However, if the general indebtedness in question was incurred by action of a city legislative body, a proposition for assuming the indebtedness need only be approved by a simple majority vote of the voters of the city in which such indebtedness did not originate.

If a question of the name of the proposed consolidated city was voted upon, that name receiving the greatest combined number of votes shall become the name of the consolidated city. If two proposed names receive the same number of votes, the name shall be chosen by lot, where the mayor of the largest of the cities proposed to be consolidated draws the lot at a public meeting. [1995 c 196 § 2; 1985 c 281 § 10.]

**35.10.480 Consolidation—Elections of officials—Effective date of consolidation.** If the voters of each of the cities proposed to consolidate approve the consolidation, elections to nominate and elect the elected officials of the consolidated city shall be held at times specified in RCW 35A.02.050. If the joint resolution or the petitions prescribe that councilmembers of the consolidated city shall be elected from wards, then the councilmembers shall be elected from wards under RCW 35A.12.180. Terms shall be established as if the city is initially incorporating.

The newly elected officials shall take office immediately upon their qualification. The effective date of the consolidation shall be when a majority of the newly elected members of the legislative body assume office. The clerk of the newly consolidated city shall transmit a duly certified copy of an abstract of the votes to authorize the consolidation and of the election of the newly elected city officials to the secretary of state and the office of financial management. [1995 c 196 § 3; 1985 c 281 § 11.]

**35.10.490 Consolidation—Name of city.** A joint resolution or the petitions may prescribe the name of the proposed consolidated city or may provide that a ballot proposition to determine the name of the proposed consolidated city be submitted to the voters of the cities proposed to be consolidated. If two alternative names are submitted, the name receiving the simple majority vote of the voters voting on the question shall become the name of the consolidated city. If the name for the proposed consolidated city is not prescribed by the joint resolution or petition, or a proposition on the name is not submitted to the voters of the cities proposed to be consolidated, then the newly consolidated city shall be known as the city of . . . . . (listing the names of the cities that were consolidated in alphabetical order). The legislative body of the newly consolidated city may present another name or two names for the newly consolidated city to the city voters for their approval or rejection at the next municipal general election held after the effective date of the consolidation. If only one alternative name is submitted, this alternative name shall become the

name of the consolidated city if approved by a simple majority vote of the voters voting on the question. If two alternative names are submitted, the name receiving the simple majority vote of the voters voting on the question shall become the name of the consolidated city. [1995 c 196 § 4; 1985 c 281 § 12.]

**35.10.550 Consolidation—Wards.** Unless a commission form of government is prescribed or submitted to the voters under RCW 35.10.430, a joint resolution or petition may prescribe that wards be used to elect the councilmembers of the consolidated city. The joint resolution or petition must contain a map of the proposed consolidated city that clearly delineates the boundaries of each ward. Each ward in the proposed consolidated city shall contain approximately the same population. To the greatest extent possible, the integrity of the boundaries of the cities that are proposed to be consolidated shall be respected when the wards are drawn so that the territory within each city is: (1) Included within the fewest number of wards, to the extent the city has a population that is greater than the maximum population established for each ward; or (2) included wholly within one ward, to the extent the city has a population that is equal to or less than the maximum population established for each ward. After the election specified in RCW 35.10.480, election wards may be modified in the manner specified in RCW 35A.12.180. [1995 c 196 § 6.]

### Chapter 35.13

#### ANNEXATION OF UNINCORPORATED AREAS

##### Sections

- 35.13.171 Review board—Convening—Composition.  
35.13.900 Application of chapter to annexations involving water or sewer service.

**35.13.171 Review board—Convening—Composition.** Within thirty days after the filing of a city's or town's annexation resolution pursuant to RCW 35.13.015 with the board of county commissioners or within thirty days after filing with the county commissioners a petition calling for an election on annexation, as provided in RCW 35.13.020, or within thirty days after approval by the legislative body of a city or town of a petition of property owners calling for annexation, as provided in RCW 35.13.130, the mayor of the city or town concerned that is not subject to the jurisdiction of a boundary review board under chapter 36.93 RCW, shall convene a review board composed of the following persons:

(1) The mayor of the city or town initiating the annexation by resolution, or the mayor in the event of a twenty percent annexation petition pursuant to RCW 35.13.020, or an alternate designated by the mayor;

(2) The chairman of the board of county commissioners of the county wherein the property to be annexed is situated, or an alternate designated by him or her;

(3) The director of community, trade, and economic development, or an alternate designated by the director;

Two additional members to be designated, one by the mayor of the annexing city, which member shall be a resident property owner of the city, and one by the chairman

of the county legislative authority, which member shall be a resident of and a property owner or a resident or a property owner if there be no resident property owner in the area proposed to be annexed, shall be added to the original membership and the full board thereafter convened upon call of the mayor: PROVIDED FURTHER, That three members of the board shall constitute a quorum. [1995 c 399 § 35; 1985 c 6 § 2; 1973 1st ex.s. c 164 § 14; 1965 c 7 § 35.13.171. Prior: 1961 c 282 § 2.]

**35.13.900 Application of chapter to annexations involving water or sewer service.** Nothing in this chapter precludes or otherwise applies to an annexation by a city or town of unincorporated territory as authorized by RCW 56.24.180, 56.24.200, and 56.24.205, or 57.24.170, 57.24.190, and 57.24.210. [1995 c 279 § 3.]

### Chapter 35.20

#### MUNICIPAL COURTS—CITIES OVER FOUR HUNDRED THOUSAND

##### Sections

- 35.20.220 Powers and duties of chief clerk—Remittance by city treasurer—Interest—Disposition.

**35.20.220 Powers and duties of chief clerk—Remittance by city treasurer—Interest—Disposition.** (1) The chief clerk, under the supervision and direction of the court administrator of the municipal court, shall have the custody and care of the books, papers and records of said court; he shall be present by himself or deputy during the session of said court, and shall have the power to swear all witnesses and jurors, and administer oaths and affidavits, and take acknowledgments. He shall keep the records of said court, and shall issue all process under his hand and the seal of said court, and shall do and perform all things and have the same powers pertaining to his office as the clerks of the superior courts have in their office. He shall receive all fines, penalties and fees of every kind, and keep a full, accurate and detailed account of the same; and shall on each day pay into the city treasury all money received for said city during the day previous, with a detailed account of the same, and taking the treasurer's receipt therefor.

(2) The city treasurer shall remit monthly thirty-two percent of the noninterest money received under this section, other than for parking infractions and certain costs to the state treasurer. "Certain costs" as used in this subsection, means those costs awarded to prevailing parties in civil actions under RCW 4.84.010 or 36.18.040, or those costs awarded against convicted defendants in criminal actions under RCW 10.01.160, 10.46.190, or 36.18.040, or other similar statutes if such costs are specifically designated as costs by the court and are awarded for the specific reimbursement of costs incurred by the state, county, city, or town in the prosecution of the case, including the fees of defense counsel. Money remitted under this subsection to the state treasurer shall be deposited as provided in RCW 43.08.250.

(3) The balance of the noninterest money received under this section shall be retained by the city and deposited as provided by law.

(4) Penalties, fines, bail forfeitures, fees, and costs may accrue interest at the rate of twelve percent per annum, upon assignment to a collection agency. Interest may accrue only while the case is in collection status.

(5) Interest retained by the court on penalties, fines, bail forfeitures, fees, and costs shall be split twenty-five percent to the state treasurer for deposit in the public safety and education account as provided in RCW 43.08.250, twenty-five percent to the state treasurer for deposit in the judicial information system account as provided in RCW 2.68.020, twenty-five percent to the city general fund, and twenty-five percent to the city general fund to fund local courts. [1995 c 291 § 4; 1988 c 169 § 6; 1985 c 389 § 8; 1984 c 258 § 319; 1969 ex.s. c 147 § 5; 1965 c 7 § 35.20.220. Prior: 1955 c 290 § 22.]

**Effective date—1985 c 389:** See note following RCW 27.24.070.

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

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

## Chapter 35.21

### MISCELLANEOUS PROVISIONS AFFECTING ALL CITIES AND TOWNS

#### Sections

- 35.21.010 General corporate powers—Towns, restrictions as to area.
- 35.21.165 Driving while under the influence of liquor or drug—Minimum penalties.
- 35.21.185 Ordinances—Information pooling.
- 35.21.270 Streets—Records of funds received and used for construction, repair, maintenance.
- 35.21.280 Tax on admissions—Exception as to schools.
- 35.21.300 Utility services—Enforcement of lien—Limitations on termination of service for residential heating.
- 35.21.305 Utility connection charges—Waiver for low-income persons.
- 35.21.687 Affordable housing—Inventory of suitable housing.
- 35.21.735 Public corporations—Declaration of public purpose—Power and authority to enter into agreements, receive and expend funds—Security.
- 35.21.755 Public corporations—Exemption or immunity from taxation—In lieu excise tax.
- 35.21.779 Fire protection services for state-owned facilities—Contracts with the department of community, trade, and economic development—Consolidation of negotiations with multiple state agencies—Arbitration.
- 35.21.895 Regulation of automatic number or location identification—Prohibited.

**35.21.010 General corporate powers—Towns, restrictions as to area.** (1) Municipal corporations now or hereafter organized are bodies politic and corporate under the name of the city of . . . . ., or the town of . . . . ., as the case may be, and as such may sue and be sued, contract or be contracted with, acquire, hold, possess and dispose of property, subject to the restrictions contained in other chapters of this title, having a common seal, and change or alter the same at pleasure, and exercise such other powers, and have such other privileges as are conferred by this title. However, not more than two square miles in area shall be included within the corporate limits of a town having a population of fifteen hundred or less, or located in a county with a population of one million or more, and not more than three square miles in area shall be included within the corporate limits of a town having a population of more than

fifteen hundred in a county with a population of less than one million, nor shall more than twenty acres of unplatted land belonging to any one person be taken within the corporate limits of a town without the consent of the owner of such unplatted land.

(2) Notwithstanding subsections (1) and (3) of this section, a town located in three or more counties is excluded from a limitation in square mileage.

(3) Except as provided in subsection (2) of this section, the original incorporation of a town shall be limited to an area of not more than one square mile and a population as prescribed in RCW 35.01.040. [1995 c 196 § 5; 1991 c 363 § 37; 1965 c 138 § 1; 1965 c 7 § 35.21.010. Prior: 1963 c 119 § 1; 1890 p 141 § 15, part; RRS § 8935.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

**Validation of certain incorporations and annexations—Municipal corporations of the fourth class—1961 ex.s. c 16:** "Any incorporation of a municipal corporation of the fourth class and any annexation of territory to a municipal corporation of the fourth class prior to March 31, 1961, which is otherwise valid except for compliance with the limitation to the area of one square mile as prescribed by section 15, page 141, Laws of 1889-90, is hereby validated and declared to be a valid incorporation or annexation in all respects." [1961 ex.s. c 16 § 1.]

**35.21.165 Driving while under the influence of liquor or drug—Minimum penalties.** Except as limited by the maximum penalties authorized by law, no city or town may establish a penalty for an act that constitutes the crime of driving while under the influence of intoxicating liquor or any drug, as provided in RCW 46.61.502, or the crime of being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug, as provided in RCW 46.61.504, that is less than the penalties prescribed for those crimes in RCW 46.61.5055. [1995 c 332 § 8; 1994 c 275 § 36; 1983 c 165 § 40.]

**Severability—Effective dates—1995 c 332:** See notes following RCW 46.20.308.

**Short title—Effective date—1994 c 275:** See notes following RCW 46.04.015.

**Legislative finding, intent—Effective dates—Severability—1983 c 165:** See notes following RCW 46.20.308.

**35.21.185 Ordinances—Information pooling.** (1) It is the purpose of this section to provide a means whereby all cities and towns may obtain, through a single source, information regarding ordinances of other cities and towns that may be of assistance to them in enacting appropriate local legislation.

(2) For the purposes of this section, (a) "clerk" means the city or town clerk or other person who is lawfully designated to perform the recordkeeping function of that office, and (b) "municipal research council" means the municipal research council created by chapter 43.110 RCW.

(3) The clerk of every city and town is directed to provide to the municipal research council or its designee, promptly after adoption, a copy of each of its regulatory ordinances and such other ordinances or kinds of ordinances as may be described in a list or lists promulgated by the municipal research council or its designee from time to time, and may provide such copies without charge. The municipal research council may provide that information to the entity with which it contracts for the provision of municipal

research and services, in order to provide a pool of information for all cities and towns in the state of Washington.

(4) This section is intended to be directory and not mandatory. [1995 c 21 § 1.]

**35.21.270 Streets—Records of funds received and used for construction, repair, maintenance.** The city engineer or the city clerk of each city or town shall maintain records of the receipt and expenditure of all moneys used for construction, repair, or maintenance of streets and arterial highways.

To assist in maintaining uniformity in such records, the state auditor, with the advice and assistance of the department of transportation, shall prescribe forms and types of records to be so maintained. [1995 c 301 § 35; 1984 c 7 § 20; 1965 c 7 § 35.21.270. Prior: 1949 c 164 § 5; Rem. Supp. 1949 § 9300-5.]

**Severability—1984 c 7:** See note following RCW 47.01.141.

**35.21.280 Tax on admissions—Exception as to schools.** Every city and town may levy and fix a tax of not more than one cent on twenty cents or fraction thereof to be paid by the person who pays an admission charge to any place: PROVIDED, No city or town shall impose such tax on persons paying an admission to any activity of any elementary or secondary school. This includes 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 privileges or accommodations. A city that is located in a county with a population of one million or more may not levy a tax on events in stadia constructed on or after January 1, 1995, that are owned by county government or a public facilities district under chapter 36.100 RCW and that have seating capacities over forty thousand. The city or town may require anyone who receives payment for an admission charge to collect and remit the tax to the city or town.

The term "admission charge" includes:

- (1) A charge made for season tickets or subscriptions;
- (2) A cover charge, or a charge made for use of seats and tables reserved or otherwise, and other similar accommodations;
- (3) A charge made for food and refreshment in any place where free entertainment, recreation or amusement is provided;
- (4) A charge made for rental or use of equipment or facilities for purposes of recreation or amusement; if 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;
- (5) Automobile parking charges if the amount of the charge is determined according to the number of passengers in the automobile. [1995 1st sp.s. c 14 § 8; 1965 c 7 § 35.21.280. Prior: 1957 c 126 § 1; 1951 c 35 § 1; 1943 c 80 § 1; Rem. Supp. 1943 § 8370-44a.]

**Severability—Effective dates—1995 1st sp.s. c 14:** See notes following RCW 36.100.010.

**35.21.300 Utility services—Enforcement of lien—Limitations on termination of service for residential**

**heating.** (1) The lien for charges for service by a city waterworks, or electric light or power plant may be enforced only by cutting off the service until the delinquent and unpaid charges are paid, except that until June 30, 1991, utility service for residential space heating may be terminated between November 15 and March 15 only as provided in subsections (2) and (4) of this section. In the event of a disputed account and tender by the owner of the premises of the amount the owner claims to be due before the service is cut off, the right to refuse service to any premises shall not accrue until suit has been entered by the city and judgment entered in the case.

(2) Utility service for residential space heating shall not be terminated between November 15 through March 15 if the customer:

(a) Notifies the utility of the inability to pay the bill, including a security deposit. This notice should be provided within five business days of receiving a payment overdue notice unless there are extenuating circumstances. If the customer fails to notify the utility within five business days and service is terminated, the customer can, by paying reconnection charges, if any, and fulfilling the requirements of this section, receive the protections of this chapter;

(b) Provides self-certification of household income for the prior twelve months to a grantee of the department of community, trade, and economic development which administers federally funded energy assistance programs. The grantee shall determine that the household income does not exceed the maximum allowed for eligibility under the state's plan for low-income energy assistance under 42 U.S.C. 8624 and shall provide a dollar figure that is seven percent of household income. The grantee may verify information in the self-certification;

(c) Has applied for home heating assistance from applicable government and private sector organizations and certifies that any assistance received will be applied to the current bill and future utility bills;

(d) Has applied for low-income weatherization assistance to the utility or other appropriate agency if such assistance is available for the dwelling;

(e) Agrees to a payment plan and agrees to maintain the payment plan. The plan will be designed both to pay the past due bill by the following October 15 and to pay for continued utility service. If the past due bill is not paid by the following October 15, the customer shall not be eligible for protections under this chapter until the past due bill is paid. The plan shall not require monthly payments in excess of seven percent of the customer's monthly income plus one-twelfth of any arrearage accrued from the date application is made and thereafter during November 15 through March 15. A customer may agree to pay a higher percentage during this period, but shall not be in default unless payment during this period is less than seven percent of monthly income plus one-twelfth of any arrearage accrued from the date application is made and thereafter. If assistance payments are received by the customer subsequent to implementation of the plan, the customer shall contact the utility to reformulate the plan; and

(f) Agrees to pay the moneys owed even if he or she moves.

(3) The utility shall:

(a) Include in any notice that an account is delinquent and that service may be subject to termination, a description of the customer's duties in this section;

(b) Assist the customer in fulfilling the requirements under this section;

(c) Be authorized to transfer an account to a new residence when a customer who has established a plan under this section moves from one residence to another within the same utility service area;

(d) Be permitted to disconnect service if the customer fails to honor the payment program. Utilities may continue to disconnect service for those practices authorized by law other than for nonpayment as provided for in this section. Customers who qualify for payment plans under this section who default on their payment plans and are disconnected can be reconnected and maintain the protections afforded under this chapter by paying reconnection charges, if any, and by paying all amounts that would have been due and owing under the terms of the applicable payment plan, absent default, on the date on which service is reconnected; and

(e) Advise the customer in writing at the time it disconnects service that it will restore service if the customer contacts the utility and fulfills the other requirements of this section.

(4) All municipal utilities shall offer residential customers the option of a budget billing or equal payment plan. The budget billing or equal payment plan shall be offered low-income customers eligible under the state's plan for low-income energy assistance prepared in accordance with 42 U.S.C. 8624(C)(1) without limiting availability to certain months of the year, without regard to the length of time the customer has occupied the premises, and without regard to whether the customer is the tenant or owner of the premises occupied.

(5) An agreement between the customer and the utility, whether oral or written, shall not waive the protections afforded under this chapter. [1995 c 399 § 36; 1991 c 165 § 2; 1990 1st ex.s. c 1 § 1; 1987 c 356 § 1; 1986 c 245 § 1; 1985 c 6 § 3; 1984 c 251 § 1; 1965 c 7 § 35.21.300. Prior: 1909 c 161 § 2; RRS § 9472.]

**Findings—1991 c 165:** "The legislature finds that the health and welfare of the people of the state of Washington require that all citizens receive essential levels of heat and electric service regardless of economic circumstance and that rising energy costs have had a negative effect on the affordability of housing for low-income citizens and have made it difficult for low-income citizens of the state to afford adequate fuel for residential space heat. The legislature further finds that level payment plans, the protection against winter heating shutoff, and house weatherization programs have all been beneficial to low-income persons." [1991 c 165 § 1.]

**35.21.305 Utility connection charges—Waiver for low-income persons.** A city or town, including a code city, that owns or operates an electric or gas utility may waive connection charges for properties purchased by low-income persons from organizations exempt from tax under section 501(c)(3) of the federal internal revenue code as amended prior to July 23, 1995. Waivers of connection charges for the same class of electric or gas utility service must be uniformly applied to all qualified property. Nothing in this section authorizes the impairment of a contract. [1995 c 140 § 1.]

**35.21.687 Affordable housing—Inventory of suitable housing.** (1) Every city and town, including every code city operating under Title 35A RCW, shall identify and catalog real property owned by the city or town that is no longer required for its purposes and is suitable for the development of affordable housing for very low-income, low-income, and moderate-income households as defined in RCW 43.63A.510. The inventory shall include the location, approximate size, and current zoning classification of the property. Every city and town shall provide a copy of the inventory to the department of community, trade, and economic development by November 1, 1993, with inventory revisions each November 1 thereafter.

(2) By November 1 of each year, beginning in 1994, every city and town, including every code city operating under Title 35A RCW, shall purge the inventory of real property of sites that are no longer available for the development of affordable housing. The inventory revision shall also contain a list of real property that has become available since the last update. As used in this section, "real property" means buildings, land, or buildings and land. [1995 c 399 § 37; 1993 c 461 § 4.]

**Finding—1993 c 461:** See note following RCW 43.63A.510.

**35.21.735 Public corporations—Declaration of public purpose—Power and authority to enter into agreements, receive and expend funds—Security.** (1) The legislature hereby declares that carrying out the purposes of federal grants or programs is both a public purpose and an appropriate function for a city, town, county, or public corporation. The provisions of RCW 35.21.730 through 35.21.755 and RCW 35.21.660 and 35.21.670 and the enabling authority herein conferred to implement these provisions shall be construed to accomplish the purposes of RCW 35.21.730 through 35.21.755.

(2) All cities, towns, counties, and public corporations shall have the power and authority to enter into agreements with the United States or any agency or department thereof, or any agency of the state government or its political subdivisions, and pursuant to such agreements may receive and expend, or cause to be received and expended by a custodian or trustee, federal or private funds for any lawful public purpose. Pursuant to any such agreement, a city, town, county, or public corporation may issue bonds, notes, or other evidences of indebtedness that are guaranteed or otherwise secured by funds or other instruments provided by or through the federal government or by the federal government or an agency or instrumentality thereof under section 108 of the housing and community development act of 1974 (42 U.S.C. Sec. 5308), as amended, or its successor, and may agree to repay and reimburse for any liability thereon any guarantor of any such bonds, notes, or other evidences of indebtedness issued by such jurisdiction or public corporation, or issued by any other public entity. For purposes of this subsection federal housing mortgage insurance shall not constitute a federal guarantee or security.

(3) A city, town, county, or public corporation may pledge, as security for any such bonds, notes, or other evidences of indebtedness or for its obligations to repay or reimburse any guarantor thereof, its right, title, and interest in and to any or all of the following: (a) Any federal grants

or payments received or that may be received in the future; (b) any of the following that may be obtained directly or indirectly from the use of any federal or private funds received as authorized in this section: (i) Property and interests therein, and (ii) revenues; (c) any payments received or owing from any person resulting from the lending of any federal or private funds received as authorized in this section; (d) any proceeds under (a), (b), or (c) of this subsection and any securities or investments in which (a), (b), or (c) of this subsection or proceeds thereof may be invested; (e) any interest or other earnings on (a), (b), (c), or (d) of this subsection.

(4) A city, town, county, or public corporation may establish one or more special funds relating to any or all of the sources listed in subsection (3)(a) through (e) of this section and pay or cause to be paid from such fund the principal, interest, premium if any, and other amounts payable on any bonds, notes, or other evidences of indebtedness authorized under this section, and pay or cause to be paid any amounts owing on any obligations for repayment or reimbursement of guarantors of any such bonds, notes, or other evidences of indebtedness. A city, town, county, or public corporation may contract with a financial institution either to act as trustee or custodian to receive, administer, and expend any federal or private funds, or to collect, administer, and make payments from any special fund as authorized under this section, or both, and to perform other duties and functions in connection with the transactions authorized under this section. If the bonds, notes, or other evidences of indebtedness and related agreements comply with subsection (6) of this section, then any such funds held by any such trustee or custodian, or by a public corporation, shall not constitute public moneys or funds of any city, town, or county and at all times shall be kept segregated and set apart from other funds.

(5) For purposes of this section, "lawful public purpose" includes, without limitation, any use of funds, including loans thereof to public or private parties, authorized by the agreements with the United States or any department or agency thereof under which federal or private funds are obtained, or authorized under the federal laws and regulations pertinent to such agreements.

(6) If any such federal or private funds are loaned or granted to any private party or used to guarantee any obligations of any private party, then any bonds, notes, other evidences of indebtedness issued or entered into for the purpose of receiving or causing the receipt of such federal or private funds, and any agreements to repay or reimburse guarantors, shall not be obligations of any city, town, or county and shall be payable only from a special fund as authorized in this section or from any of the security pledged pursuant to the authority of this section, or both. Any bonds, notes, or other evidences of indebtedness to which this subsection applies shall contain a recital to the effect that they are not obligations of the city, town, or county or the state of Washington and that neither the faith and credit nor the taxing power of the state or any municipal corporation or subdivision of the state or any agency of any of the foregoing, is pledged to the payment of principal, interest, or premium, if any, thereon. Any bonds, notes, other evidences of indebtedness, or other obligations to which this subsection applies shall not be included in any computation for purposes

of limitations on indebtedness. To the extent expressly agreed in writing by a city, town, county, or public corporation, this subsection shall not apply to bonds, notes, or other evidences of indebtedness issued for, or obligations incurred for, the necessary support of the poor and infirm by that city, town, county, or public corporation.

(7) Any bonds, notes, or other evidences of indebtedness issued by, or reimbursement obligations incurred by, a city, town, county, or public corporation consistent with the provisions of this section but prior to May 3, 1995, and any loans or pledges made by a city, town, or county in connection therewith substantially consistent with the provisions of this section but prior to May 3, 1995, are deemed authorized and shall not be held void, voidable, or invalid due to any lack of authority under the laws of this state. [1995 c 212 § 2; 1985 c 332 § 3; 1974 ex.s. c 37 § 3.]

**Purpose—1995 c 212:** "The purpose of this act is to assist community and economic development by clarifying the authority of all cities, towns, counties, and public corporations to engage in federally guaranteed "conduit financings" and to specify procedures that may be used for such conduit financings. Generally, in such a conduit financing a municipality borrows funds from the federal government or from private sources with the help of federal guarantees, without pledging the credit or tax revenues of the municipality, and then lends the proceeds for private projects that both fulfill public purposes, such as community and economic development, and provide the revenues to retire the municipal borrowings. Such conduit financings include issuance by municipalities of federally guaranteed notes under section 108 of the housing and community development act of 1974, as amended, to finance projects eligible under federal community development block grant regulations." [1995 c 212 § 1.]

**Severability—1995 c 212:** "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." [1995 c 212 § 3.]

**Construction—1995 c 212:** "The authority granted by this act is additional and supplemental to any other authority of any city, town, county, or public corporation. Nothing in this act may be construed to imply that any of the power or authority granted hereby was not available to any city, town, county, or public corporation under prior law. Any previous actions consistent with the provisions of this act are ratified and confirmed." [1995 c 212 § 4.]

**Effective date—1995 c 212:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 3, 1995]." [1995 c 212 § 5.]

**35.21.755 Public corporations—Exemption or immunity from taxation—In lieu excise tax.** (1) A public corporation, commission, or authority created pursuant to RCW 35.21.730 or 35.21.660 shall receive the same immunity or exemption from taxation as that of the city, town, or county creating the same: **PROVIDED,** That, except for (a) any property within a special review district established by ordinance prior to January 1, 1976, or listed on or which is within a district listed on any federal or state register of historical sites or (b) any property owned, operated, or controlled by a public corporation that is used primarily for low-income housing, or that is used as a convention center, performing arts center, public assembly hall, or public meeting place, any such public corporation, commission, or authority shall pay to the county treasurer an annual excise tax equal to the amounts which would be paid upon real property and personal property devoted to the purposes of such public corporation, commission, or authority were it in private ownership, and such real property and personal property is acquired and/or operated under RCW 35.21.730



through 35.21.755, and the proceeds of such excise tax shall be allocated by the county treasurer to the various taxing authorities in which such property is situated, in the same manner as though the property were in private ownership: PROVIDED FURTHER, That the provisions of chapter 82.29A RCW shall not apply to property within a special review district established by ordinance prior to January 1, 1976, or listed on or which is within a district listed on any federal or state register of historical sites and which is controlled by a public corporation, commission, or authority created pursuant to RCW 35.21.730 or 35.21.660, which was in existence prior to January 1, 1987: AND PROVIDED FURTHER, That property within a special review district established by ordinance prior to January 1, 1976, or property which is listed on any federal or state register of historical sites and controlled by a public corporation, commission, or authority created pursuant to RCW 35.21.730 or 35.21.660, which was in existence prior to January 1, 1976, shall receive the same immunity or exemption from taxation as if such property had been within a district listed on any such federal or state register of historical sites as of January 1, 1976, and controlled by a public corporation, commission, or authority created pursuant to RCW 35.21.730 or 35.21.660 which was in existence prior to January 1, 1976.

(2) As used in this section:

(a) "Low-income" means a total annual income, adjusted for family size, not exceeding fifty percent of the area median income.

(b) "Area median income" means:

(i) For an area within a standard metropolitan statistical area, the area median income reported by the United States department of housing and urban development for that standard metropolitan statistical area; or

(ii) For an area not within a standard metropolitan statistical area, the county median income reported by the department of community, trade, and economic development. [1995 c 399 § 38; 1993 c 220 § 1; 1990 c 131 § 1; 1987 c 282 § 1; 1985 c 332 § 5; 1984 c 116 § 1; 1979 ex.s. c 196 § 9; 1977 ex.s. c 35 § 1; 1974 ex.s. c 37 § 7.]

**Effective date—1979 ex.s. c 196:** See note following RCW 82.04.240.

**Effective date—1977 ex.s. c 35:** "This 1977 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1977." [1977 ex.s. c 35 § 2.]

**35.21.779 Fire protection services for state-owned facilities—Contracts with the department of community, trade, and economic development—Consolidation of negotiations with multiple state agencies—Arbitration.**

(1) In cities or towns where the estimated value of state-owned facilities constitutes ten percent or more of the total assessed valuation, the state agency or institution owning the facilities shall contract with the city or town to pay an equitable share for fire protection services. The contract shall be negotiated as provided in subsections (2) through (6) of this section and shall provide for payment by the agency or institution to the city or town.

(2) A city or town seeking to enter into fire protection contract negotiations shall provide written notification to the department of community, trade, and economic development

and the state agencies or institutions that own property within the jurisdiction, of its intent to contract for fire protection services. Where there are multiple state agencies located within a single jurisdiction, a city may choose to notify only the department of community, trade, and economic development, which in turn shall notify the agencies or institution that own property within the jurisdiction of the city's intent to contract for fire protection services. Any such notification shall be based on the valuation procedures, based on commonly accepted standards, adopted by the department of community, trade, and economic development in consultation with the department of general administration and the association of Washington cities.

(3) The department of community, trade, and economic development shall review any such notification to ensure that the valuation procedures and results are accurate. The department will notify each affected city or town and state agency or institution of the results of their review within thirty days of receipt of notification.

(4) The parties negotiating fire protection contracts under this section shall conduct those negotiations in good faith. Whenever there are multiple state agencies located within a single jurisdiction, every effort shall be made by the state to consolidate negotiations on behalf of all affected agencies.

(5) In the event of notification by one of the parties that an agreement cannot be reached on the terms and conditions of a fire protection contract, the director of the department of community, trade, and economic development shall mediate a resolution of the disagreement. In the event of a continued impasse, the director of the department of community, trade, and economic development shall recommend a resolution.

(6) If the parties reject the recommendation of the director and an impasse continues, the director shall direct the parties to arbitration. The parties shall agree on a neutral arbitrator, and the fees and expenses of the arbitrator shall be shared equally between the parties. The arbitration shall be a final offer, total arbitration, with the arbitrator empowered only to pick the final offer of one of the parties or the recommended resolution by the director of the department of community, trade, and economic development. The decision of the arbitrator shall be final, binding, and nonappealable on the parties.

(7) The provisions of this section shall not apply if a city or town and a state agency or institution have contracted pursuant to RCW 35.21.775.

(8) The provisions of this section do not apply to cities and towns not meeting the conditions in subsection (1) of this section. Cities and towns not meeting the conditions of subsection (1) of this section may enter into contracts pursuant to RCW 35.21.775. [1995 c 399 § 39; 1992 c 117 § 6.]

**Findings—1992 c 117:** See note following RCW 35.21.775.

**35.21.895 Regulation of automatic number or location identification—Prohibited.** No city or town may enact or enforce an ordinance or regulation mandating automatic number identification or automatic location identification for a private telecommunications system or for

a provider of private shared telecommunications services. [1995 c 243 § 6.]

**Findings—Severability—1995 c 243:** See notes following RCW 80.36.555.

## Chapter 35.23 SECOND CLASS CITIES

### Sections

35.23.051	Elections—Terms of office—Positions and wards.
35.23.101	Vacancies.
35.23.121	City clerk—Duties—Deputies.
35.23.310	Repealed.
35.23.535	Utilities—Maintenance and operation—Rates.
35.23.850	Code city retaining former second class city plan—Wards— Division of city into.

**35.23.051 Elections—Terms of office—Positions and wards.** General municipal elections in second class cities not operating under the commission form of government shall be held biennially in the odd-numbered years and shall be subject to general election law.

The terms of office of the mayor, city attorney, clerk, and treasurer shall be four years and until their successors are elected and qualified and assume office in accordance with RCW 29.04.170: **PROVIDED**, That if the offices of city attorney, clerk, and treasurer are made appointive, the city attorney, clerk, and treasurer shall not be appointed for a definite term: **PROVIDED FURTHER**, That the term of the elected treasurer shall not commence in the same biennium in which the term of the mayor commences, nor in which the terms of the city attorney and clerk commence if they are elected.

Council positions shall be numbered in each second class city so that council position seven has a two-year term of office and council positions one through six shall each have four-year terms of office. Each councilmember shall remain in office until a successor is elected and qualified and assumes office in accordance with RCW 29.04.170.

In its discretion the council of a second class city may divide the city by ordinance, into a convenient number of wards, not exceeding six, fix the boundaries of the wards, and change the ward boundaries from time to time and as provided in RCW 29.70.100. No change in the boundaries of any ward shall be made within one hundred twenty days next before the date of a general municipal election, nor within twenty months after the wards have been established or altered. However, if a boundary change results in one ward being represented by more councilmembers than the number to which it is entitled, those having the shortest unexpired terms shall be assigned by the council to wards where there is a vacancy, and the councilmembers so assigned shall be deemed to be residents of the wards to which they are assigned for purposes of determining whether those positions are vacant.

Whenever such city is so divided into wards, the city council shall designate by ordinance the number of councilmembers to be elected from each ward, apportioning the same in proportion to the population of the wards. Thereafter the councilmembers so designated shall be elected by the voters resident in such ward, or by general vote of the whole city as may be designated in such ordinance. Council

position seven shall not be associated with a ward and the person elected to that position may reside anywhere in the city and voters throughout the city may vote at a primary to nominate candidates for position seven, when a primary is necessary, and at a general election to elect the person to council position seven. When additional territory is added to the city it may by act of the council, be annexed to contiguous wards without affecting the right to redistrict at the expiration of twenty months after last previous division. The removal of a councilmember from the ward for which he or she was elected shall create a vacancy in such office.

Wards shall be redrawn as provided in chapter 29.70 RCW. Wards shall be used as follows: (1) Only a resident of the ward may be a candidate for, or hold office as, a councilmember of the ward; and (2) only voters of the ward may vote at a primary to nominate candidates for a councilmember of the ward. Voters of the entire city may vote at the general election to elect a councilmember of a ward, unless the city had prior to January 1, 1994, limited the voting in the general election for any or all council positions to only voters residing within the ward associated with the council positions. If a city had so limited the voting in the general election to only voters residing within the ward, then the city shall be authorized to continue to do so. The elections for the remaining council position or council positions that are not associated with a ward shall be conducted as if the wards did not exist. [1995 c 134 § 8. Prior: 1994 c 223 § 17; 1994 c 81 § 36; 1979 ex.s. c 126 § 22; 1969 c 116 § 2; 1965 c 7 § 35.24.050; prior: 1963 c 200 § 15; 1959 c 86 § 4; 1955 c 365 § 3; 1955 c 55 § 6; prior: (i) 1929 c 182 § 1, part; 1927 c 159 § 1; 1915 c 184 § 3, part; 1893 c 57 § 1; 1891 c 156 § 1; 1890 p 179 § 106; RRS § 9116, part. (ii) 1941 c 108 § 1; 1939 c 87 § 1; Rem. Supp. 1941 § 9116-1. Formerly RCW 35.24.050.]

**Purpose—1979 ex.s. c 126:** See RCW 29.04.170(1).

**35.23.101 Vacancies.** The council of a second class city may declare a council position vacant if the councilmember is absent for three consecutive regular meetings without permission of the council. In addition, a vacancy in an elective office shall occur and shall be filled as provided in chapter 42.12 RCW.

Vacancies in offices other than that of mayor or city councilmember shall be filled by appointment of the mayor.

If there is a temporary vacancy in an appointive office due to illness, absence from the city or other temporary inability to act, the mayor may appoint a temporary appointee to exercise the duties of the office until the temporary disability of the incumbent is removed. [1995 c 134 § 9. Prior: 1994 c 223 § 19; 1994 c 81 § 38; 1965 c 7 § 35.24.100; prior: (i) 1919 c 113 § 1; 1915 c 184 § 6; 1890 p 180 § 108; RRS § 9119. (ii) 1907 c 228 § 5, part; RRS § 9203, part. Formerly RCW 35.24.100.]

*Vacancies in office of mayor filled from among city council members:* RCW 35.23.191.

**35.23.121 City clerk—Duties—Deputies.** The city clerk shall keep a full and true record of every act and proceeding of the city council and keep such books, accounts and make such reports as may be required by the state auditor. The city clerk shall record all ordinances, annexing

thereto his or her certificate giving the number and title of the ordinance, stating that the ordinance was published and posted according to law and that the record is a true and correct copy thereof. The record copy with the clerk's certificate shall be prima facie evidence of the contents of the ordinance and of its passage and publication and shall be admissible as such evidence in any court or proceeding.

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

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

The city clerk shall perform such other duties as may be required by statute or ordinance. [1995 c 301 § 36; 1965 c 7 § 35.24.120. Prior: 1915 c 184 § 25; RRS § 9139. Formerly RCW 35.24.120.]

**35.23.310 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**35.23.535 Utilities—Maintenance and operation—Rates.** No taxes shall be imposed for maintenance and operating charges of city owned water, light, power, or heating works or systems.

Rates shall be fixed by ordinance for supplying water, light, power, or heat for commercial, domestic, or irrigation purposes sufficient to pay for all operating and maintenance charges. If the rates in force produce a greater amount than is necessary to meet operating and maintenance charges, the rates may be reduced or the excess income may be transferred to the city's current expense fund.

Complete separate accounts for municipal utilities must be kept under the system and on forms prescribed by the state auditor.

The term "maintenance and operating charges," as used in this section includes all necessary repairs, replacement, interest on any debts incurred in acquiring, constructing, repairing and operating plants and departments and all depreciation charges. This term shall also include an annual charge equal to four percent on the cost of the plant or system, as determined by the state auditor to be paid into the current expense fund, except that where utility bonds have been or may hereafter be issued and are unpaid no payment shall be required into the current expense fund until such bonds are paid. [1995 c 301 § 37; 1965 c 7 § 35.24.430. Prior: 1917 c 124 § 1, part; 1915 c 184 § 16, part; RRS § 9129, part. Formerly RCW 35.24.430.]

**35.23.850 Code city retaining former second class city plan—Wards—Division of city into.** In any city initially classified as a second class city prior to January 1, 1993, that retained its second class city plan of government when the city reorganized as a noncharter code city, the city council may divide the city into wards, not exceeding six in all, or change the boundaries of existing wards at any time less than one hundred twenty days before a municipal general election. No change in the boundaries of wards shall affect the term of any councilmember, and councilmembers

shall serve out their terms in the wards of their residences at the time of their elections. However, if these boundary changes result in one ward being represented by more councilmembers than the number to which it is entitled, those having the shortest unexpired terms shall be assigned by the council to wards where there is a vacancy, and the councilmembers so assigned shall be deemed to be residents of the wards to which they are assigned for purposes of determining whether those positions are vacant.

The representation of each ward in the city council shall be in proportion to the population as nearly as is practicable.

Wards shall be redrawn as provided in chapter 29.70 RCW. Wards shall be used as follows: (1) Only a resident of the ward may be a candidate for, or hold office as, a councilmember of the ward; and (2) only voters of the ward may vote at a primary to nominate candidates for a councilmember of the ward. Voters of the entire city may vote at the general election to elect a councilmember of a ward, unless the city had prior to January 1, 1994, limited the voting in the general election for any or all council positions to only voters residing within the ward associated with the council positions. If a city had so limited the voting in the general election to only voters residing within the ward, then the city shall be authorized to continue to do so. The elections for the remaining council position or council positions that are not associated with a ward shall be conducted as if the wards did not exist. [1995 c 134 § 10. Prior: 1994 c 223 § 16; 1994 c 81 § 34; 1965 c 7 § 35.23.530; prior: 1907 c 241 § 14; 1890 p 147 § 35; RRS § 9019. Formerly RCW 35.23.530.]

## Chapter 35.27 TOWNS

### Sections

35.27.510 Utilities—Transfer of part of net earnings to current expense fund.

**35.27.510 Utilities—Transfer of part of net earnings to current expense fund.** When any special fund of a public utility department of a town has retired all bond and warrant indebtedness and is on a cash basis, if a reserve or depreciation fund has been created in an amount satisfactory to the state auditor and if the fixing of the rates of the utility is governed by contract with the supplier of water, electrical energy, or other commodity sold by the town to its inhabitants, and the rates are at the lowest possible figure, the town council may set aside such portion of the net earnings of the utility as it may deem advisable and transfer it to the town's current expense fund: PROVIDED, That no amount in excess of fifty percent of the net earnings shall be so set aside and transferred except with the unanimous approval of the council and mayor. [1995 c 301 § 38; 1965 c 7 § 35.27.510. Prior: 1939 c 96 § 1; 1929 c 98 § 1; RRS § 9185-1.]

## Chapter 35.33

**BUDGETS IN SECOND AND THIRD CLASS  
CITIES, TOWNS AND FIRST CLASS CITIES  
UNDER 300,000**

## Sections

- 35.33.031 Budget estimates.  
 35.33.041 Budget estimates—Classification and segregation.  
 35.33.075 Budget—Final—Adoption—Appropriations.  
 35.33.111 Forms—Accounting—Supervision by state.

**35.33.031 Budget estimates.** On or before the second Monday of the fourth month prior to the beginning of the city's or town's next fiscal year, or at such other time as the city or town may provide by ordinance or charter, the clerk shall notify in writing the head of each department of a city or town 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 or her 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 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 or her office. The chief administrative officers of the city or town 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. [1995 c 301 § 39; 1969 ex.s. c 95 § 3.]

**35.33.041 Budget estimates—Classification and segregation.** 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 after consultation with the Washington finance officers association, the association of Washington cities and the association of Washington city managers. [1995 c 301 § 40; 1969 ex.s. c 95 § 4.]

**35.33.075 Budget—Final—Adoption—Appropriations.** 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.

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A complete copy of the final budget as adopted shall be transmitted to the association of Washington cities. [1995 c 301 § 41; 1969 ex.s. c 95 § 10.]

**35.33.111 Forms—Accounting—Supervision by state.** 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. [1995 c 301 § 42; 1969 ex.s. c 95 § 16.]

## Chapter 35.34

**BIENNIAL BUDGETS**

## Sections

- 35.34.050 Budget estimates—Submittal.  
 35.34.060 Budget estimates—Classification and segregation.  
 35.34.120 Budget—Adoption.  
 35.34.130 Budget—Mid-biennial review and modification.  
 35.34.190 Forms—Accounting—Supervision by state.

**35.34.050 Budget estimates—Submittal.** On or before the second Monday of the fourth month prior to the beginning of the city's or town's next fiscal biennium, or at such other time as the city or town may provide by ordinance or charter, the clerk shall notify in writing the head of each department of a city or town 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 the department for the ensuing fiscal biennium. The notice shall be accompanied by the proper forms provided by the clerk, prepared in accordance with the requirements and classification established by 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 the clerk's office. The chief administrative officers of the city or town 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 required by this section shall devolve upon the person next in charge of such department. [1995 c 301 § 43; 1985 c 175 § 8.]

**35.34.060 Budget estimates—Classification and segregation.** All estimates of receipts and expenditures for the ensuing fiscal biennium shall be fully detailed in the biennial budget and shall be classified and segregated according to a standard classification of accounts to be adopted and prescribed by the state auditor after consultation with the Washington finance officers association, the association of Washington cities, and the association of Washington city managers. [1995 c 301 § 44; 1985 c 175 § 9.]

**35.34.120 Budget—Adoption.** Following conclusion of the hearing, and prior to the beginning of the fiscal

biennium, 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, 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 biennium. Such ordinances may adopt the final budget by reference. However, the ordinance adopting the 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 state auditor and to the association of Washington cities. [1995 c 301 § 45; 1985 c 175 § 15.]

**35.34.130 Budget—Mid-biennial review and modification.** The legislative authority of a city or town having adopted the provisions of this chapter shall provide by ordinance for a mid-biennial review and modification of the biennial budget. The ordinance shall provide that such review and modification shall occur no sooner than eight months after the start nor later than conclusion of the first year of the fiscal biennium. The chief administrative officer shall prepare the proposed budget modification and shall provide for publication of notice of hearings consistent with publication of notices for adoption of other city or town ordinances. City or town ordinances providing for a mid-biennium review and modification shall establish procedures for distribution of the proposed modification to members of the city or town legislative authority, procedures for making copies available to the public, and shall provide for public hearings on the proposed budget modification. The budget modification shall be by ordinance approved in the same manner as are other ordinances of the city or town.

A complete copy of the budget modification as adopted shall be transmitted to the state auditor and to the association of Washington cities. [1995 c 301 § 46; 1985 c 175 § 16.]

**35.34.190 Forms—Accounting—Supervision by state.** 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. [1995 c 301 § 47; 1985 c 175 § 22.]

## Chapter 35.41

### FISCAL—MUNICIPAL REVENUE BOND ACT

#### Sections

35.41.080 Rates and charges for services, use, or benefits—Waiver of connection charges for low-income persons.

**35.41.080 Rates and charges for services, use, or benefits—Waiver of connection charges for low-income persons.** (1) The legislative body of any city or town may provide by ordinance for revenues by fixing rates and charges for the furnishing of service, use, or benefits to those

to whom service, use, or benefits from such facility or utility is available, which rates and charges shall be uniform for the same class of service. The legislative body may waive connection charges for properties purchased by low-income persons from organizations exempt from tax under section 501(c)(3) of the federal internal revenue code as amended prior to July 23, 1995. Waivers of connection charges for the same class of electric or gas utility service must be uniformly applied to all qualified property. Nothing in this subsection (1) authorizes the impairment of a contract.

(2) If revenue bonds or warrants are issued against the revenues collected under subsection (1) of this section, the legislative body of the city or town shall fix charges at rates which will be sufficient, together with any other moneys lawfully pledged therefor, to provide for the payment of bonds and warrants, principal and interest, sinking fund requirements and expenses incidental to the issuance of such revenue bonds or warrants; in fixing such charges the legislative body of the city or town may establish rates sufficient to pay, in addition, the costs of operating and maintaining such facility or utility. [1995 c 140 § 2; 1971 ex.s. c 223 § 3; 1965 c 7 § 35.41.080. Prior: 1959 c 203 § 1; 1957 c 117 § 8.]

## Chapter 35.44

### LOCAL IMPROVEMENTS—ASSESSMENTS AND REASSESSMENTS

#### Sections

35.44.020 Assessment district—Cost items to be included.

**35.44.020 Assessment district—Cost items to be included.** There shall be included in the cost and expense of every local improvement for assessment against the property in the district created to pay the same, or any part thereof:

(1) The cost of all of the construction or improvement authorized for the district including, but not limited to, that portion of the improvement within the street intersections;

(2) The estimated cost and expense of all engineering and surveying necessary for the improvement done under the supervision of the city or town engineer;

(3) The estimated cost and expense of ascertaining the ownership of the lots or parcels of land included in the assessment district;

(4) The estimated cost and expense of advertising, mailing, and publishing all necessary notices;

(5) The estimated cost and expense of accounting, clerical labor, and of books and blanks extended or used on the part of the city or town clerk and city or town treasurer in connection with the improvement;

(6) All cost of the acquisition of rights of way, property, easements, or other facilities or rights, including without limitation rights to use property, facilities, or other improvements appurtenant, related to, and/or useful in connection with the local improvement, whether by eminent domain, purchase, gift, payment of connection charges, capacity charges, or other similar charges or in any other manner;

(7) The cost for legal, financial, and appraisal services and any other expenses incurred by the city, town, or public corporation for the district or in the formation thereof, or by

the city, town, or public corporation in connection with such construction or improvement and in the financing thereof, including the issuance of any bonds and the cost of providing for increases in the local improvement guaranty fund, or providing for a separate reserve fund or other security for the payment of principal of and interest on such bonds.

Any of the costs set forth in this section may be excluded from the cost and expense to be assessed against the property in such local improvement district and may be paid from any other moneys available therefor if the legislative body of the city or town so designates by ordinance at any time. [1995 c 382 § 1; 1987 c 242 § 4; 1985 c 397 § 4; 1971 ex.s. c 116 § 8; 1969 ex.s. c 258 § 6; 1965 c 7 § 35.44.020. Prior: 1955 c 364 § 1; 1911 c 98 § 55; RRS § 9408.]

**Policy—1987 c 242:** See note following RCW 35.43.005.

**Authority supplemental—Severability—1985 c 397:** See RCW 35.51.900 and 35.51.901.

### Chapter 35.49

#### LOCAL IMPROVEMENTS—COLLECTION OF ASSESSMENTS

##### Sections

35.49.130 Tax liens—City may protect assessment lien at foreclosure sale.

**35.49.130 Tax liens—City may protect assessment lien at foreclosure sale.** If any property situated in a local improvement district or utility local improvement district created by a city or town is offered for sale for general taxes by the county treasurer, the city or town shall have power to protect the lien or liens of any local improvement assessments outstanding against the whole or portion of such property by purchase at the treasurer's foreclosure sale. [1995 c 38 § 2; 1994 c 301 § 4; 1965 c 7 § 35.49.130. Prior: (i) 1911 c 98 § 63; RRS § 9416. (ii) 1929 c 143 § 1, part; 1925 ex.s. c 170 § 1, part; 1911 c 98 § 40, part; RRS § 9393, part.]

**Acts of municipal officers ratified and confirmed—1995 c 38:** See note following RCW 3.02.045.

### Chapter 35.63

#### PLANNING COMMISSIONS

##### Sections

35.63.130 Hearing examiner system—Adoption authorized—Alternative—Functions—Procedures.  
35.63.185 Family day-care provider's home facility—City may not prohibit in residential or commercial area.  
35.63.230 Watershed restoration projects—Permit processing.

**35.63.130 Hearing examiner system—Adoption authorized—Alternative—Functions—Procedures.** (1) As an alternative to those provisions of this chapter relating to powers or duties of the planning commission to hear and report on any proposal to amend a zoning ordinance, the legislative body of a city or county may adopt a hearing examiner system under which a hearing examiner or hearing examiners may hear and decide applications for amending the zoning ordinance when the amendment which is applied

for is not of general applicability. In addition, the legislative body may vest in a hearing examiner the power to hear and decide those issues it believes should be reviewed and decided by a hearing examiner, including but not limited to:

(a) Applications for conditional uses, variances, subdivisions, shoreline permits, or any other class of applications for or pertaining to development of land or land use;

(b) Appeals of administrative decisions or determinations; and

(c) Appeals of administrative decisions or determinations pursuant to chapter 43.21C RCW.

The legislative body shall prescribe procedures to be followed by the hearing examiner.

(2) Each city or county legislative body electing to use a hearing examiner pursuant to this section shall by ordinance specify the legal effect of the decisions made by the examiner. The legal effect of such decisions may vary for the different classes of applications decided by the examiner but shall include one of the following:

(a) The decision may be given the effect of a recommendation to the legislative body;

(b) The decision may be given the effect of an administrative decision appealable within a specified time limit to the legislative body; or

(c) Except in the case of a rezone, the decision may be given the effect of a final decision of the legislative body.

(3) Each final decision of a hearing examiner shall be in writing and shall include findings and conclusions, based on the record, to support the decision. Such findings and conclusions shall also set forth the manner in which the decision would carry out and conform to the city's or county's comprehensive plan and the city's or county's development regulations. Each final decision of a hearing examiner, unless a longer period is mutually agreed to in writing by the applicant and the hearing examiner, shall be rendered within ten working days following conclusion of all testimony and hearings. [1995 c 347 § 423; 1994 c 257 § 8; 1977 ex.s. c 213 § 1.]

**Finding—Severability—Part headings and table of contents not law—1995 c 347:** See notes following RCW 36.70A.470.

**Severability—1994 c 257:** See note following RCW 36.70A.270.

**Severability—1977 ex.s. c 213:** "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 213 § 5.]

**35.63.185 Family day-care provider's home facility—City may not prohibit in residential or commercial area.** No city may enact, enforce, or maintain an ordinance, development regulation, zoning regulation, or official control, policy, or administrative practice which prohibits the use of a residential dwelling, located in an area zoned for residential or commercial use, as a family day-care provider's home facility.

A city may require that the facility: (1) Comply with all building, fire, safety, health code, and business licensing requirements; (2) conform to lot size, building size, setbacks, and lot coverage standards applicable to the zoning district except if the structure is a legal nonconforming structure; (3) is certified by the office of child care policy licenser as providing a safe passenger loading area; (4) include signage, if any, that conforms to applicable regulations; and (5) limit

hours of operations to facilitate neighborhood compatibility, while also providing appropriate opportunity for persons who use family day-care and who work a nonstandard work shift.

A city may also require that the family day-care provider, before state licensing, require proof of written notification by the provider that the immediately adjoining property owners have been informed of the intent to locate and maintain such a facility. If a dispute arises between neighbors and the family day-care provider over licensing requirements, the licensor may provide a forum to resolve the dispute.

Nothing in this section shall be construed to prohibit a city from imposing zoning conditions on the establishment and maintenance of a family day-care provider's home in an area zoned for residential or commercial use, so long as such conditions are no more restrictive than conditions imposed on other residential dwellings in the same zone and the establishment of such facilities is not precluded. As used in this section, "family day-care provider" is as defined in RCW 74.15.020. [1995 c 49 § 1; 1994 c 273 § 14.]

**35.63.230 Watershed restoration projects—Permit processing.** A permit required under this chapter for a watershed restoration project as defined in RCW 89.08.460 shall be processed in compliance with RCW 89.08.450 through 89.08.510. [1995 c 378 § 8.]

**Chapter 35.67**

**SEWERAGE SYSTEMS—REFUSE COLLECTION AND DISPOSAL**

Sections

- 35.67.020 Authority to construct system and fix rates and charges—Classification of services.
- 35.67.190 Revenues from system—Classification of services—Minimum rates—Compulsory use.

**35.67.020 Authority to construct system and fix rates and charges—Classification of services.** Every city and town may construct, condemn and purchase, acquire, add to, maintain, conduct, and operate systems of sewerage and systems and plants for refuse collection and disposal together with additions, extensions, and betterments thereto, within and without its limits, with full jurisdiction and authority to manage, regulate, and control them and to fix, alter, regulate, and control the rates and charges for their use. The rates charged must be uniform for the same class of customers or service.

In classifying customers served or service furnished by such system of sewerage, the city or town legislative body may in its discretion consider any or all of the following factors: (1) The difference in cost of service to the various customers; (2) the location of the various customers within and without the city or town; (3) the difference in cost of maintenance, operation, repair, and replacement of the various parts of the system; (4) the different character of the service furnished various customers; (5) the quantity and quality of the sewage delivered and the time of its delivery; (6) the achievement of water conservation goals and the discouragement of wasteful water use practices; (7) capital contributions made to the system, including but not limited

to, assessments; (8) the nonprofit public benefit status, as defined in RCW 24.03.490, of the land user; and (9) any other matters which present a reasonable difference as a ground for distinction. [1995 c 124 § 3; 1991 c 347 § 17; 1965 c 7 § 35.67.020. Prior: 1959 c 90 § 1; 1955 c 266 § 3; prior: 1941 c 193 § 1, part; Rem. Supp. 1941 § 9354-4, part.]

**Purposes—1991 c 347:** See note following RCW 90.42.005.  
**Severability—1991 c 347:** See RCW 90.42.900.

**35.67.190 Revenues from system—Classification of services—Minimum rates—Compulsory use.** The legislative body of such city or town may provide by ordinance for revenues by fixing rates and charges for the furnishing of service to those served by its system of sewerage or system for refuse collection and disposal, which rates and charges shall be uniform for the same class of customer or service. In classifying customers served or service furnished by such system of sewerage, the city or town legislative body may in its discretion consider any or all of the following factors: (1) The difference in cost of service to the various customers; (2) the location of the various customers within and without the city or town; (3) the difference in cost of maintenance, operation, repair, and replacement of the various parts of the system; (4) the different character of the service furnished various customers; (5) the quantity and quality of the sewage delivered and the time of its delivery; (6) capital contributions made to the system, including but not limited to, assessments; (7) the nonprofit public benefit status, as defined in RCW 24.03.490, of the land user; and (8) any other matters which present a reasonable difference as a ground for distinction.

If special indebtedness bonds or warrants are issued against the revenues, the legislative body shall by ordinance fix charges at rates which will be sufficient to take care of the costs of maintenance and operation, bond and warrant principal and interest, sinking fund requirements, and all other expenses necessary for efficient and proper operation of the system.

All property owners within the area served by such sewerage system shall be compelled to connect their private drains and sewers with such city or town system, under such penalty as the legislative body of such city or town may by ordinance direct. Such penalty may in the discretion of such legislative body be an amount equal to the charge that would be made for sewer service if the property was connected to such system. All penalties collected shall be considered revenue of the system. [1995 c 124 § 4; 1965 c 7 § 35.67.190. Prior: 1959 c 90 § 2; 1941 c 193 § 5; Rem. Supp. 1941 § 9354-8.]

**Chapter 35.76**

**STREETS—BUDGET AND ACCOUNTING**

Sections

- 35.76.020 Cost accounting and reporting—Cities over eight thousand.
- 35.76.030 Cost accounting and reporting—Cities of eight thousand or less.
- 35.76.050 Cost-audit examination and report.

**35.76.020 Cost accounting and reporting—Cities over eight thousand.** The state auditor shall formulate, prescribe, and install a system of cost accounting and reporting for each city having a population of more than eight thousand, according to the last official census, which will correctly show all street expenditures by functional categories. The system shall also provide for reporting all revenues available for street purposes from whatever source including local improvement district assessments and state and federal aid. [1995 c 301 § 48; 1965 c 7 § 35.76.020. Prior: 1963 c 115 § 2.]

*Cities over eight thousand, equipment rental fund in street department: RCW 35.21.088.*

**35.76.030 Cost accounting and reporting—Cities of eight thousand or less.** Consistent with the intent of this chapter as stated in RCW 35.76.010, the state auditor, from and after July 1, 1965, is authorized and directed to prescribe accounting and reporting procedures for street expenditures for cities and towns having a population of eight thousand or less, according to the last official census. [1995 c 301 § 49; 1965 c 7 § 35.76.030. Prior: 1963 c 115 § 3.]

**35.76.050 Cost-audit examination and report.** The state auditor shall annually make a cost-audit examination of street records for each city and town and make a written report thereon to the legislative body of each city and town. The expense of the examination shall be paid out of that portion of the motor vehicle fund allocated to the cities and towns and withheld for use by the state department of transportation under the terms of RCW 46.68.110(1). [1995 c 301 § 50; 1984 c 7 § 22; 1965 c 7 § 35.76.050. Prior: 1963 c 115 § 5.]

**Severability—1984 c 7:** See note following RCW 47.01.141.

## Chapter 35.82

### HOUSING AUTHORITIES LAW

#### Sections

35.82.040 Appointment, qualifications, and tenure of commissioners.  
35.82.130 Bonds.

**35.82.040 Appointment, qualifications, and tenure of commissioners.** When the governing body of a city adopts a resolution declaring that there is a need for a housing authority, it shall promptly notify the mayor of such adoption. Upon receiving such notice, the mayor shall appoint five persons as commissioners of the authority created for the city. When the governing body of a county adopts a resolution declaring that there is a need for a housing authority, it shall appoint five persons as commissioners of the authority created for the county. The commissioners who are first appointed shall be designated to serve for terms of one, two, three, four and five years, respectively, from the date of their appointment, but thereafter commissioners shall be appointed for a term of office of five years except that all vacancies shall be filled for the unexpired term. No commissioner of an authority may be an officer or employee of the city or county for which the authority is created, unless the commissioner is an employee of a separately elected county official other than the county

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governing body in a county with a population of less than one hundred seventy-five thousand as of the 1990 federal census, and the total government employment in that county exceeds forty percent of total employment. A commissioner shall hold office until a successor has been appointed and has qualified, unless sooner removed according to this chapter. A certificate of the appointment or reappointment of any commissioner shall be filed with the clerk and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner. A commissioner shall receive no compensation for his or her services for the authority, in any capacity, but he or she shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of his or her duties.

The powers of each authority shall be vested in the commissioners thereof in office from time to time. Three commissioners shall constitute a quorum of the authority for the purpose of conducting its business and exercising its powers and for all other purposes. Action may be taken by the authority upon a vote of a majority of the commissioners present, unless in any case the bylaws of the authority shall require a larger number. The mayor (or in the case of an authority for a county, the governing body of the county) shall designate which of the commissioners appointed shall be the first chair of the commission and he or she shall serve in the capacity of chair until the expiration of his or her term of office as commissioner. When the office of the chair of the authority becomes vacant, the authority shall select a chair from among its commissioners. An authority shall select from among its commissioners a vice-chair, and it may employ a secretary (who shall be executive director), technical experts and such other officers, agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties and compensation. For such legal services as it may require, an authority may call upon the chief law officer of the city or the county or may employ its own counsel and legal staff. An authority may delegate to one or more of its agents or employees such powers or duties as it may deem proper. [1995 c 293 § 1; 1965 c 7 § 35.82.040. Prior: 1939 c 23 § 5; RRS § 6889-5. Formerly RCW 74.24.040.]

**35.82.130 Bonds.** An authority shall have power to issue bonds from time to time in its discretion, for any of its corporate purposes. An authority shall also have power to issue refunding bonds for the purpose of paying or retiring bonds previously issued by it. An authority may issue such types of bonds as it may determine, including (without limiting the generality of the foregoing) bonds on which the principal and interest are payable: (1) Exclusively from the income and revenues of the housing project financed with the proceeds of such bonds; (2) exclusively from the income and revenues of certain designated housing projects whether or not they are financed in whole or in part with the proceeds of such bonds; or (3) from all or part of its revenues or assets generally. Any such bonds may be additionally secured by a pledge of any grant or contributions from the federal government or other source, or a pledge of any income or revenues of the authority, or a mortgage of any housing project, projects or other property of the authority. Any pledge made by the authority shall be valid and binding



from the time when the pledge is made; the revenues, moneys, or property so pledged and thereafter received by the authority shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the authority, irrespective of whether the parties have notice thereof.

Neither the commissioners of an authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof. The bonds and other obligations of an authority (and such bonds and obligations shall so state on their face) shall not be a debt of the city, the county, the state or any political subdivision thereof and neither the city or the county, nor the state or any political subdivision thereof shall be liable thereon, nor in any event shall such bonds or obligations be payable out of any funds or properties other than those of the authority. The bonds shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction. Bonds of an authority are declared to be issued for an essential public and governmental purpose and to be public instrumentalities and, together with interest thereon and income therefrom, shall be exempt from taxes. Nothing in this section shall prevent an authority from issuing bonds the interest on which is included in gross income of the owners thereof for income tax purposes. [1995 c 293 § 2; 1991 c 167 § 2; 1977 ex.s. c 274 § 5; 1965 c 7 § 35.82.130. Prior: 1939 c 23 § 14; RRS § 6889-14. Formerly RCW 74.24.130.]

## Chapter 35.92 MUNICIPAL UTILITIES

### Sections

- 35.92.020 Authority to acquire and operate sewerage and solid waste handling systems, plants, sites, or facilities—  
Classification of services for rates.
- 35.92.060 Authority to acquire and operate transportation facilities.
- 35.92.220 Acquisition of water rights—Consolidation of irrigation assessment districts.
- 35.92.230 Acquisition of water rights—Special assessments.

**35.92.020 Authority to acquire and operate sewerage and solid waste handling systems, plants, sites, or facilities—Classification of services for rates.** A city or town may construct, condemn and purchase, purchase, acquire, add to, alter, maintain, and operate systems, plants, sites, or other facilities of sewerage, or solid waste handling as defined by RCW 70.95.030, and shall have full authority to manage, regulate, operate, control, and to fix the price of service of those systems, plants, sites, or other facilities within and without the limits of the city or town. The rates charged shall be uniform for the same class of customers or service. In classifying customers served or service furnished by a system or systems of sewerage, the legislative authority of the city or town may in its discretion consider any or all of the following factors: (1) The difference in cost of service to customers; (2) the location of customers within and without the city or town; (3) the difference in cost of maintenance, operation, repair, and replacement of the parts

of the system; (4) the different character of the service furnished customers; (5) the quantity and quality of the sewage delivered and the time of its delivery; (6) capital contributions made to the systems, plants, sites, or other facilities, including but not limited to, assessments; (7) the nonprofit public benefit status, as defined in RCW 24.03.490, of the land user; and (8) any other factors that present a reasonable difference as a ground for distinction. [1995 c 124 § 5; 1989 c 399 § 6; 1985 c 445 § 5; 1965 c 7 § 35.92.020. Prior: 1959 c 90 § 7; 1957 c 288 § 3; 1957 c 209 § 3; prior: 1947 c 214 § 1, part; 1933 c 163 § 1, part; 1931 c 53 § 1, part; 1923 c 173 § 1, part; 1913 c 45 § 1, part; 1909 c 150 § 1, part; 1899 c 128 § 1, part; 1897 c 112 § 1, part; 1893 c 8 § 1, part; 1890 p 520 § 1, part; Rem. Supp. 1947 § 9488, part. Formerly RCW 80.40.020.]

**35.92.060 Authority to acquire and operate transportation facilities.** A city or town may also construct, condemn and purchase, purchase, acquire, add to, alter, maintain, operate, or lease cable, electric, and other railways, automobiles, motor cars, motor buses, auto trucks, and any and all other forms or methods of transportation of freight or passengers within the corporate limits of the city or town, and a first class city may also construct, purchase, acquire, add to, alter, maintain, operate, or lease cable, electric, and other railways beyond those corporate limits only within the boundaries of the county in which the city is located and of any adjoining county, for the transportation of freight and passengers above, upon, or underneath the ground. It may also fix, alter, regulate, and control the fares and rates to be charged therefor; and fares or rates may be adjusted or eliminated for any distinguishable class of users including, but not limited to, senior citizens, handicapped persons, and students. Without the payment of any license fee or tax, or the filing of a bond with, or the securing of a permit from, the state, or any department thereof, the city or town may engage in, carry on, and operate the business of transporting and carrying passengers or freight for hire by any method or combination of methods that the legislative authority of any city or town may by ordinance provide, with full authority to regulate and control the use and operation of vehicles or other agencies of transportation used for such business. [1995 c 42 § 1; 1991 c 124 § 1; 1990 c 43 § 49; 1985 c 445 § 10; 1981 c 25 § 2; 1965 c 7 § 35.92.060. Prior: 1957 c 288 § 7; 1957 c 209 § 7; prior: 1947 c 214 § 1, part; 1933 c 163 § 1, part; 1931 c 53 § 1, part; 1923 c 173 § 1, part; 1913 c 45 § 1, part; 1909 c 150 § 1, part; 1899 c 128 § 1, part; 1897 c 112 § 1, part; 1893 c 8 § 1, part; 1890 p 520 § 1, part; Rem. Supp. 1947 § 9488, part. Formerly RCW 80.40.060.]

**Construction—Severability—Headings—1990 c 43:** See notes following RCW 81.100.010.

*Public transportation systems, financing, purchase of leased systems: Chapter 35.95 RCW.*

**35.92.220 Acquisition of water rights—Consolidation of irrigation assessment districts.** (1) A city or town, situated within or served by, an irrigation project, or projects, owned or operated by the United States government, a water users' association, associations, corporation, or corporations or another city or town or towns, where

the legislative authority deems it feasible to furnish water for irrigation and domestic purposes, or either, and where the water used for irrigation and domestic purposes or either, is appurtenant or may become appurtenant to the land located within such city or town, may purchase, lease, or otherwise acquire water or water rights for the purpose of furnishing the city or town and the inhabitants thereof with a supply of water for irrigation and domestic purposes, or either; purchase, construct, or otherwise acquire systems and means of distribution and delivery of water within and without the limits of the city or town, or for the delivery of water where the owner of land within the city or town owns a water right appurtenant to his or her land, with full power to maintain, repair, reconstruct, regulate, and control the same, and if private property is necessary for such purposes, the city or town may condemn and purchase or purchase and acquire property, enter into any contract, and order any and all work to be done that is necessary to carry out such purposes, and it may do so either by the entire city or town or by assessment districts, consisting of the whole or any portion thereof, as the legislative authority of the city or town may determine.

(2) The legislative authority of any city or town may by ordinance authorize the consolidation of separate irrigation assessment districts, previously established pursuant to this section, for the purposes of construction or rehabilitation of improvements, or of ongoing administration, service, repair, and reconstruction of irrigation systems. The separate irrigation assessment districts to be consolidated need not be adjoining, vicinal, or neighboring. If the legislative authority orders the creation of such consolidated irrigation assessment districts, the money received and on hand from assessments levied within the original districts shall be deposited in a consolidated fund to be used by the municipality for future expenses within the consolidated district. [1995 c 89 § 1; 1965 c 130 § 1; 1965 c 7 § 35.92.220. Prior: 1915 c 112 § 1; RRS § 9495. Formerly RCW 80.40.220.]

**35.92.230 Acquisition of water rights—Special assessments.** For the purpose of paying for a water right purchased by the city or town from the United States government where the purchase price has not been fully paid; paying annual maintenance or annual rental charge to the United States government or any corporation or individual furnishing the water for irrigation and domestic purposes, or either; paying assessments made by any water users' association; paying the cost of constructing or acquiring any system or means of distribution or delivery of water for such purposes; and for the upkeep, repair, reconstruction, operation, and maintenance thereof; accumulating reasonable operating fund reserves to pay for system upkeep, repair, operation, and maintenance, in such amount as is determined by the city or town legislative authority; accumulating reasonable capital fund reserves in an amount not to exceed the total estimated cost of system construction, reconstruction, or refurbishment, over such period of time as is determined by the city or town legislative authority; and for any expense incidental to such purposes, the city or town may levy and collect special assessments against the property within any district created pursuant to RCW 35.92.220, to pay the whole or any part of any such costs and expenses.

[1995 c 89 § 2; 1965 c 130 § 2; 1965 c 7 § 35.92.230. Prior: 1915 c 112 § 2; RRS § 9496. Formerly RCW 80.40.230.]

## Title 35A OPTIONAL MUNICIPAL CODE

### Chapters

- 35A.06 Provisions applicable to adoption and abandonment of noncharter code city classification or plan of government.**
- 35A.12 Mayor-council plan of government.**
- 35A.14 Annexation by code cities.**
- 35A.21 Provisions affecting all code cities.**
- 35A.33 Budgets in code cities.**
- 35A.34 Biennial budgets.**
- 35A.37 Funds, special purpose.**
- 35A.39 Public documents and records.**
- 35A.40 Fiscal provisions applicable to code cities.**
- 35A.63 Planning and zoning in code cities.**
- 35A.82 Taxation—Excises.**

### Chapter 35A.06

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

##### Sections

- 35A.06.020 Laws applicable to noncharter code cities.

**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 cities, second class cities, unclassified cities, and towns—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. However, any code city that retains its old plan of government is subject to the laws applicable to that old plan of government until the city abandons its old plan of government and reorganizes and adopts a plan of government under chapter 35A.12 or 35A.13 RCW. [1995 c 134 § 11. Prior: 1994 c 223 § 27; 1994 c 81 § 68; 1967 ex.s. c 119 § 35A.06.020.]

### Chapter 35A.12

#### MAYOR-COUNCIL PLAN OF GOVERNMENT

##### Sections

- 35A.12.140 Adoption of codes by reference.

**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 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 one copy thereof shall be filed in the office of the city clerk for examination by the public. [1995 c 71 § 1; 1982 c 226 § 2; 1967 ex.s. c 119 § 35A.12.140.]

**Effective date—1982 c 226:** See note following RCW 35.21.180.

**Chapter 35A.14**

**ANNEXATION BY CODE CITIES**

Sections

35A.14.901 Application of chapter to annexations involving water or sewer service.

**35A.14.901 Application of chapter to annexations involving water or sewer service.** Nothing in this chapter precludes or otherwise applies to an annexation by a code city of unincorporated territory as authorized by RCW 56.24.180, 56.24.200, and 56.24.205, or 57.24.170, 57.24.190, and 57.24.210. [1995 c 279 § 4.]

**Chapter 35A.21**

**PROVISIONS AFFECTING ALL CODE CITIES**

Sections

35A.21.275 Regulation of automatic number or location identification—Prohibited.

**35A.21.275 Regulation of automatic number or location identification—Prohibited.** No code city may enact or enforce an ordinance or regulation mandating automatic number identification or automatic location identification for a private telecommunications system or for a provider of private shared telecommunications services. [1995 c 243 § 7.]

**Findings—Severability—1995 c 243:** See notes following RCW 80.36.555.

**Chapter 35A.33**

**BUDGETS IN CODE CITIES**

Sections

35A.33.030 Budget estimates.  
35A.33.040 Classification and segregation of budget estimates.  
35A.33.075 Budget adoption.

35A.33.110 Forms—Accounting—Supervision by state.

**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 or her 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 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 or her 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. [1995 c 301 § 51; 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 after consultation with the Washington finance officers association, the association of Washington cities and the association of Washington city managers. [1995 c 301 § 52; 1967 ex.s. c 119 § 35A.33.040.]

**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 state auditor, and to the association of Washington cities. [1995 c 301 § 53; 1969 ex.s. c 81 § 3; 1967 ex.s. c 119 § 35A.33.075.]

**Effective date—1969 ex.s. c 81:** See note following RCW 35A.13.035.

**35A.33.110 Forms—Accounting—Supervision by state.** 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. [1995 c 301 § 54; 1967 ex.s. c 119 § 35A.33.110.]

### Chapter 35A.34 BIENNIAL BUDGETS

#### Sections

- 35A.34.050 Budget estimates—Submittal.
- 35A.34.060 Budget estimates—Classification and segregation.
- 35A.34.120 Budget—Adoption.
- 35A.34.130 Budget—Mid-biennial review and modification.
- 35A.34.190 Forms—Accounting—Supervision by state.

**35A.34.050 Budget estimates—Submittal.** On or before the second Monday of the fourth month prior to the beginning of the city's next fiscal biennium, 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 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 the department for the ensuing fiscal biennium. The notice shall be accompanied by the proper forms provided by the clerk, prepared in accordance with the requirements and classification established by 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 the clerk's 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 required by this section shall devolve upon the person next in charge of such department. [1995 c 301 § 55; 1985 c 175 § 37.]

**35A.34.060 Budget estimates—Classification and segregation.** All estimates of receipts and expenditures for the ensuing fiscal biennium shall be fully detailed in the biennial budget and shall be classified and segregated according to a standard classification of accounts to be adopted and prescribed by the state auditor after consultation with the Washington finance officers association, the association of Washington cities, and the association of Washington city managers. [1995 c 301 § 56; 1985 c 175 § 38.]

**35A.34.120 Budget—Adoption.** Following conclusion of the hearing, and prior to the beginning of the fiscal biennium, 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, 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 biennium. Such ordinances may adopt the final budget by reference. However, the ordinance adopting the 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 state auditor and to the association of Washington cities. [1995 c 301 § 57; 1985 c 175 § 44.]

**35A.34.130 Budget—Mid-biennial review and modification.** The legislative authority of a city having adopted the provisions of this chapter shall provide by ordinance for a mid-biennial review and modification of the biennial budget. The ordinance shall provide that such review and modification shall occur no sooner than eight months after the start nor later than conclusion of the first year of the fiscal biennium. The chief administrative officer shall prepare the proposed budget modification and shall provide for publication of notice of hearings consistent with publication of notices for adoption of other city ordinances. City ordinances providing for a mid-biennium review and modification shall establish procedures for distribution of the proposed modification to members of the city legislative authority, procedures for making copies available to the public, and shall provide for public hearings on the proposed budget modification. The budget modification shall be by ordinance approved in the same manner as are other ordinances of the city.

A complete copy of the budget modification as adopted shall be transmitted to the state auditor and to the association of Washington cities. [1995 c 301 § 58; 1985 c 175 § 45.]

**35A.34.190 Forms—Accounting—Supervision by state.** 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. [1995 c 301 § 59; 1985 c 175 § 51.]

### Chapter 35A.37 FUNDS, SPECIAL PURPOSE

#### Sections

- 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 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 and 35.13 RCW;

(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 state auditor. [1995 c 301 § 60; 1983 c 3 § 62; 1967 ex.s. c 119 § 35A.37.010.]

### Chapter 35A.39

#### PUBLIC DOCUMENTS AND RECORDS

##### Sections

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 may duplicate and sell copies of its ordinances at fees reasonably calculated to defray the cost of such duplication and handling. [1995 c 21 § 2; 1967 ex.s. c 119 § 35A.39.010.]

### Chapter 35A.40

#### FISCAL PROVISIONS APPLICABLE TO CODE CITIES

##### Sections

35A.40.200 General law relating to public works and contracts.

**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 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 workers' compensation; (9) chapter 49.60 RCW relating to antidiscrimination in employment; (10) chapter 39.24 RCW relating to the use of Washington commodities; and (11) chapter 39.28 RCW relating to emergency public works. [1995 c 164 § 2; 1987 c 185 § 4; 1983 c 3 § 65; 1967 ex.s. c 119 § 35A.40.200.]

**Intent—Severability—1987 c 185:** See notes following RCW 51.12.130.

### Chapter 35A.63

#### PLANNING AND ZONING IN CODE CITIES

##### Sections

35A.63.170 Hearing examiner system—Adoption authorized—Alternative—Functions—Procedures.

35A.63.215 Family day-care provider's home facility—City may not prohibit in residential or commercial area.

35A.63.250 Watershed restoration projects—Permit processing.

**35A.63.170 Hearing examiner system—Adoption authorized—Alternative—Functions—Procedures.** (1) As an alternative to those provisions of this chapter relating to powers or duties of the planning commission to hear and report on any proposal to amend a zoning ordinance, the legislative body of a city may adopt a hearing examiner system under which a hearing examiner or hearing examiners may hear and decide applications for amending the zoning ordinance when the amendment which is applied for is not of general applicability. In addition, the legislative body may vest in a hearing examiner the power to hear and decide those issues it believes should be reviewed and decided by a hearing examiner, including but not limited to:

(a) Applications for conditional uses, variances, subdivisions, shoreline permits, or any other class of applications for or pertaining to development of land or land use;

(b) Appeals of administrative decisions or determinations; and

(c) Appeals of administrative decisions or determinations pursuant to chapter 43.21C RCW.

The legislative body shall prescribe procedures to be followed by a hearing examiner. If the legislative authority vests in a hearing examiner the authority to hear and decide variances, then the provisions of RCW 35A.63.110 shall not apply to the city.

(2) Each city legislative body electing to use a hearing examiner pursuant to this section shall by ordinance specify the legal effect of the decisions made by the examiner. The legal effect of such decisions may vary for the different classes of applications decided by the examiner but shall include one of the following:

(a) The decision may be given the effect of a recommendation to the legislative body;

(b) The decision may be given the effect of an administrative decision appealable within a specified time limit to the legislative body; or

(c) Except in the case of a rezone, the decision may be given the effect of a final decision of the legislative body.

(3) Each final decision of a hearing examiner shall be in writing and shall include findings and conclusions, based on the record, to support the decision. Such findings and conclusions shall also set forth the manner in which the decision would carry out and conform to the city's comprehensive plan and the city's development regulations. Each final decision of a hearing examiner, unless a longer period is mutually agreed to in writing by the applicant and the hearing examiner, shall be rendered within ten working days following conclusion of all testimony and hearings. [1995 c 347 § 424; 1994 c 257 § 7; 1977 ex.s. c 213 § 2.]

**Finding—Severability—Part headings and table of contents not law—1995 c 347:** See notes following RCW 36.70A.470.

**Severability—1994 c 257:** See note following RCW 36.70A.270.

**Severability—1977 ex.s. c 213:** See note following RCW 35.63.130.

**35A.63.215 Family day-care provider's home facility—City may not prohibit in residential or commercial area.** No city may enact, enforce, or maintain an ordinance, development regulation, zoning regulation, or official control, policy, or administrative practice which prohibits the use of a residential dwelling, located in an area zoned for residential or commercial use, as a family day-care provider's home facility.

A city may require that the facility: (1) Comply with all building, fire, safety, health code, and business licensing requirements; (2) conform to lot size, building size, setbacks, and lot coverage standards applicable to the zoning district except if the structure is a legal nonconforming structure; (3) is certified by the office of child care policy licensor as providing a safe passenger loading area; (4) include signage, if any, that conforms to applicable regulations; and (5) limit hours of operations to facilitate neighborhood compatibility, while also providing appropriate opportunity for persons who use family day-care and who work a nonstandard work shift.

A city may also require that the family day-care provider, before state licensing, require proof of written notification by the provider that the immediately adjoining property owners have been informed of the intent to locate and maintain such a facility. If a dispute arises between neighbors and the family day-care provider over licensing requirements, the licensor may provide a forum to resolve the dispute.

Nothing in this section shall be construed to prohibit a city from imposing zoning conditions on the establishment and maintenance of a family day-care provider's home in an area zoned for residential or commercial use, so long as such conditions are no more restrictive than conditions imposed on other residential dwellings in the same zone and the establishment of such facilities is not precluded. As used in this section, "family day-care provider" is as defined in RCW 74.15.020. [1995 c 49 § 2; 1994 c 273 § 16.]

**35A.63.250 Watershed restoration projects—Permit processing.** A permit required under this chapter for a watershed restoration project as defined in RCW 89.08.460

shall be processed in compliance with RCW 89.08.450 through 89.08.510. [1995 c 378 § 9.]

## Chapter 35A.82 TAXATION—EXCISES

### Sections

35A.82.010 State shared excises.

**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 under RCW 82.36.020 relating to motor vehicle fuel tax, RCW 82.38.290 relating to use fuel tax, and RCW 82.36.275 and 82.38.080(9). [1995 c 274 § 4; 1985 c 7 § 102; 1983 c 3 § 74; 1967 ex.s. c 119 § 35A.82.010.]

## Title 36 COUNTIES

### Chapters

- 36.01 General provisions.
- 36.17 Salaries of county officers.
- 36.18 Fees of county officers.
- 36.21 County assessor.
- 36.22 County auditor.
- 36.27 Prosecuting attorney.
- 36.29 County treasurer.
- 36.32 County commissioners.
- 36.38 Admissions tax.
- 36.40 Budget.
- 36.47 Coordination of administrative programs.
- 36.68 Parks and recreational facilities.
- 36.69 Park and recreation districts.
- 36.70 Planning enabling act.
- 36.70A Growth management—Planning by selected counties and cities.
- 36.70B Local project review.
- 36.70C Judicial review of land use decisions.
- 36.80 Roads and bridges—Engineer.
- 36.82 Roads and bridges—Funds—Budget.
- 36.89 Highways—Open spaces—Parks—Other facilities—Storm water control.
- 36.93 Local governmental organization—Boundaries—Review boards.
- 36.94 Sewerage, water, and drainage systems.
- 36.100 Public facilities districts.
- 36.110 Jail industries program.

## Chapter 36.01 GENERAL PROVISIONS

### Sections

36.01.120 Foreign trade zones—Legislative finding, intent.

**36.01.120 Foreign trade zones—Legislative finding, intent.** It is the finding of the legislature that foreign trade zones serve an important public purpose by the creation of employment opportunities within the state and that the establishment of zones designed to accomplish this purpose is to be encouraged. It is the further intent of the legislature that the department of community, trade, and economic development provide assistance to entities planning to apply to the United States for permission to establish such zones. [1995 c 399 § 40; 1985 c 466 § 44; 1977 ex.s. c 196 § 5.]

**Effective date—Severability—1985 c 466:** See notes following RCW 43.31.085.

**Effective date—1977 ex.s. c 196:** See note following RCW 24.46.010.

## Chapter 36.17

### SALARIES OF COUNTY OFFICERS

#### Sections

36.17.042 Biweekly pay periods.

**36.17.042 Biweekly pay periods.** In addition to the pay periods permitted under RCW 36.17.040, the legislative authority of any county may establish a biweekly pay period where county officers and employees receive their compensation not later than seven days following the end of each two week pay period for services rendered during that pay period.

However, in a county that has assumed the rights, powers, functions, and obligations of a metropolitan municipal corporation under chapter 36.56 RCW, the county legislative authority may establish a biweekly pay period where the county officers and employees receive their compensation not later than thirteen days following the end of each two-week pay period for services rendered during that pay period. [1995 c 38 § 3; 1994 c 301 § 5; 1977 c 42 § 1.]

**Acts of municipal officers ratified and confirmed—1995 c 38:** See note following RCW 3.02.045.

## Chapter 36.18

### FEES OF COUNTY OFFICERS

#### Sections

36.18.010 Auditor's fees.

36.18.012 Fees—Division for deposit in public safety and education account—Court transcript or abstract—Tax warrant—Other papers—Nonjudicial resolution of dispute—Unlawful detainer—Striking discriminatory provisions in real estate—Will with no probate—Nonjudicial probate dispute—Certification of delinquent taxes.

36.18.014 Fees—Division with county law library—Petition for emancipation for minors.

36.18.016 Various fees—Not subject to division.

36.18.018 Fees to state court, office of state administrator for the courts—Appellate review—Copies and reports by administrator for the courts.

36.18.020 Clerk's fees (*as amended by 1995 c 292*).

36.18.020 Clerk's fees (*as amended by 1995 c 312*).

36.18.022 Filing fees may be waived—When.

36.18.190 Collection of unpaid court-ordered legal financial obligations—Collection contracts—Interest to collection agencies authorized.

**36.18.010 Auditor's fees.** County auditors or recording officers shall collect the following fees for their official services:

For recording instruments, for the first page, legal size (eight and one-half by fourteen inches or less), five dollars; for each additional legal size page, one dollar; the fee for recording multiple transactions contained in one instrument will be calculated individually for each transaction requiring separate indexing as required under RCW 65.04.050;

For preparing and certifying copies, for the first legal size page, three dollars; for each additional legal size page, one dollar;

For preparing noncertified copies, for each legal size page, one dollar;

For administering an oath or taking an affidavit, with or without seal, two dollars;

For issuing a marriage license, eight dollars, (this fee includes taking necessary affidavits, filing returns, indexing, and transmittal of a record of the marriage to the state registrar of vital statistics) plus an additional five-dollar fee for use and support of the prevention of child abuse and neglect activities to be transmitted monthly to the state treasurer and deposited in the state general fund plus an additional ten-dollar fee to be transmitted monthly to the state treasurer and deposited in the state general fund. The legislature intends to appropriate an amount at least equal to the revenue generated by this fee for the purposes of the displaced homemaker act, chapter 28B.04 RCW;

For searching records per hour, eight dollars;

For recording plats, fifty cents for each lot except cemetery plats for which the charge shall be twenty-five cents per lot; also one dollar for each acknowledgment, dedication, and description: PROVIDED, That there shall be a minimum fee of twenty-five dollars per plat;

For recording of miscellaneous records, not listed above, for first legal size page, five dollars; for each additional legal size page, one dollar;

For modernization and improvement of the recording and indexing system, a surcharge as provided in RCW 36.22.170. [1995 c 246 § 37; 1991 c 26 § 2. Prior: 1989 c 304 § 1; 1989 c 204 § 6; 1987 c 230 § 1; 1985 c 44 § 2; 1984 c 261 § 4; 1982 1st ex.s. c 15 § 7; 1982 c 4 § 12; 1977 ex.s. c 56 § 1; 1967 c 26 § 8; 1963 c 4 § 36.18.010; prior: 1959 c 263 § 6; 1953 c 214 § 2; 1951 c 51 § 4; 1907 c 56 § 1, part, p 92; 1903 c 151 § 1, part, p 295; 1893 c 130 § 1, part, p 423; Code 1881 § 2086, part, p 358; 1869 p 369 § 3; 1865 p 94 § 1; part; 1863 p 391 § 1, part, p 394; 1861 p 34 § 1, part, p 37; 1854 p 368 § 1, part, p 371; RRS §§ 497, part, 4105.]

**Effective date—1995 c 246 § 37:** "Section 37 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 5, 1995]." [1995 c 246 § 39.]

**Severability—1995 c 246:** See note following RCW 26.50.010.

**Findings—1989 c 204:** See note following RCW 36.22.160.

**Effective date—1987 c 230:** "This act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1987." [1987 c 230 § 4.]

**Severability—1984 c 261:** See note following RCW 43.121.020.

**Severability—1982 c 4:** See RCW 43.121.910.

**Effective date—1967 c 26:** See note following RCW 43.70.150.

*Family court funding, marriage license fee increase authorized: RCW 26.12.220.*

**36.18.012 Fees—Division for deposit in public safety and education account—Court transcript or abstract—Tax warrant—Other papers—Nonjudicial resolution of dispute—Unlawful detainer—Striking discriminatory provisions in real estate—Will with no probate—Nonjudicial probate dispute—Certification of delinquent taxes.** (1) Revenue collected under this section is subject to division with the state for deposit in the public safety and education account under RCW 36.18.025.

(2) 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 district court in the county of issuance, shall pay at the time of filing a fee of fifteen dollars.

(3) For the filing of a tax warrant by the department of revenue of the state of Washington, a fee of five dollars must be paid.

(4) The clerk shall collect a fee of twenty dollars for: Filing a paper not related to or a part of a proceeding, civil or criminal, or a probate matter, required or permitted to be filed in the clerk's office for which no other charge is provided by law; or filing a petition, written agreement, or memorandum as provided in RCW 11.96.170.

(5) If the defendant serves or files an answer to an unlawful detainer complaint under chapter 59.18 or 59.20 RCW, the plaintiff shall pay before proceeding with the unlawful detainer action eighty dollars.

(6) For a restrictive covenant for filing a petition to strike discriminatory provisions in real estate under RCW 49.60.227 a fee of twenty dollars must be charged.

(7) A fee of twenty dollars must be charged for filing a will only, when no probate of the will is contemplated.

(8) A fee of two dollars must be charged for filing a petition, written agreement, or written memorandum in a nonjudicial probate dispute under RCW 11.96.170.

(9) For certification of delinquent taxes by a county treasurer under RCW 84.64.190, a fee of five dollars must be charged. [1995 c 292 § 12.]

**36.18.014 Fees—Division with county law library—Petition for emancipation for minors.** (1) Revenue collected under this section is subject to division with the county law library under RCW 27.24.070.

(2) For filing a petition for emancipation for minors as required under RCW 13.64.020 a fee up to fifty dollars must be collected. [1995 c 292 § 13.]

**36.18.016 Various fees—Not subject to division.** (1) Revenue collected under this section is not subject to division under RCW 36.18.025 or 27.24.070.

(2) For the filing of a petition for modification of a decree of dissolution or paternity, within the same case as the original action, a fee of twenty dollars must be paid.

(3) The party making a demand for [a] jury of six in a civil action shall pay, at the time, a fee of fifty dollars; if the demand is for a jury of twelve, a fee of one hundred dollars. If, after the party demands a jury of six and pays the required fee, any other party to the action requests a jury of

twelve, an additional fifty-dollar fee will be required of the party demanding the increased number of jurors. Upon conviction in criminal cases a jury demand charge may be imposed as costs under RCW 10.46.190.

(4) For preparing, transcribing, or certifying an instrument on file or of record in the clerk's office, with or without seal, for the first page or portion of the first page, a fee of two dollars, and for each additional page or portion of a page, a fee of one dollar must be charged. For authenticating or exemplifying an instrument, a fee of one dollar for each additional seal affixed must be charged.

(5) For executing a certificate, with or without a seal, a fee of two dollars must be charged.

(6) For a garnishee defendant named in an affidavit for garnishment and for a writ of attachment, a fee of twenty dollars must be charged.

(7) For approving a bond, including justification on the bond, in other than civil actions and probate proceedings, a fee of two dollars must be charged.

(8) For the issuance of a certificate of qualification and a certified copy of letters of administration, letters testamentary, or letters of guardianship, there must be a fee of two dollars.

(9) For the preparation of a passport application, the clerk may collect an execution fee as authorized by the federal government.

(10) For clerk's special services such as processing ex parte orders by mail, performing historical searches, compiling statistical reports, and conducting exceptional record searches, the clerk may collect a fee not to exceed twenty dollars per hour or portion of an hour.

(11) For duplicated recordings of court's proceedings there must be a fee of ten dollars for each audio tape and twenty-five dollars for each video tape.

(12) For the filing of oaths and affirmations under chapter 5.28 RCW, a fee of twenty dollars must be charged.

(13) For filing a disclaimer of interest under RCW 11.86.031(4), a fee of two dollars must be charged.

(14) For registration of land titles, Torrens Act, under RCW 65.12.780, a fee of five dollars must be charged.

(15) For the issuance of extension of judgment under RCW 6.17.020 and chapter 9.94A RCW, a fee of one hundred ten dollars must be charged.

(16) A facilitator surcharge of ten dollars must be charged as authorized under RCW 26.12.240.

(17) For filing a water rights statement under RCW 90.03.180, a fee of twenty-five dollars must be charged.

(18) A service fee of three dollars for the first page and one dollar for each additional page must be charged for receiving faxed documents, pursuant to Washington state rules of court, general rule 17.

(19) For preparation of clerk's papers under RAP 9.7, a fee of fifty cents per page must be charged.

(20) For copies and reports produced at the local level as permitted by RCW 2.68.020 and supreme court policy, a variable fee must be charged.

(21) Investment service charge and earnings under RCW 36.48.090 must be charged.

(22) Costs for nonstatutory services rendered by clerk by authority of local ordinance or policy must be charged. [1995 c 292 § 14.]



**36.18.018 Fees to state court, office of state administrator for the courts—Appellate review—Copies and reports by administrator for the courts.** (1) State revenue collected by county clerks under subsection (2) of this section must be transmitted to the appropriate state court. The office of the state administrator for the courts shall retain fees collected under subsection (3) of this section.

(2) For appellate review under RAP 5.1(b), two hundred fifty dollars must be charged.

(3) For all copies and reports produced by the administrator for the courts as permitted under RCW 2.68.020 and supreme court policy, a variable fee must be charged. [1995 c 292 § 15.]

**36.18.020 Clerk's fees (as amended by 1995 c 292).** (1) Revenue collected under this section is subject to division with the state public safety and education account under RCW 36.18.025 and with the county or regional law library fund under RCW 27.24.070.

(2) Clerks of superior courts shall collect the following fees for their official services:

~~((+))~~ (a) The party filing the first or initial paper in any civil action, including, but not limited to an action for restitution, ~~((or))~~ adoption, or change of name, shall pay, at the time ~~((said))~~ the paper is filed, a fee of one hundred ten dollars except, in ~~((proceedings filed under RCW 26.50.030 or 49.60.227 where the petitioner shall pay a filing fee of twenty dollars, or))~~ an unlawful detainer action under chapter 59.18 or 59.20 RCW ~~((where))~~ for which the plaintiff shall pay a case initiating filing fee of thirty dollars. ~~((If the defendant serves or files an answer to an unlawful detainer complaint under chapter 59.18 or 59.20 RCW, the plaintiff shall pay, prior to proceeding with the unlawful detainer action, an additional eighty dollars which shall be considered part of the filing fee.))~~ The thirty dollar filing fee under this subsection for an unlawful detainer action shall not include an order to show cause or any other order or judgment except a default order or default judgment in an unlawful detainer action.

~~((+))~~ (b) Any party, except a defendant in a criminal case, filing the first or initial paper on an appeal from a court of limited jurisdiction or any party on any civil appeal, shall pay, when said paper is filed, a fee of one hundred ten dollars.

~~((+))~~ (c) 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 district court in the county of issuance, shall pay at the time of filing, a fee of fifteen dollars.

(4) For the filing of a tax warrant by the department of revenue of the state of Washington, a fee of five dollars shall be paid.

(5) For the filing of a petition for modification of a decree of dissolution, a fee of twenty dollars shall be paid.

(6) The party filing a demand for jury of six in a civil action, shall pay, at the time of filing, a fee of fifty dollars; if the demand is for a jury of twelve the fee shall be one hundred 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 fifty dollar fee will be required of the party demanding the increased number of jurors.

(7) 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 the clerk's office for which no other charge is provided by law, or for filing a petition, written agreement, or memorandum as provided in RCW 11.96.170, the clerk shall collect twenty dollars.

(8) For preparing, transcribing or certifying any instrument on file or of record in the clerk's 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.

(9) For executing a certificate, with or without a seal, a fee of two dollars shall be charged.

(10) For each garnishee defendant named in an affidavit for garnishment and for each writ of attachment, a fee of twenty dollars shall be charged.

(11) For approving a bond, including justification thereon, in other than civil actions and probate proceedings, a fee of two dollars shall be charged.

~~((+))~~ (c) For filing of a petition for judicial review as required under RCW 34.05.514 a filing fee of one hundred ten dollars.

~~((d))~~ (d) For filing of a petition for unlawful harassment under RCW 10.14.040 a filing fee of one hundred ten dollars.

~~((e))~~ (e) For filing of a petition for determination of water rights under RCW 90.03.180 a filing fee of twenty-five dollars.

~~((f))~~ (f) In probate proceedings, the party instituting such proceedings, shall pay at the time of filing the first paper therein, a fee of one hundred ten dollars ~~((—PROVIDED, HOWEVER, A fee of twenty dollars shall be charged for filing a will only, when no probate of the will is contemplated. Except as provided for in subsection (13) of this section a fee of two dollars shall be charged for filing a petition, written agreement, or memorandum as provided in RCW 11.96.170)).~~

~~((13))~~ (g) For filing any petition to contest a will admitted to probate or a petition to admit a will which has been rejected, or a petition objecting to a written agreement or memorandum as provided in RCW 11.96.170, there shall be paid a fee of one hundred ten dollars.

~~((14))~~ 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.

~~((15))~~ For the preparation of a passport application the clerk may collect an execution fee as authorized by the federal government.

~~((16))~~ For clerks' special services such as processing ex parte orders by mail, performing historical searches, compiling statistical reports, and conducting exceptional record searches the clerk may collect a fee not to exceed twenty dollars per hour or portion of an hour.

~~((17))~~ For duplicated recordings of court's proceedings there shall be a fee of ten dollars for each audio tape and twenty-five dollars for each video tape.

~~((18))~~ (h) Upon conviction or plea of guilty, upon failure to prosecute an appeal from a court of limited jurisdiction as provided by law, or upon affirmance of a conviction by a court of limited jurisdiction, a defendant in a criminal case shall be liable for a fee of one hundred ten dollars.

~~((19))~~ (i) 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.

~~((20))~~ (3) No fee shall be collected when a petition for relinquishment of parental rights is filed pursuant to RCW 26.33.080 or for forms and instructional brochures provided under RCW 26.50.030. [1995 c 292 § 10; 1993 c 435 § 1; 1992 c 54 § 1; 1989 c 342 § 1. Prior: 1987 c 382 § 3; 1987 c 202 § 201; 1987 c 56 § 3; prior: 1985 c 24 § 1; 1985 c 7 § 104; 1984 c 263 § 29; 1981 c 330 § 5; 1980 c 70 § 1; 1977 ex.s. c 107 § 1; 1975 c 30 § 1; 1973 c 16 § 1; 1973 c 38 § 1; prior: 1972 ex.s. c 57 § 5; 1972 ex.s. c 20 § 1; 1970 ex.s. c 32 § 1; 1967 c 26 § 9; 1963 c 4 § 36.18.020; prior: 1961 c 304 § 1; 1961 c 41 § 1; 1951 c 51 § 5; 1907 c 56 § 1, part, p 89; 1903 c 151 § 1, part, p 294; 1893 c 130 § 1, part, p 421; Code 1881 § 2086, part, p 355; 1869 p 364 § 1, part; 1863 p 391 § 1, part; 1861 p 34 § 1, part; 1854 p 368 § 1, part; RRS § 497, part.]

**36.18.020 Clerk's fees (as amended by 1995 c 312).** 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))~~ the paper is filed, a fee of one hundred ten dollars except in proceedings filed under \*RCW 26.50.030 or 49.60.227 where the petitioner shall pay a filing fee of twenty dollars, or in proceedings filed under RCW 28A.225.030 alleging a violation of the compulsory attendance laws where the petitioner shall not pay a filing fee, or an unlawful detainer action under chapter 59.18 or 59.20 RCW where the plaintiff shall pay a filing fee of thirty dollars. If the defendant serves or files an answer to an unlawful detainer complaint under chapter 59.18 or 59.20 RCW, the plaintiff shall pay, prior to proceeding with the unlawful detainer action, an additional eighty dollars which shall be considered part of the filing fee. The thirty dollar filing fee under this subsection for an unlawful detainer action shall not include an order to show cause or any other order or judgment except a default order or default judgment in an unlawful detainer action.

(2) Any party, except a defendant in a criminal case, filing the first or initial paper on an appeal from a court of limited jurisdiction or any party on any civil appeal, shall pay, when ~~((said))~~ the paper is filed, a fee of one hundred ten 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 district court in the county of issuance, shall pay at the time of filing, a fee of fifteen dollars.

(4) For the filing of a tax warrant by the department of revenue of the state of Washington, a fee of five dollars shall be paid.

(5) For the filing of a petition for modification of a decree of dissolution, a fee of twenty dollars shall be paid.

(6) The party filing a demand for jury of six in a civil action, shall pay, at the time of filing, a fee of fifty dollars; if the demand is for a jury of twelve the fee shall be one hundred 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 fifty-dollar fee will be required of the party demanding the increased number of jurors.

(7) 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 the clerk's office for which no other charge is provided by law, or for filing a petition, written agreement, or memorandum as provided in RCW 11.96.170, the clerk shall collect twenty dollars.

(8) For preparing, transcribing or certifying any instrument on file or of record in the clerk's 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.

(9) For executing a certificate, with or without a seal, a fee of two dollars shall be charged.

(10) For each garnishee defendant named in an affidavit for garnishment and for each writ of attachment, a fee of twenty dollars shall be charged.

(11) For approving a bond, including justification thereon, in other than civil actions and probate proceedings, a fee of two dollars shall be charged.

(12) In probate proceedings, the party instituting such proceedings, shall pay at the time of filing the first paper therein, a fee of one hundred ten dollars: PROVIDED, HOWEVER, A fee of twenty dollars shall be charged for filing a will only, when no probate of the will is contemplated. Except as provided for in subsection (13) of this section a fee of two dollars shall be charged for filing a petition, written agreement, or memorandum as provided in RCW 11.96.170.

(13) For filing any petition to contest a will admitted to probate or a petition to admit a will which has been rejected, or a petition objecting to a written agreement or memorandum as provided in RCW 11.96.170, there shall be paid a fee of one hundred ten dollars.

(14) 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.

(15) For the preparation of a passport application the clerk may collect an execution fee as authorized by the federal government.

(16) For clerks' special services such as processing ex parte orders by mail, performing historical searches, compiling statistical reports, and conducting exceptional record searches the clerk may collect a fee not to exceed twenty dollars per hour or portion of an hour.

(17) For duplicated recordings of court's proceedings there shall be a fee of ten dollars for each audio tape and twenty-five dollars for each video tape.

(18) Upon conviction or plea of guilty, upon failure to prosecute an appeal from a court of limited jurisdiction as provided by law, or upon affirmance of a conviction by a court of limited jurisdiction, a defendant in a criminal case shall be liable for a fee of one hundred ten dollars.

(19) 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.

(20) No fee shall be collected when a petition for relinquishment of parental rights is filed pursuant to RCW 26.33.080 or for forms and instructional brochures provided under RCW 26.50.030. [1995 c 312 § 70; 1993 c 435 § 1; 1992 c 54 § 1; 1989 c 342 § 1. Prior: 1987 c 382 § 3; 1987 c 202 § 201; 1987 c 56 § 3; prior: 1985 c 24 § 1; 1985 c 7 § 104; 1984 c 263 § 29; 1981 c 330 § 5; 1980 c 70 § 1; 1977 ex.s. c 107 § 1; 1975 c 30 § 1; 1973 c 16 § 1; 1973 c 38 § 1; prior: 1972 ex.s. c 57 § 5; 1972 ex.s. c 20 § 1; 1970 ex.s. c 32 § 1; 1967 c 26 § 9; 1963 c 4 § 36.18.020; prior: 1961 c 304 § 1; 1961 c 41 § 1; 1951 c 51 § 5; 1907 c 56 § 1, part, p 89; 1903 c 151 § 1, part, p 294; 1893 c 130 § 1, part, p 421; Code 1881 § 2086, part, p 355; 1869 p 364 § 1, part; 1863 p 391 § 1, part; 1861 p 34 § 1, part; 1854 p 368 § 1, part; RRS § 497, part.]

**Reviser's note:** \*(1)(a) RCW 26.50.030 was amended by 1995 c 246 § 3 and provides that no filing fee may be charged for proceedings under RCW 26.50.030.

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(b) RCW 49.60.227 was amended by 1995 c 292 § 18 and provides that fees are set under RCW 36.18.012.

(2) RCW 36.18.020 was amended twice during the 1995 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

**Rules of court:** Cf. RAP 14.3, 18.22.

**Short title—1995 c 312:** See note following RCW 13.32A.010.

**Effective date—1992 c 54:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect April 1, 1992." [1992 c 54 § 7.]

**Severability—Effective date—1989 c 342:** See RCW 59.18.910 and 59.18.911.

**Intent—1987 c 202:** See note following RCW 2.04.190.

**Effective date—Severability—1984 c 263:** See RCW 26.50.901 and 26.50.902.

**Severability—1981 c 330:** See note following RCW 3.62.060.

**Effective date—1972 ex.s. c 20:** "This act shall take effect July 1, 1972." [1972 ex.s. c 20 § 3.]

**Effective date—1967 c 26:** See note following RCW 43.70.150.

**36.18.022 Filing fees may be waived—When.** The court may waive the filing fees provided for under \*RCW 36.18.020(2) (a) and (b) upon affidavit by a party that the party is unable to pay the fee due to financial hardship. [1995 c 292 § 16; 1992 c 54 § 5.]

**\*Reviser's note:** RCW 36.18.020 was amended twice during the 1995 legislative session. The reference to RCW 36.18.020(2) (a) and (b) appears to apply to the changes in 1995 c 292 § 10.

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

**36.18.190 Collection of unpaid court-ordered legal financial obligations—Collection contracts—Interest to collection agencies authorized.** Superior court clerks may contract with collection agencies under chapter 19.16 RCW or may use county collection services for the collection of unpaid court-ordered legal financial obligations as enumerated in RCW 9.94A.030 that are ordered pursuant to a felony or misdemeanor conviction. The costs for the agencies or county services shall be paid by the debtor. The superior court may, at sentencing or at any time within ten years, assess as court costs the moneys paid for remuneration for services or charges paid to collection agencies or for collection services. By agreement, clerks may authorize collection agencies to retain all or any portion of the interest collected on these accounts. Collection may not be initiated with respect to a criminal offender who is under the supervision of the department of corrections without the prior agreement of the department. Superior court clerks are encouraged to initiate collection action with respect to a criminal offender who is under the supervision of the department of corrections, with the department's approval.

Any contract with a collection agency shall be awarded only after competitive bidding. Factors that a court clerk shall consider in awarding a collection contract include but are not limited to: (1) A collection agency's history and reputation in the community; and (2) the agency's access to a local data base that may increase the efficiency of its collections. Contracts may specify the scope of work, remuneration for services, and other charges deemed appropriate.

The servicing of an unpaid court obligation does not constitute assignment of a debt, and no contract with a collection agency may remove the court's control over unpaid obligations owed to the court. [1995 c 291 § 8; 1995 c 262 § 1; 1994 c 185 § 9.]

**Reviser's note:** This section was amended by 1995 c 262 § 1 and by 1995 c 291 § 8, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

## Chapter 36.21 COUNTY ASSESSOR

### Sections

36.21.011 Appointment of deputies and assistants—Engaging expert appraisers—Employment and classification plans for appraisers.

**36.21.011 Appointment of deputies and assistants—Engaging expert appraisers—Employment and classification plans for appraisers.** Any assessor who deems it necessary in order to complete the listing and the valuation of the property of the county within the time prescribed by law, (1) may appoint one or more well qualified persons to act as assistants or deputies who shall not engage in the private practice of appraising within the county in which he or she is employed without the written permission of the assessor filed with the 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.

An assessor who intends to put such plan into effect shall inform the department of revenue and the county legislative authority of this intent in writing. The department of revenue and the county legislative authority may thereupon each designate a representative, and such representative or representatives as may be designated by the department of revenue or the county legislative authority, 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 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 county legislative authority. The committee may be formed only once in a period of four calendar years.

After such determination, the assessor may provide, in each of the four next succeeding annual budget estimates, for as many positions as are established in such determination. Each county legislative authority 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. [1995 c 134 § 12. Prior: 1994 c 301 § 6; 1994 c 124 § 1; 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.]

## Chapter 36.22 COUNTY AUDITOR

### Sections

36.22.010 Duties of auditor.  
36.22.020 Publisher of legislative authority proceedings—Custodian of commissioners' seal.  
36.22.060 Record of warrants.  
36.22.140 Auditor or chief financial officer—Ex officio deputy state auditor.

### 36.22.010 Duties of auditor. The county auditor:

(1) Shall be recorder of deeds and other instruments in writing which by law are to be filed and recorded in and for the county for which he or she is elected;

(2) Shall keep an account current with the county treasurer, charge all money received as shown by receipts issued and credit all disbursements paid out according to the record of settlement of the treasurer with the legislative authority;

(3) 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 or her certificate and seal, immediately after the completion of the annual settlement of the county treasurer with the legislative authority. The statement must be available to the public;

(4) Shall make available a complete exhibit of the prior-year finances of the county including, but not limited to, a statement of financial condition and financial operation in accordance with standards developed by the state auditor. This exhibit shall be made available after the financial records are closed for the prior year;

(5) Shall make out a register of all warrants legally authorized and directed to be issued by the legislative body at any regular or special meeting. The auditor shall make the data available to the county treasurer. The auditor shall retain the original of the register of warrants for future reference;

(6) As clerk of the board of county commissioners, shall:

Record all of the proceedings of the legislative authority;

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 legislative authority 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 legislative authority;

Preserve and file all petitions and applications for franchises and record the action of the legislative authority thereon;

Record all orders levying taxes;

Perform all other duties required by any rule or order of the legislative authority. [1995 c 194 § 1; 1984 c 128 § 2; 1963 c 4 § 36.22.010. Prior: 1955 c 157 § 9; prior: (i) Code 1881 § 2707; 1869 p 310 §§ 1, 2, 3; 1863 p 549 §§ 1, 2, 3; 1854 p 424 §§ 1, 2, 3; RRS § 4083. (ii) Code 1881 § 2709; RRS § 4085. (iii) Code 1881 § 2711; RRS § 4088. (iv) 1893 c 119 § 2; Code 1881 § 2712; 1869 p 311 § 6; 1863 p 550 § 6; 1854 p 425 § 6; RRS § 4089. (v) 1893 c 119 § 3; Code 1881 § 2571; RRS § 4090. (vi) 1893 c 119 § 4; Code 1881 § 2713; 1869 p 311 § 7; 1867 p 130 § 1; RRS § 4091. (vii) 1893 c 119 § 5; Code 1881 § 2714; 1869 p 311 § 8; 1867 p 131 § 2; RRS § 4092. (viii) 1893 c 119 § 7; Code 1881 § 2718; 1869 p 312 § 13; RRS § 4095. (ix) Code 1881 § 2719; RRS § 4098. (x) 1893 c 119 § 8; Code 1881 § 2720; RRS § 4099.]

**36.22.020 Publisher of legislative authority 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 session, to publish a summary of the proceedings of the legislative authority 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 legislative authority, shall be and remain in the custody of the county auditor, and the auditor is hereby authorized to use such seal in attestation of all official acts, whether as clerk of the legislative authority, as auditor or recorder of deeds; and all certificates, exemplifications of records, or other acts performed as county auditor, certified under the seal of the county commissioners, pursuant to this section, in this state, shall be of valid and legally binding as though attested by a seal of office of the county auditor. [1995 c 194 § 2; 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.]

**36.22.060 Record of warrants.** The auditor shall maintain a record of when a warrant is issued. The record shall include the warrant number, date, name of payee, amount, nature of claims, or services provided. [1995 c 194 § 3; 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.]

**36.22.140 Auditor or chief financial officer—Ex officio deputy state auditor.** Each county auditor or chief financial officer shall be ex officio deputy of the state auditor for the purpose of accounting and reporting on

municipal corporations and in such capacity shall be under the direction of the state auditor, but he or she shall receive no additional salary or compensation by virtue thereof and shall perform no duties as such, except in connection with county business. [1995 c 301 § 61; 1963 c 4 § 36.22.140. Prior: 1909 c 76 § 12; RRS § 9962.]

## Chapter 36.27

### PROSECUTING ATTORNEY

#### Sections

36.27.020	Duties.
36.27.100	State-wide drug prosecution assistance program—Created.

#### **36.27.020 Duties.** The prosecuting attorney shall:

(1) Be legal adviser of the legislative authority, giving them [it] his or her written opinion when required by the legislative authority or the chairperson thereof touching any subject which the legislative authority 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 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 the county or any school district in the county may be a party;

(4) Prosecute all criminal and civil actions in which the state or the county may be a party, defend all suits brought against the state or the 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 the 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 the prosecuting attorney has information that any such offense has been committed and the prosecuting attorney shall for that purpose attend when required by them if the prosecuting attorney 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 district judges at the trial of which the prosecuting attorney was not present, before they are lodged with the legislative authority for payment, whereupon the prosecuting attorney may retax the same and the prosecuting attorney must do so if the legislative authority deems any bill exorbitant or improperly taxed;

(9) Present all violations of the election laws which may come to the prosecuting attorney's knowledge to the special consideration of the proper jury;

(10) Examine once in each year the official bonds of all county and precinct officers and report to the legislative authority any defect in the bonds of any such officer;

(11) 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 the prosecuting attorney in that year with such other statements and suggestions as the prosecuting attorney may deem useful;

(12) 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;

(13) Seek to reform and improve the administration of criminal justice and stimulate efforts to remedy inadequacies or injustice in substantive or procedural law. [1995 c 194 § 4; 1987 c 202 § 205; 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.]

**Intent—1987 c 202:** See note following RCW 2.04.190.

*Annual report to include number of child abuse reports and cases:* RCW 26.44.075.

**36.27.100 State-wide drug prosecution assistance program—Created.** The legislature recognizes that, due to the magnitude or volume of offenses in a given area of the state, there is a recurring need for supplemental assistance in the prosecuting of drug and drug-related offenses that can be directed to the area of the state with the greatest need for short-term assistance. A state-wide drug prosecution assistance program is created within the department of community, trade, and economic development to assist county prosecuting attorneys in the prosecution of drug and drug-related offenses. [1995 c 399 § 41; 1989 c 271 § 236.]

**Severability—1989 c 271:** See note following RCW 9.94A.310.

## Chapter 36.29

### COUNTY TREASURER

#### Sections

36.29.010 General duties.

**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; the treasurer shall deliver immediately to the person making the payment the original receipt and the duplicate shall be retained by the treasurer;

(3) Shall affix on the face of all paid warrants the date of redemption or, in the case of proper contract between the treasurer and a qualified public depository, the treasurer may consider the date affixed by the financial institution as the date of redemption;

(4) Shall indorse, before the date of issue by the county or by any taxing district for whom the county treasurer acts as treasurer, on the face of all warrants for which there are not sufficient funds for payment, "interest bearing warrant." When there are funds to redeem outstanding warrants, the county treasurer shall give notice:

(a) By publication in a legal newspaper published or circulated in the county; or

(b) By posting at three public places in the county if there is no such newspaper; or

(c) By notification to the financial institution holding the warrant;

(5) Shall pay interest on all interest-bearing warrants from the date of issue to the date of notification;

(6) Shall maintain financial records reflecting receipts and disbursement by fund in accordance with generally accepted accounting principles;

(7) Shall account for and pay all bonded indebtedness for the county and all special districts for which the county treasurer acts as treasurer;

(8) Shall invest all funds of the county or any special district in the treasurer's custody, not needed for immediate expenditure, in a manner consistent with appropriate statutes. If cash is needed to redeem warrants issued from any fund in the custody of the treasurer, the treasurer shall liquidate investments in an amount sufficient to cover such warrant redemptions; and

(9) May provide certain collection services for county departments.

The treasurer, at the expiration of the term of office, shall make a complete settlement with the county legislative authority, and shall deliver to the successor all public money, books, and papers in the treasurer's possession. [1995 c 38 § 4; 1994 c 301 § 7; 1991 c 245 § 4; 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.]

**Acts of municipal officers ratified and confirmed—1995 c 38:** See note following RCW 3.02.045.

## Chapter 36.32

### COUNTY COMMISSIONERS

## Sections

- 36.32.127 Driving while under the influence of liquor or drugs—  
Minimum penalties.
- 36.32.210 Inventory of county capitalized assets—County commission  
inventory statement—Contents.
- 36.32.213 Repealed.
- 36.32.215 Inventory of county capitalized assets—Filing and public  
inspection.
- 36.32.475 Regulation of automatic number or location identification—  
Prohibited.
- 36.32.610 Library capital facility areas authorized.

**36.32.127 Driving while under the influence of liquor or drugs—Minimum penalties.** No county may establish a penalty for an act that constitutes the crime of driving while under the influence of intoxicating liquor or any drug, as provided for in RCW 46.61.502, or the crime of being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug, as provided in RCW 46.61.504, that is less than the penalties prescribed for those crimes in RCW 46.61.5055. [1995 c 332 § 9; 1994 c 275 § 37; 1983 c 165 § 41.]

**Severability—Effective dates—1995 c 332:** See notes following RCW 46.20.308.

**Short title—Effective date—1994 c 275:** See notes following RCW 46.04.015.

**Legislative finding, intent—Effective dates—Severability—1983 c 165:** See notes following RCW 46.20.308.

**36.32.210 Inventory of county capitalized assets—County commission inventory statement—Contents.** Each board of county commissioners of the several counties of the state of Washington shall, on the first Monday of each year, file with the auditor of the county a statement verified by oath showing for the twelve months period ending December 31st of the preceding year, the following:

(1) A full and complete inventory of all capitalized assets shall be kept in accordance with standards established by the state auditor. This inventory shall be segregated to show the following subheads:

(a) The assets, including equipment, on hand, together with a statement of the date when acquired, the amount paid therefor, the estimated life thereof and a sufficient description to fully identify such property;

(b) 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;

(c) 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;

(2) The person to whom such money or any part thereof was paid and why so paid and the date of such payment. [1995 c 194 § 5; 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 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**36.32.215 Inventory of county capitalized assets—Filing and public inspection.** Inventories shall be filed with the county auditor as a public record and shall be open to the inspection of the public. [1995 c 194 § 6; 1963 c 4 § 36.32.215. Prior: 1931 c 95 § 3; RRS § 4056-3. Formerly RCW 36.32.210, part.]

**36.32.475 Regulation of automatic number or location identification—Prohibited.** No county may enact or enforce an ordinance or regulation mandating automatic number identification or automatic location identification for a private telecommunications system or for a provider of private shared telecommunications services. [1995 c 243 § 8.]

**Findings—Severability—1995 c 243:** See notes following RCW 80.36.555.

**36.32.610 Library capital facility areas authorized.** A county legislative authority may establish a library capital facility area pursuant to chapter 27.15 RCW. [1995 c 368 § 8.]

**Findings—1995 c 368:** See RCW 27.15.005.

## Chapter 36.38 ADMISSIONS TAX

## Sections

- 36.38.010 Tax authorized—Exception as to schools.

### 36.38.010 Tax authorized—Exception as to schools.

(1) Any county may by ordinance enacted by its county legislative authority, 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.

(2) 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.

(3) 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 county, except that the legislative authority of a county with a population of one million or more may exclusively levy a tax on events in stadiums constructed on or after January 1, 1995, that are owned by county government or a public facilities district under chapter 36.100 RCW and that have seating capacities over forty thousand at the rate of not more than one cent on twenty cents or fraction thereof.

(4) By contract, the county shall obligate itself to provide the revenue from the tax authorized by this section on events in stadia owned, managed, or operated by a public facilities district, having seating capacities over forty thousand, and constructed on or after January 1, 1995, to the public facilities district. [1995 1st sp.s. c 14 § 9; 1963 c 4 § 36.38.010. Prior: 1957 c 126 § 2; 1951 c 34 § 1; 1943 c 269 § 1; Rem. Supp. 1943 § 11241-10.]

**Severability—Effective dates—1995 1st sp.s. c 14:** See notes following RCW 36.100.010.

## Chapter 36.40 BUDGET

### Sections

36.40.030	Forms of estimates—Penalty for delay.
36.40.040	Preliminary budget prepared by county auditor or chief financial officer.
36.40.080	Final budget to be fixed.
36.40.220	Rules, classifications, and forms.
36.40.250	Biennial budgets.

### 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 county auditor or chief financial officer and classified according to the classification established by the state auditor. The county auditor or chief financial officer shall provide such forms. He or she 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 or her office.

Each such official shall file his or her estimates within the time and in the manner provided in the notice and form and the county auditor or chief financial officer 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. [1995 c 301 § 62; 1963 c 4 § 36.40.030. Prior: 1923 c 164 § 1, part; RRS § 3997-1, part.]

**36.40.040 Preliminary budget prepared by county auditor or chief financial officer.** Upon receipt of the estimates the county auditor or chief financial officer 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 after consultation with the Washington state association of counties and the Washington state association of county officials.

The county auditor or chief financial officer shall set forth separately in the annual budget to be submitted to the county legislative authority 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 legislative authority shall include in the annual tax levy, a levy sufficient to raise an amount equal to the total of such warrants: PROVIDED, That the legislative authority may fund the warrants or any part thereof into bonds instead of including them in the budget levy. [1995 c 301 § 63; 1995 c 194 § 7; 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.]

**Reviser's note:** This section was amended by 1995 c 194 § 7 and by 1995 c 301 § 63, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**36.40.080 Final budget to be fixed.** Upon the conclusion of the budget hearing the county legislative authority 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 state auditor. [1995 c 301 § 64; 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.]

**36.40.220 Rules, classifications, and forms.** The state auditor 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. [1995 c 301 § 65; 1963 c 4 § 36.40.220. Prior: 1923 c 164 § 8; RRS § 3997-8.]

**36.40.250 Biennial budgets.** In lieu of adopting an annual budget, the county legislative authority of any county may adopt an ordinance providing for biennial budgets with a mid-biennium review and modification for the second year of the biennium. The county legislative authority may repeal such an ordinance and revert to adopting annual budgets for a period commencing after the end of a biennial budget cycle. The county legislative authority of a county with a biennial budget cycle may adopt supplemental and emergency budgets in the same manner and subject to the same conditions as the county legislative authority in a county with an annual budget cycle.

The procedure and steps for adopting a biennial budget shall conform with the procedure and steps for adopting an annual budget and with requirements established by the state auditor. The state auditor shall establish requirements for preparing and adopting the mid-biennium review and modification for the second year of the biennium.

Expenditures included in the biennial budget, mid-term modification budget, supplemental budget, or emergency budget shall constitute the appropriations for the county during the applicable period of the budget and every county official shall be limited in making expenditures or incurring liabilities to the amount of the detailed appropriation item or classes in the budget.

The county legislative authority shall hold a public hearing on the proposed county property taxes and proposed road district property taxes prior to imposing the property tax levies. [1995 c 193 § 1.]

**Reviser's note:** 1995 c 193 directed that this section be added to chapter 36.32 RCW. However, the code reviser has determined that it is more appropriate to codify this section as part of chapter 36.40 RCW.

### Chapter 36.47

#### COORDINATION OF ADMINISTRATIVE PROGRAMS

##### Sections

36.47.060 Association financial records subject to audit by state auditor.

**36.47.060 Association financial records subject to audit by state auditor.** The financial records of the Washington state association of county officials shall be subject to audit by the state auditor. [1995 c 301 § 66; 1969 ex.s. c 5 § 5; 1963 c 4 § 36.47.060. Prior: 1959 c 130 § 6.]

### Chapter 36.68

#### PARKS AND RECREATIONAL FACILITIES

##### Sections

36.68.530 Budgets—Appropriations—Accumulation of reserves.

**36.68.530 Budgets—Appropriations—Accumulation of reserves.** The governing body of each park and recre-

ation service area shall annually compile a budget for each service area in a form prescribed by the state auditor 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. [1995 c 301 § 67; 1981 c 210 § 11; 1963 c 218 § 14.]

**Severability—1981 c 210:** See note following RCW 36.68.400.

### Chapter 36.69

#### PARK AND RECREATION DISTRICTS

(Formerly: Recreation districts act)

##### Sections

36.69.160 Budget.

**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 auditor, 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. [1995 c 301 § 68; 1963 c 4 § 36.69.160. Prior: 1957 c 58 § 17.]

### Chapter 36.70

#### PLANNING ENABLING ACT

##### Sections

36.70.970 Hearing examiner system—Adoption authorized—Alternative—Functions—Procedures.

36.70.992 Watershed restoration projects—Permit processing.

**36.70.970 Hearing examiner system—Adoption authorized—Alternative—Functions—Procedures.** (1) As an alternative to those provisions of this chapter relating to powers or duties of the planning commission to hear and issue recommendations on applications for plat approval and applications for amendments to the zoning ordinance, the county legislative authority may adopt a hearing examiner system under which a hearing examiner or hearing examiners may hear and issue decisions on proposals for plat approval and for amendments to the zoning ordinance when the amendment which is applied for is not of general applicability. In addition, the legislative authority may vest in a hearing examiner the power to hear and decide those issues



it believes should be reviewed and decided by a hearing examiner, including but not limited to:

- (a) Applications for conditional uses, variances, shore-line permits, or any other class of applications for or pertaining to development of land or land use;
- (b) Appeals of administrative decisions or determinations; and
- (c) Appeals of administrative decisions or determinations pursuant to chapter 43.21C RCW.

The legislative authority shall prescribe procedures to be followed by a hearing examiner.

Any county which vests in a hearing examiner the authority to hear and decide conditional uses and variances shall not be required to have a zoning adjuster or board of adjustment.

(2) Each county legislative authority electing to use a hearing examiner pursuant to this section shall by ordinance specify the legal effect of the decisions made by the examiner. Such legal effect may vary for the different classes of applications decided by the examiner but shall include one of the following:

- (a) The decision may be given the effect of a recommendation to the legislative authority;
- (b) The decision may be given the effect of an administrative decision appealable within a specified time limit to the legislative authority; or
- (c) Except in the case of a rezone, the decision may be given the effect of a final decision of the legislative authority.

(3) Each final decision of a hearing examiner shall be in writing and shall include findings and conclusions, based on the record, to support the decision. Such findings and conclusions shall also set forth the manner in which the decision would carry out and conform to the county's comprehensive plan and the county's development regulations. Each final decision of a hearing examiner, unless a longer period is mutually agreed to in writing by the applicant and the hearing examiner, shall be rendered within ten working days following conclusion of all testimony and hearings. [1995 c 347 § 425; 1994 c 257 § 9; 1977 ex.s. c 213 § 3.]

**Finding—Severability—Part headings and table of contents not law—1995 c 347:** See notes following RCW 36.70A.470.

**Severability—1994 c 257:** See note following RCW 36.70A.270.

**Severability—1977 ex.s. c 213:** See note following RCW 35.63.130.

**36.70.992 Watershed restoration projects—Permit processing.** A permit required under this chapter for a watershed restoration project as defined in RCW 89.08.460 shall be processed in compliance with RCW 89.08.450 through 89.08.510. [1995 c 378 § 10.]

**Chapter 36.70A**

**GROWTH MANAGEMENT—PLANNING BY SELECTED COUNTIES AND CITIES**

Sections

36.70A.030	Definitions.
36.70A.040	Who must plan.
36.70A.065	Recodified as RCW 36.70B.080.
36.70A.070	Comprehensive plans—Mandatory elements.

36.70A.110	Comprehensive plans—Urban growth areas.
36.70A.130	Comprehensive plans—Amendments.
36.70A.140	Comprehensive plans—Ensure public participation.
36.70A.172	Critical areas—Designation and protection—Best available science to be used.
36.70A.175	Wetlands to be delineated in accordance with manual.
36.70A.280	Matters subject to board review.
36.70A.290	Petitions to growth management hearings boards—Evidence.
36.70A.300	Final orders.
36.70A.320	Presumption of validity—Burden of proof—Plans and regulations.
36.70A.330	Noncompliance.
36.70A.365	Major industrial developments.
36.70A.385	Environmental planning pilot projects.
36.70A.440	Recodified as RCW 36.70B.070.
36.70A.450	Family day-care provider's home facility—City may not prohibit in residential or commercial area.
36.70A.460	Watershed restoration projects—Permit processing.
36.70A.470	Project review—Amendment suggestion procedure—Definitions.
36.70A.480	Shorelines of the state.
36.70A.481	Construction—Chapter 347, Laws of 1995.
36.70A.490	Growth management planning and environmental review fund—Established.
36.70A.500	Growth management planning and environmental review fund—Awarding of grants—Procedures.

**36.70A.030 Definitions.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Adopt a comprehensive land use plan" means to enact a new comprehensive land use plan or to update an existing comprehensive land use plan.

(2) "Agricultural land" means land primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, finfish in upland hatcheries, or livestock, and that has long-term commercial significance for agricultural production.

(3) "City" means any city or town, including a code city.

(4) "Comprehensive land use plan," "comprehensive plan," or "plan" means a generalized coordinated land use policy statement of the governing body of a county or city that is adopted pursuant to this chapter.

(5) "Critical areas" include the following areas and ecosystems: (a) Wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) frequently flooded areas; and (e) geologically hazardous areas.

(6) "Department" means the department of community, trade, and economic development.

(7) "Development regulations" means the controls placed on development or land use activities by a county or city, including, but not limited to, zoning ordinances, critical areas ordinances, shoreline master programs, official controls, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto. A development regulation does not include a decision to approve a project permit application, as defined in RCW 36.70B.020, even though the decision may be expressed in a resolution or ordinance of the legislative body of the county or city.

(8) "Forest land" means land primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, including Christmas trees subject to the excise tax imposed under RCW 84.33.100 through 84.33.140, and that has long-term commercial significance. In determining whether forest land is primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, the following factors shall be considered: (a) The proximity of the land to urban, suburban, and rural settlements; (b) surrounding parcel size and the compatibility and intensity of adjacent and nearby land uses; (c) long-term local economic conditions that affect the ability to manage for timber production; and (d) the availability of public facilities and services conducive to conversion of forest land to other uses.

(9) "Geologically hazardous areas" means areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.

(10) "Long-term commercial significance" includes the growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the land's proximity to population areas, and the possibility of more intense uses of the land.

(11) "Minerals" include gravel, sand, and valuable metallic substances.

(12) "Public facilities" include streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreational facilities, and schools.

(13) "Public services" include fire protection and suppression, law enforcement, public health, education, recreation, environmental protection, and other governmental services.

(14) "Urban growth" refers to growth that makes intensive use of land for the location of buildings, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of such land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources. When allowed to spread over wide areas, urban growth typically requires urban governmental services. "Characterized by urban growth" refers to land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth.

(15) "Urban growth areas" means those areas designated by a county pursuant to RCW 36.70A.110.

(16) "Urban governmental services" include those governmental services historically and typically delivered by cities, and include storm and sanitary sewer systems, domestic water systems, street cleaning services, fire and police protection services, public transit services, and other public utilities associated with urban areas and normally not associated with nonurban areas.

(17) "Wetland" or "wetlands" means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands. [1995 c 382 § 9. Prior: 1994 c 307 § 2; 1994 c 257 § 5; 1990 1st ex.s. c 17 § 3.]

**Finding—Intent—1994 c 307:** "The legislature finds that it is in the public interest to identify and provide long-term conservation of those productive natural resource lands that are critical to and can be managed economically and practically for long-term commercial production of food, fiber, and minerals. Successful achievement of the natural resource industries' goal set forth in RCW 36.70A.020 requires the conservation of a land base sufficient in size and quality to maintain and enhance those industries and the development and use of land use techniques that discourage uses incompatible to the management of designated lands. The 1994 amendment to RCW 36.70A.030(8) (section 2(8), chapter 307, Laws of 1994) is intended to clarify legislative intent regarding the designation of forest lands and is not intended to require every county that has already complied with the interim forest land designation requirement of RCW 36.70A.170 to review its actions until the adoption of its comprehensive plans and development regulations as provided in RCW 36.70A.060(3)." [1994 c 307 § 1.]

**Effective date—1994 c 257 § 5:** "Section 5 of this act shall take effect July 1, 1994." [1994 c 257 § 25.]

**Severability—1994 c 257:** See note following RCW 36.70A.270.

**36.70A.040 Who must plan.** (1) Each county that has both a population of fifty thousand or more and, until May 16, 1995, has had its population increase by more than ten percent in the previous ten years or, on or after May 16, 1995, has had its population increase by more than seventeen percent in the previous ten years, and the cities located within such county, and any other county regardless of its population that has had its population increase by more than twenty percent in the previous ten years, and the cities located within such county, shall conform with all of the requirements of this chapter. However, the county legislative authority of such a county with a population of less than fifty thousand population may adopt a resolution removing the county, and the cities located within the county, from the requirements of adopting comprehensive land use plans and development regulations under this chapter if this resolution is adopted and filed with the department by December 31, 1990, for counties initially meeting this set of criteria, or within sixty days of the date the office of financial management certifies that a county meets this set of criteria under subsection (5) of this section.

Once a county meets either of these sets of criteria, the requirement to conform with all of the requirements of this chapter remains in effect, even if the county no longer meets one of these sets of criteria.

(2) The county legislative authority of any county that does not meet either of the sets of criteria established under subsection (1) of this section may adopt a resolution indicating its intention to have subsection (1) of this section apply to the county. Each city, located in a county that chooses to plan under this subsection, shall conform with all of the requirements of this chapter. Once such a resolution has

been adopted, the county and the cities located within the county remain subject to all of the requirements of this chapter.

(3) Any county or city that is initially required to conform with all of the requirements of this chapter under subsection (1) of this section shall take actions under this chapter as follows: (a) The county legislative authority shall adopt a county-wide planning policy under RCW 36.70A.210; (b) the county and each city located within the county shall designate critical areas, agricultural lands, forest lands, and mineral resource lands, and adopt development regulations conserving these designated agricultural lands, forest lands, and mineral resource lands and protecting these designated critical areas, under RCW 36.70A.170 and 36.70A.060; (c) the county shall designate and take other actions related to urban growth areas under RCW 36.70A.110; (d) if the county has a population of fifty thousand or more, the county and each city located within the county shall adopt a comprehensive plan under this chapter and development regulations that are consistent with and implement the comprehensive plan on or before July 1, 1994, and if the county has a population of less than fifty thousand, the county and each city located within the county shall adopt a comprehensive plan under this chapter and development regulations that are consistent with and implement the comprehensive plan by January 1, 1995, but if the governor makes written findings that a county with a population of less than fifty thousand or a city located within such a county is not making reasonable progress toward adopting a comprehensive plan and development regulations the governor may reduce this deadline for such actions to be taken by no more than one hundred eighty days. Any county or city subject to this subsection may obtain an additional six months before it is required to have adopted its development regulations by submitting a letter notifying the department of community, trade, and economic development of its need prior to the deadline for adopting both a comprehensive plan and development regulations.

(4) Any county or city that is required to conform with all the requirements of this chapter, as a result of the county legislative authority adopting its resolution of intention under subsection (2) of this section, shall take actions under this chapter as follows: (a) The county legislative authority shall adopt a county-wide planning policy under RCW 36.70A.210; (b) the county and each city that is located within the county shall adopt development regulations conserving agricultural lands, forest lands, and mineral resource lands it designated under RCW 36.70A.060 within one year of the date the county legislative authority adopts its resolution of intention; (c) the county shall designate and take other actions related to urban growth areas under RCW 36.70A.110; and (d) the county and each city that is located within the county shall adopt a comprehensive plan and development regulations that are consistent with and implement the comprehensive plan not later than four years from the date the county legislative authority adopts its resolution of intention, but a county or city may obtain an additional six months before it is required to have adopted its development regulations by submitting a letter notifying the department of community, trade, and economic development of its

need prior to the deadline for adopting both a comprehensive plan and development regulations.

(5) If the office of financial management certifies that the population of a county that previously had not been required to plan under subsection (1) or (2) of this section has changed sufficiently to meet either of the sets of criteria specified under subsection (1) of this section, and where applicable, the county legislative authority has not adopted a resolution removing the county from these requirements as provided in subsection (1) of this section, the county and each city within such county shall take actions under this chapter as follows: (a) The county legislative authority shall adopt a county-wide planning policy under RCW 36.70A.210; (b) the county and each city located within the county shall adopt development regulations under RCW 36.70A.060 conserving agricultural lands, forest lands, and mineral resource lands it designated within one year of the certification by the office of financial management; (c) the county shall designate and take other actions related to urban growth areas under RCW 36.70A.110; and (d) the county and each city located within the county shall adopt a comprehensive land use plan and development regulations that are consistent with and implement the comprehensive plan within four years of the certification by the office of financial management, but a county or city may obtain an additional six months before it is required to have adopted its development regulations by submitting a letter notifying the department of community, trade, and economic development of its need prior to the deadline for adopting both a comprehensive plan and development regulations.

(6) A copy of each document that is required under this section shall be submitted to the department at the time of its adoption. [1995 c 400 § 1; 1993 sp.s. c 6 § 1; 1990 1st ex.s. c 17 § 4.]

**Effective date—1995 c 400:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 16, 1995]." [1995 c 400 § 6.]

**Effective date—1993 sp.s. c 6:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect June 1, 1993." [1993 sp.s. c 6 § 7.]

**36.70A.065 Recodified as RCW 36.70B.080.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**36.70A.070 Comprehensive plans—Mandatory elements.** The comprehensive plan of a county or city that is required or chooses to plan under RCW 36.70A.040 shall consist of a map or maps, and descriptive text covering objectives, principles, and standards used to develop the comprehensive plan. The plan shall be an internally consistent document and all elements shall be consistent with the future land use map. A comprehensive plan shall be adopted and amended with public participation as provided in RCW 36.70A.140.

Each comprehensive plan shall include a plan, scheme, or design for each of the following:

(1) A land use element designating the proposed general distribution and general location and extent of the uses of land, where appropriate, for agriculture, timber production,

housing, commerce, industry, recreation, open spaces, public utilities, public facilities, and other land uses. The land use element shall include population densities, building intensities, and estimates of future population growth. The land use element shall provide for protection of the quality and quantity of ground water used for public water supplies. Where applicable, the land use element shall review drainage, flooding, and storm water run-off in the area and nearby jurisdictions and provide guidance for corrective actions to mitigate or cleanse those discharges that pollute waters of the state, including Puget Sound or waters entering Puget Sound.

(2) A housing element ensuring the vitality and character of established residential neighborhoods that: (a) Includes an inventory and analysis of existing and projected housing needs; (b) includes a statement of goals, policies, objectives, and mandatory provisions for the preservation, improvement, and development of housing, including single-family residences; (c) identifies sufficient land for housing, including, but not limited to, government-assisted housing, housing for low-income families, manufactured housing, multifamily housing, and group homes and foster care facilities; and (d) makes adequate provisions for existing and projected needs of all economic segments of the community.

(3) A capital facilities plan element consisting of: (a) An inventory of existing capital facilities owned by public entities, showing the locations and capacities of the capital facilities; (b) a forecast of the future needs for such capital facilities; (c) the proposed locations and capacities of expanded or new capital facilities; (d) at least a six-year plan that will finance such capital facilities within projected funding capacities and clearly identifies sources of public money for such purposes; and (e) a requirement to reassess the land use element if probable funding falls short of meeting existing needs and to ensure that the land use element, capital facilities plan element, and financing plan within the capital facilities plan element are coordinated and consistent.

(4) A utilities element consisting of the general location, proposed location, and capacity of all existing and proposed utilities, including, but not limited to, electrical lines, telecommunication lines, and natural gas lines.

(5) Counties shall include a rural element including lands that are not designated for urban growth, agriculture, forest, or mineral resources. The rural element shall permit appropriate land uses that are compatible with the rural character of such lands and provide for a variety of rural densities and uses and may also provide for clustering, density transfer, design guidelines, conservation easements, and other innovative techniques that will accommodate appropriate rural uses not characterized by urban growth.

(6) A transportation element that implements, and is consistent with, the land use element. The transportation element shall include the following subelements:

- (a) Land use assumptions used in estimating travel;
- (b) Facilities and services needs, including:

- (i) An inventory of air, water, and land transportation facilities and services, including transit alignments, to define existing capital facilities and travel levels as a basis for future planning;

- (ii) Level of service standards for all arterials and transit routes to serve as a gauge to judge performance of the system. These standards should be regionally coordinated;

- (iii) Specific actions and requirements for bringing into compliance any facilities or services that are below an established level of service standard;

- (iv) Forecasts of traffic for at least ten years based on the adopted land use plan to provide information on the location, timing, and capacity needs of future growth;

- (v) Identification of system expansion needs and transportation system management needs to meet current and future demands;

- (c) Finance, including:

- (i) An analysis of funding capability to judge needs against probable funding resources;

- (ii) A multiyear financing plan based on the needs identified in the comprehensive plan, the appropriate parts of which shall serve as the basis for the six-year street, road, or transit program required by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795 for public transportation systems;

- (iii) If probable funding falls short of meeting identified needs, a discussion of how additional funding will be raised, or how land use assumptions will be reassessed to ensure that level of service standards will be met;

- (d) Intergovernmental coordination efforts, including an assessment of the impacts of the transportation plan and land use assumptions on the transportation systems of adjacent jurisdictions;

- (e) Demand-management strategies.

After adoption of the comprehensive plan by jurisdictions required to plan or who choose to plan under RCW 36.70A.040, local jurisdictions must adopt and enforce ordinances which prohibit development approval if the development causes the level of service on a transportation facility to decline below the standards adopted in the transportation element of the comprehensive plan, unless transportation improvements or strategies to accommodate the impacts of development are made concurrent with the development. These strategies may include increased public transportation service, ride sharing programs, demand management, and other transportation systems management strategies. For the purposes of this subsection (6) "concurrent with the development" shall mean that improvements or strategies are in place at the time of development, or that a financial commitment is in place to complete the improvements or strategies within six years.

The transportation element described in this subsection, and the six-year plans required by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795 for public transportation systems, must be consistent. [1995 c 400 § 3; 1995 c 377 § 1; 1990 1st ex.s. c 17 § 7.]

**Reviser's note:** This section was amended by 1995 c 377 § 1 and by 1995 c 400 § 3, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Construction—Application—1995 c 400:** "A comprehensive plan adopted or amended before May 16, 1995, shall be considered to be in compliance with RCW 36.70A.070 or 36.70A.110, as in effect before their amendment by this act, if the comprehensive plan is in compliance with RCW 36.70A.070 and 36.70A.110 as amended by this act. This section shall not be construed to alter the relationship between a county-wide

planning policy and comprehensive plans as specified under RCW 36.70A.210.

As to any appeal relating to compliance with RCW 36.70A.070 or 36.70A.110 pending before a growth management hearings board on May 16, 1995, the board may take up to an additional ninety days to resolve such appeal. By mutual agreement of all parties to the appeal, this additional ninety-day period may be extended." [1995 c 400 § 4.]

**Effective date—1995 c 400:** See note following RCW 36.70A.040.

**36.70A.110 Comprehensive plans—Urban growth areas.** (1) Each county that is required or chooses to plan under RCW 36.70A.040 shall designate an urban growth area or areas within which urban growth shall be encouraged and outside of which growth can occur only if it is not urban in nature. Each city that is located in such a county shall be included within an urban growth area. An urban growth area may include more than a single city. An urban growth area may include territory that is located outside of a city only if such territory already is characterized by urban growth whether or not the urban growth area includes a city, or is adjacent to territory already characterized by urban growth, or is a designated new fully contained community as defined by RCW 36.70A.350.

(2) Based upon the growth management population projection made for the county by the office of financial management, the urban growth areas in the county shall include areas and densities sufficient to permit the urban growth that is projected to occur in the county for the succeeding twenty-year period. Each urban growth area shall permit urban densities and shall include greenbelt and open space areas. An urban growth area determination may include a reasonable land market supply factor and shall permit a range of urban densities and uses. In determining this market factor, cities and counties may consider local circumstances. Cities and counties have discretion in their comprehensive plans to make many choices about accommodating growth.

Within one year of July 1, 1990, each county that as of June 1, 1991, was required or chose to plan under RCW 36.70A.040, shall begin consulting with each city located within its boundaries and each city shall propose the location of an urban growth area. Within sixty days of the date the county legislative authority of a county adopts its resolution of intention or of certification by the office of financial management, all other counties that are required or choose to plan under RCW 36.70A.040 shall begin this consultation with each city located within its boundaries. The county shall attempt to reach agreement with each city on the location of an urban growth area within which the city is located. If such an agreement is not reached with each city located within the urban growth area, the county shall justify in writing why it so designated the area an urban growth area. A city may object formally with the department over the designation of the urban growth area within which it is located. Where appropriate, the department shall attempt to resolve the conflicts, including the use of mediation services.

(3) Urban growth should be located first in areas already characterized by urban growth that have adequate existing public facility and service capacities to serve such development, second in areas already characterized by urban growth that will be served adequately by a combination of both existing public facilities and services and any additional needed public facilities and services that are provided by

either public or private sources, and third in the remaining portions of the urban growth areas. Urban growth may also be located in designated new fully contained communities as defined by RCW 36.70A.350.

(4) In general, cities are the units of local government most appropriate to provide urban governmental services. In general, it is not appropriate that urban governmental services be extended to or expanded in rural areas except in those limited circumstances shown to be necessary to protect basic public health and safety and the environment and when such services are financially supportable at rural densities and do not permit urban development.

(5) On or before October 1, 1993, each county that was initially required to plan under RCW 36.70A.040(1) shall adopt development regulations designating interim urban growth areas under this chapter. Within three years and three months of the date the county legislative authority of a county adopts its resolution of intention or of certification by the office of financial management, all other counties that are required or choose to plan under RCW 36.70A.040 shall adopt development regulations designating interim urban growth areas under this chapter. Adoption of the interim urban growth areas may only occur after public notice; public hearing; and compliance with the state environmental policy act, chapter 43.21C RCW, and RCW 36.70A.110. Such action may be appealed to the appropriate growth management hearings board under RCW 36.70A.280. Final urban growth areas shall be adopted at the time of comprehensive plan adoption under this chapter.

(6) Each county shall include designations of urban growth areas in its comprehensive plan. [1995 c 400 § 2; 1994 c 249 § 27; 1993 sp.s. c 6 § 2; 1991 sp.s. c 32 § 29; 1990 1st ex.s. c 17 § 11.]

**Construction—Application—1995 c 400:** See note following RCW 36.70A.070.

**Effective date—1995 c 400:** See note following RCW 36.70A.040.

**Severability—Application—1994 c 249:** See notes following RCW 34.05.310.

**Effective date—1993 sp.s. c 6:** See note following RCW 36.70A.040.

### **36.70A.130 Comprehensive plans—Amendments.**

(1) Each comprehensive land use plan and development regulations shall be subject to continuing evaluation and review by the county or city that adopted them.

Any amendment or revision to a comprehensive land use plan shall conform to this chapter, and any change to development regulations shall be consistent with and implement the comprehensive plan.

(2)(a) Each county and city shall establish and broadly disseminate to the public a public participation program identifying procedures whereby proposed amendments or revisions of the comprehensive plan are considered by the governing body of the county or city no more frequently than once every year except that amendments may be considered more frequently under the following circumstances:

(i) The initial adoption of a subarea plan; and

(ii) The adoption or amendment of a shoreline master program under the procedures set forth in chapter 90.58 RCW.

(b) All proposals shall be considered by the governing body concurrently so the cumulative effect of the various proposals can be ascertained. However, after appropriate public participation a county or city may adopt amendments or revisions to its comprehensive plan that conform with this chapter whenever an emergency exists or to resolve an appeal of a comprehensive plan filed with a growth management hearings board or with the court.

(3) Each county that designates urban growth areas under RCW 36.70A.110 shall review, at least every ten years, its designated urban growth area or areas, and the densities permitted within both the incorporated and unincorporated portions of each urban growth area. In conjunction with this review by the county, each city located within an urban growth area shall review the densities permitted within its boundaries, and the extent to which the urban growth occurring within the county has located within each city and the unincorporated portions of the urban growth areas. The county comprehensive plan designating urban growth areas, and the densities permitted in the urban growth areas by the comprehensive plans of the county and each city located within the urban growth areas, shall be revised to accommodate the urban growth projected to occur in the county for the succeeding twenty-year period. [1995 c 347 § 106; 1990 1st ex.s. c 17 § 13.]

**Finding—Severability—Part headings and table of contents not law—1995 c 347:** See notes following RCW 36.70A.470.

**36.70A.140 Comprehensive plans—Ensure public participation.** Each county and city that is required or chooses to plan under RCW 36.70A.040 shall establish and broadly disseminate to the public a public participation program identifying procedures providing for early and continuous public participation in the development and amendment of comprehensive land use plans and development regulations implementing such plans. The procedures shall provide for broad dissemination of proposals and alternatives, opportunity for written comments, public meetings after effective notice, provision for open discussion, communication programs, information services, and consideration of and response to public comments. In enacting legislation in response to the board's decision pursuant to RCW 36.70A.300 declaring part or all of a comprehensive plan or development regulation invalid, the county or city shall provide for public participation that is appropriate and effective under the circumstances presented by the board's order. Errors in exact compliance with the established program and procedures shall not render the comprehensive land use plan or development regulations invalid if the spirit of the program and procedures is observed. [1995 c 347 § 107; 1990 1st ex.s. c 17 § 14.]

**Finding—Severability—Part headings and table of contents not law—1995 c 347:** See notes following RCW 36.70A.470.

**36.70A.172 Critical areas—Designation and protection—Best available science to be used.** (1) In designating and protecting critical areas under this chapter, counties and cities shall include the best available science in developing policies and development regulations to protect the functions and values of critical areas. In addition, counties and cities shall give special consideration to conservation or protection

measures necessary to preserve or enhance anadromous fisheries.

(2) If it determines that advice from scientific or other experts is necessary or will be of substantial assistance in reaching its decision, a growth management hearings board may retain scientific or other expert advice to assist in reviewing a petition under RCW 36.70A.290 that involves critical areas. [1995 c 347 § 105.]

**Finding—Severability—Part headings and table of contents not law—1995 c 347:** See notes following RCW 36.70A.470.

**36.70A.175 Wetlands to be delineated in accordance with manual.** Wetlands regulated under development regulations adopted pursuant to this chapter shall be delineated in accordance with the manual adopted by the department pursuant to RCW 90.58.380. [1995 c 382 § 12.]

**36.70A.280 Matters subject to board review.** (1) A growth management hearings board shall hear and determine only those petitions alleging either:

(a) That a state agency, county, or city planning under this chapter is not in compliance with the requirements of this chapter, chapter 90.58 RCW as it relates to the adoption of shoreline master programs or amendments thereto, or chapter 43.21C RCW as it relates to plans, development regulations, or amendments, adopted under RCW 36.70A.040 or chapter 90.58 RCW; or

(b) That the twenty-year growth management planning population projections adopted by the office of financial management pursuant to RCW 43.62.035 should be adjusted.

(2) A petition may be filed only by the state, a county or city that plans under this chapter, a person who has either appeared before the county or city regarding the matter on which a review is being requested or is certified by the governor within sixty days of filing the request with the board, or a person qualified pursuant to RCW 34.05.530.

(3) For purposes of this section "person" means any individual, partnership, corporation, association, governmental subdivision or unit thereof, or public or private organization or entity of any character.

(4) When considering a possible adjustment to a growth management planning population projection prepared by the office of financial management, a board shall consider the implications of any such adjustment to the population forecast for the entire state.

The rationale for any adjustment that is adopted by a board must be documented and filed with the office of financial management within ten working days after adoption.

If adjusted by a board, a county growth management planning population projection shall only be used for the planning purposes set forth in this chapter and shall be known as a "board adjusted population projection". None of these changes shall affect the official state and county population forecasts prepared by the office of financial management, which shall continue to be used for state budget and planning purposes. [1995 c 347 § 108; 1994 c 249 § 31; 1991 sp.s. c 32 § 9.]

**Finding—Severability—Part headings and table of contents not law—1995 c 347:** See notes following RCW 36.70A.470.

**Severability—Application—1994 c 249:** See notes following RCW 34.05.310.

**36.70A.290 Petitions to growth management hearings boards—Evidence.** (1) All requests for review to a growth management hearings board shall be initiated by filing a petition that includes a detailed statement of issues presented for resolution by the board.

(2) All petitions relating to whether or not an adopted comprehensive plan, development regulation, or permanent amendment thereto, is in compliance with the goals and requirements of this chapter or chapter 90.58 or 43.21C RCW must be filed within sixty days after publication by the legislative bodies of the county or city.

(a) Except as provided in (c) of this subsection, the date of publication for a city shall be the date the city publishes the ordinance, or summary of the ordinance, adopting the comprehensive plan or development regulations, or amendment thereto, as is required to be published.

(b) Promptly after adoption, a county shall publish a notice that it has adopted the comprehensive plan or development regulations, or amendment thereto.

Except as provided in (c) of this subsection, for purposes of this section the date of publication for a county shall be the date the county publishes the notice that it has adopted the comprehensive plan or development regulations, or amendment thereto.

(c) For local governments planning under RCW 36.70A.040, promptly after approval or disapproval of a local government's shoreline master program or amendment thereto by the department of ecology as provided in RCW 90.58.090, the local government shall publish a notice that the shoreline master program or amendment thereto has been approved or disapproved by the department of ecology. For purposes of this section, the date of publication for the adoption or amendment of a shoreline master program is the date the local government publishes notice that the shoreline master program or amendment thereto has been approved or disapproved by the department of ecology.

(3) Unless the board dismisses the petition as frivolous or finds that the person filing the petition lacks standing, the board shall, within ten days of receipt of the petition, set a time for hearing the matter.

(4) The board shall base its decision on the record developed by the city, county, or the state and supplemented with additional evidence if the board determines that such additional evidence would be necessary or of substantial assistance to the board in reaching its decision.

(5) The board, shall consolidate, when appropriate, all petitions involving the review of the same comprehensive plan or the same development regulation or regulations. [1995 c 347 § 109. Prior: 1994 c 257 § 2; 1994 c 249 § 26; 1991 sp.s. c 32 § 10.]

**Finding—Severability—Part headings and table of contents not law—1995 c 347:** See notes following RCW 36.70A.470.

**Severability—1994 c 257:** See note following RCW 36.70A.270.

**Severability—Application—1994 c 249:** See notes following RCW 34.05.310.

**36.70A.300 Final orders.** (1) The board shall issue a final order within one hundred eighty days of receipt of the petition for review, or, when multiple petitions are filed, within one hundred eighty days of receipt of the last petition that is consolidated. Such a final order shall be based

exclusively on whether or not a state agency, county, or city is in compliance with the requirements of this chapter, chapter 90.58 RCW as it relates to adoption or amendment of shoreline master programs, or chapter 43.21C RCW as it relates to plans, development regulations, and amendments thereto, adopted under RCW 36.70A.040 or chapter 90.58 RCW. In the final order, the board shall either: (a) Find that the state agency, county, or city is in compliance with the requirements of this chapter or chapter 90.58 RCW as it relates to the adoption or amendment of shoreline master programs; or (b) find that the state agency, county, or city is not in compliance with the requirements of this chapter or chapter 90.58 RCW as it relates to the adoption or amendment of shoreline master programs, in which case the board shall remand the matter to the affected state agency, county, or city and specify a reasonable time not in excess of one hundred eighty days within which the state agency, county, or city shall comply with the requirements of this chapter.

(2) A finding of noncompliance and an order of remand shall not affect the validity of comprehensive plans and development regulations during the period of remand, unless the board's final order also:

(a) Includes a determination, supported by findings of fact and conclusions of law, that the continued validity of the plan or regulation would substantially interfere with the fulfillment of the goals of this chapter; and

(b) Specifies the particular part or parts of the plan or regulation that are determined to be invalid, and the reasons for their invalidity.

(3) A determination of invalidity shall:

(a) Be prospective in effect and shall not extinguish rights that vested under state or local law before the date of the board's order; and

(b) Subject any development application that would otherwise vest after the date of the board's order to the local ordinance or resolution that both is enacted in response to the order of remand and determined by the board pursuant to RCW 36.70A.330 to comply with the requirements of this chapter.

(4) If the ordinance that adopts a plan or development regulation under this chapter includes a savings clause intended to revive prior policies or regulations in the event the new plan or regulations are determined to be invalid, the board shall determine under subsection (2) of this section whether the prior policies or regulations are valid during the period of remand.

(5) Any party aggrieved by a final decision of the hearings board may appeal the decision to superior court as provided in RCW 34.05.514 or 36.01.050 within thirty days of the final order of the board. [1995 c 347 § 110; 1991 sp.s. c 32 § 11.]

**Finding—Severability—Part headings and table of contents not law—1995 c 347:** See notes following RCW 36.70A.470.

**36.70A.320 Presumption of validity—Burden of proof—Plans and regulations.** (1) Except as provided in subsection (2) of this section, comprehensive plans and development regulations, and amendments thereto, adopted under this chapter are presumed valid upon adoption. In any petition under this chapter, the board, after full consideration of the petition, shall determine whether there is compliance

with the requirements of this chapter. In making its determination, the board shall consider the criteria adopted by the department under RCW 36.70A.190(4). The board shall find compliance unless it finds by a preponderance of the evidence that the state agency, county, or city erroneously interpreted or applied this chapter.

(2) The shoreline element of a comprehensive plan and the applicable development regulations adopted by a county or city shall take effect as provided in chapter 90.58 RCW. [1995 c 347 § 111; 1991 sp.s. c 32 § 13.]

**Finding—Severability—Part headings and table of contents not law—1995 c 347:** See notes following RCW 36.70A.470.

**36.70A.330 Noncompliance.** (1) After the time set for complying with the requirements of this chapter under RCW 36.70A.300(1)(b) has expired, or at an earlier time upon the motion of a county or city subject to a determination of invalidity under RCW 36.70A.300, the board shall set a hearing for the purpose of determining whether the state agency, county, or city is in compliance with the requirements of this chapter.

(2) The board shall conduct a hearing and issue a finding of compliance or noncompliance with the requirements of this chapter. A person with standing to challenge the legislation enacted in response to the board's final order may participate in the hearing along with the petitioner and the state agency, city, or county. A hearing under this subsection shall be given the highest priority of business to be conducted by the board, and a finding shall be issued within forty-five days of the filing of the motion under subsection (1) of this section with the board.

(3) If the board finds that the state agency, county, or city is not in compliance, the board shall transmit its finding to the governor. The board may recommend to the governor that the sanctions authorized by this chapter be imposed.

(4) The board shall also reconsider its final order and decide:

(a) If a determination of invalidity has been made, whether such a determination should be rescinded or modified under the standards in RCW 36.70A.300(2); or

(b) If no determination of invalidity has been made, whether one now should be made under the standards in RCW 36.70A.300(2).

The board shall schedule additional hearings as appropriate pursuant to subsections (1) and (2) of this section. [1995 c 347 § 112; 1991 sp.s. c 32 § 14.]

**Finding—Severability—Part headings and table of contents not law—1995 c 347:** See notes following RCW 36.70A.470.

**36.70A.365 Major industrial developments.** A county required or choosing to plan under RCW 36.70A.040 may establish, in consultation with cities consistent with provisions of RCW 36.70A.210, a process for reviewing and approving proposals to authorize siting of specific major industrial developments outside urban growth areas.

(1) "Major industrial development" means a master planned location for a specific manufacturing, industrial, or commercial business that: (a) Requires a parcel of land so large that no suitable parcels are available within an urban growth area; or (b) is a natural resource-based industry requiring a location near agricultural land, forest land, or

mineral resource land upon which it is dependent. The major industrial development shall not be for the purpose of retail commercial development or multitenant office parks.

(2) A major industrial development may be approved outside an urban growth area in a county planning under this chapter if criteria including, but not limited to the following, are met:

(a) New infrastructure is provided for and/or applicable impact fees are paid;

(b) Transit-oriented site planning and traffic demand management programs are implemented;

(c) Buffers are provided between the major industrial development and adjacent nonurban areas;

(d) Environmental protection including air and water quality has been addressed and provided for;

(e) Development regulations are established to ensure that urban growth will not occur in adjacent nonurban areas;

(f) Provision is made to mitigate adverse impacts on designated agricultural lands, forest lands, and mineral resource lands;

(g) The plan for the major industrial development is consistent with the county's development regulations established for protection of critical areas; and

(h) An inventory of developable land has been conducted and the county has determined and entered findings that land suitable to site the major industrial development is unavailable within the urban growth area. Priority shall be given to applications for sites that are adjacent to or in close proximity to the urban growth area.

(3) Final approval of an application for a major industrial development shall be considered an adopted amendment to the comprehensive plan adopted pursuant to RCW 36.70A.070 designating the major industrial development site on the land use map as an urban growth area. Final approval of an application for a major industrial development shall not be considered an amendment to the comprehensive plan for the purposes of RCW 36.70A.130(2) and may be considered at any time. [1995 c 190 § 1.]

**36.70A.385 Environmental planning pilot projects.**

(1) The legislature intends to determine whether the environmental review process mandated under chapter 43.21C RCW may be enhanced and simplified, and coordination improved, when applied to comprehensive plans mandated by this chapter. The department shall undertake pilot projects on environmental review to determine if the review process can be improved by fostering more coordination and eliminating duplicative environmental analysis which is made to assist decision makers approving comprehensive plans pursuant to this chapter. Such pilot projects should be designed and scoped to consider cumulative impacts resulting from plan decisions, plan impacts on environmental quality, impacts on adjacent jurisdictions, and similar factors in sufficient depth to simplify the analysis of subsequent specific projects being carried out pursuant to the approved plan.

(2) The legislature hereby authorizes the department to establish, in cooperation with business, industry, cities, counties, and other interested parties, at least two but not more than four pilot projects, one of which shall be with a county, on enhanced draft and final nonproject environmental analysis of comprehensive plans prepared pursuant to this



chapter, for the purposes outlined in subsection (1) of this section. The department may select appropriate geographic subareas within a comprehensive plan if that will best serve the purposes of this section and meet the requirements of chapter 43.21C RCW.

(3) An enhanced draft and final nonproject environmental analysis prepared pursuant to this section shall follow the rules adopted pursuant to chapter 43.21C RCW.

(4) Not later than December 31, 1993, the department shall evaluate the overall effectiveness of the pilot projects under this section regarding preparing enhanced nonproject environmental analysis for the approval process of comprehensive plans and shall:

(a) Provide an interim report of its findings to the legislature with such recommendations as may be appropriate, including the need, if any, for further legislation;

(b) Consider adoption of any further rules or guidelines as may be appropriate to assist counties and cities in meeting requirements of chapter 43.21C RCW when considering comprehensive plans; and

(c) Prepare and circulate to counties and cities such instructional manuals or other information derived from the pilot projects as will assist all counties and cities in meeting the requirements and objectives of chapter 43.21C RCW in the most expeditious and efficient manner in the process of considering comprehensive plans pursuant to this chapter.

(5) The department shall submit a final report to the legislature no later than December 31, 1995. [1995 c 399 § 43; 1991 sp.s. c 32 § 20.]

**36.70A.440 Recodified as RCW 36.70B.070.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**36.70A.450 Family day-care provider's home facility—City may not prohibit in residential or commercial area.** No city that plans or elects to plan under this chapter may enact, enforce, or maintain an ordinance, development regulation, zoning regulation, or official control, policy, or administrative practice which prohibits the use of a residential dwelling, located in an area zoned for residential or commercial use, as a family day-care provider's home facility.

A city may require that the facility: (1) Comply with all building, fire, safety, health code, and business licensing requirements; (2) conform to lot size, building size, setbacks, and lot coverage standards applicable to the zoning district except if the structure is a legal nonconforming structure; (3) is certified by the office of child care policy licensor as providing a safe passenger loading area; (4) include signage, if any, that conforms to applicable regulations; and (5) limit hours of operations to facilitate neighborhood compatibility, while also providing appropriate opportunity for persons who use family day-care and who work a nonstandard work shift.

A city may also require that the family day-care provider, before state licensing, require proof of written notification by the provider that the immediately adjoining property owners have been informed of the intent to locate and maintain such a facility. If a dispute arises between neighbors and the family day-care provider over licensing

requirements, the licensor may provide a forum to resolve the dispute.

Nothing in this section shall be construed to prohibit a city that plans or elects to plan under this chapter from imposing zoning conditions on the establishment and maintenance of a family day-care provider's home in an area zoned for residential or commercial use, so long as such conditions are no more restrictive than conditions imposed on other residential dwellings in the same zone and the establishment of such facilities is not precluded. As used in this section, "family day-care provider" is as defined in RCW 74.15.020. [1995 c 49 § 3; 1994 c 273 § 17.]

**36.70A.460 Watershed restoration projects—Permit processing.** A permit required under this chapter for a watershed restoration project as defined in RCW 89.08.460 shall be processed in compliance with RCW 89.08.450 through 89.08.510. [1995 c 378 § 11.]

**36.70A.470 Project review—Amendment suggestion procedure—Definitions.** (1) Project review, which shall be conducted pursuant to the provisions of chapter 36.70B RCW, shall be used to make individual project decisions, not land use planning decisions. If, during project review, a county or city planning under RCW 36.70A.040 identifies deficiencies in plans or regulations:

(a) The permitting process shall not be used as a comprehensive planning process;

(b) Project review shall continue; and

(c) The identified deficiencies shall be docketed for possible future plan or development regulation amendments.

(2) Each county and city planning under RCW 36.70A.040 shall include in its development regulations a procedure for any interested person, including applicants, citizens, hearing examiners, and staff of other agencies, to suggest plan or development regulation amendments. The suggested amendments shall be docketed and considered on at least an annual basis, consistent with the provisions of RCW 36.70A.130.

(3) For purposes of this section, a deficiency in a comprehensive plan or development regulation refers to the absence of required or potentially desirable contents of a comprehensive plan or development regulation. It does not refer to whether a development regulation addresses a project's probable specific adverse environmental impacts which the permitting agency could mitigate in the normal project review process.

(4) For purposes of this section, docketing refers to compiling and maintaining a list of suggested changes to the comprehensive plan or development regulations in a manner that will ensure such suggested changes will be considered by the county or city and will be available for review by the public. [1995 c 347 § 102.]

**Findings—Intent—1995 c 347 § 102:** "The legislature finds that during project review, a county or city planning under RCW 36.70A.040 is likely to discover the need to make various improvements in comprehensive plans and development regulations. There is no current requirement or process for applicants, citizens, or agency staff to ensure that these improvements are considered in the plan review process. The legislature also finds that in the past environmental review and permitting of proposed projects have been used to reopen and make land use planning decisions that should have been made through the comprehensive planning process, in part because agency staff and hearing examiners have not been able to

ensure consideration of all issues in the local planning process. The legislature further finds that, while plans and regulations should be improved and refined over time, it is unfair to penalize applicants that have submitted permit applications that meet current requirements. It is the intent of the legislature in enacting RCW 36.70A.470 to establish a means by which cities and counties will docket suggested plan or development regulation amendments and ensure their consideration during the planning process." [1995 c 347 § 101.]

**Finding—1995 c 347:** "The legislature recognizes by this act that the growth management act is a fundamental building block of regulatory reform. The state and local governments have invested considerable resources in an act that should serve as the integrating framework for all other land-use related laws. The growth management act provides the means to effectively combine certainty for development decisions, reasonable environmental protection, long-range planning for cost-effective infrastructure, and orderly growth and development." [1995 c 347 § 1.]

**Severability—1995 c 347:** "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." [1995 c 347 § 901.]

**Part headings and table of contents not law—1995 c 347:** "Part headings and the table of contents as used in this act do not constitute any part of the law." [1995 c 347 § 902.]

**36.70A.480 Shorelines of the state.** (1) For shorelines of the state, the goals and policies of the shoreline management act as set forth in RCW 90.58.020 are added as one of the goals of this chapter as set forth in RCW 36.70A.020. The goals and policies of a shoreline master program for a county or city approved under chapter 90.58 RCW shall be considered an element of the county or city's comprehensive plan. All other portions of the shoreline master program for a county or city adopted under chapter 90.58 RCW, including use regulations, shall be considered a part of the county or city's development regulations.

(2) The shoreline master program shall be adopted pursuant to the procedures of chapter 90.58 RCW rather than the procedures set forth in this chapter for the adoption of a comprehensive plan or development regulations. [1995 c 347 § 104.]

**Finding—Severability—Part headings and table of contents not law—1995 c 347:** See notes following RCW 36.70A.470.

**36.70A.481 Construction—Chapter 347, Laws of 1995.** Nothing in RCW 36.70A.480 shall be construed to authorize a county or city to adopt regulations applicable to shorelands as defined in RCW 90.58.030 that are inconsistent with the provisions of chapter 90.58 RCW. [1995 c 382 § 13.]

**36.70A.490 Growth management planning and environmental review fund—Established.** The growth management planning and environmental review fund is hereby established in the state treasury. Moneys may be placed in the fund from the proceeds of bond sales, tax revenues, budget transfers, federal appropriations, gifts, or any other lawful source. Moneys in the fund may be spent only after appropriation. Moneys in the fund shall be used to make grants to local governments for the purposes set forth in RCW 43.21C.240, 43.21C.031, or 36.70A.500. [1995 c 347 § 115.]

**Findings—Purpose—1995 c 347 § 115:** "(1) The legislature finds that:

(a) As of July 23, 1995, twenty-nine counties and two hundred eight cities are conducting comprehensive planning under the growth management

act, chapter 36.70A RCW, which together comprise over ninety percent of the state's population;

(b) Comprehensive plans for many of the jurisdictions were due by July 1, 1994, and the remaining jurisdictions must complete plans under due dates ranging from October 1994 to September 1997;

(c) Concurrently with these comprehensive planning activities, local governments must conduct several other planning requirements under the growth management act, such as the adoption of capital facilities plans, urban growth areas, and development regulations;

(d) Local governments must also comply with the state environmental policy act, chapter 43.21C RCW, in the development of comprehensive plans and development regulations;

(e) The combined activities of comprehensive planning and the state environmental policy act present a serious fiscal burden upon local governments; and

(f) Detailed environmental analysis integrated with comprehensive plans, subarea plans, and development regulations will facilitate planning for and managing growth, allow greater protection of the environment, and benefit both the general public and private property owners.

(2) In order to provide financial assistance to cities and counties planning under chapter 36.70A RCW and to improve the usefulness of plans and integrated environmental analyses, the legislature has created the fund described in RCW 36.70A.490." [1995 c 347 § 114.]

**Finding—Severability—Part headings and table of contents not law—1995 c 347:** See notes following RCW 36.70A.470.

**36.70A.500 Growth management planning and environmental review fund—Awarding of grants—Procedures.** (1) The department of community, trade, and economic development shall provide management services for the fund created by RCW 36.70A.490. The department by rule shall establish procedures for fund management.

(2) A grant may be awarded to a county or city that is required to or has chosen to plan under RCW 36.70A.040 and that is qualified pursuant to this section. The grant shall be provided to assist a county or city in paying for the cost of preparing a detailed environmental impact statement that is integrated with a comprehensive plan or subarea plan and development regulations.

(3) In order to qualify for a grant, a county or city shall:

(a) Demonstrate that it will prepare an environmental analysis pursuant to chapter 43.21C RCW that is integrated with a comprehensive plan or subarea plan and development regulations;

(b) Address environmental impacts and consequences, alternatives, and mitigation measures in sufficient detail to allow the analysis to be adopted in whole or in part by subsequent applicants for development permits within the geographic area analyzed in the plan;

(c) Include mechanisms in the plan to monitor the consequences of growth as it occurs in the plan area and provide ongoing data to update the plan and environmental analysis;

(d) Be making substantial progress towards compliance with the requirements of this chapter. A county or city that is more than six months out of compliance with a requirement of this chapter is deemed not to be making substantial progress towards compliance; and

(e) Provide local funding, which may include financial participation by the private sector.

(4) In awarding grants, the department shall give preference to proposals that include one or more of the following elements:

(a) Financial participation by the private sector, or a public/private partnering approach;

(b) Comprehensive and subarea plan proposals that are designed to identify and monitor system capacities for elements of the built environment, and to the extent appropriate, of the natural environment;

(c) Programs to improve the efficiency and effectiveness of the permitting process by greater reliance on integrated plans;

(d) Programs for effective citizen and neighborhood involvement that contribute to greater certainty that planning decisions will be implemented; and

(e) Plans that identify environmental impacts and establish mitigation measures that provide effective means to satisfy concurrency requirements and establish project consistency with the plans.

(5) If the local funding includes funding provided by other state functional planning programs, including open space planning and watershed or basin planning, the functional plan shall be integrated into and be consistent with the comprehensive plan. [1995 c 347 § 116.]

**Finding—Severability—Part headings and table of contents not law—1995 c 347:** See notes following RCW 36.70A.470.

## Chapter 36.70B

### LOCAL PROJECT REVIEW

Sections	
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36.70B.080	Development regulations—Requirements. ( <i>Effective July 1, 1998.</i> )
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36.70B.210	Development agreements—Authority to impose fees not extended.
36.70B.900	Finding—Severability—Part headings and table of contents not law—1995 c 347.

**36.70B.010 Findings and declaration.** The legislature finds and declares the following:

(1) As the number of environmental laws and development regulations has increased for land uses and development, so has the number of required local land use permits, each with its own separate approval process.

(2) The increasing number of local and state land use permits and separate environmental review processes required by agencies has generated continuing potential for conflict, overlap, and duplication between the various permit and review processes.

(3) This regulatory burden has significantly added to the cost and time needed to obtain local and state land use permits and has made it difficult for the public to know how and when to provide timely comments on land use proposals that require multiple permits and have separate environmental review processes. [1995 c 347 § 401.]

**36.70B.020 Definitions.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Closed record appeal" means an administrative appeal on the record to a local government body or officer, including the legislative body, following an open record hearing on a project permit application when the appeal is on the record with no or limited new evidence or information allowed to be submitted and only appeal argument allowed.

(2) "Local government" means a county, city, or town.

(3) "Open record hearing" means a hearing, conducted by a single hearing body or officer authorized by the local government to conduct such hearings, that creates the local government's record through testimony and submission of evidence and information, under procedures prescribed by the local government by ordinance or resolution. An open record hearing may be held prior to a local government's decision on a project permit to be known as an "open record predecision hearing." An open record hearing may be held on an appeal, to be known as an "open record appeal hearing," if no open record predecision hearing has been held on the project permit.

(4) "Project permit" or "project permit application" means any land use or environmental permit or license required from a local government for a project action, including but not limited to building permits, subdivisions, binding site plans, planned unit developments, conditional uses, shoreline substantial development permits, site plan review, permits or approvals required by critical area ordinances, site-specific rezones authorized by a comprehensive plan or subarea plan, but excluding the adoption or amendment of a comprehensive plan, subarea plan, or development regulations except as otherwise specifically included in this subsection.

(5) "Public meeting" means an informal meeting, hearing, workshop, or other public gathering of people to obtain comments from the public or other agencies on a proposed project permit prior to the local government's decision. A public meeting may include, but is not limited to, a design review or architectural control board meeting, a special review district or community council meeting, or a scoping meeting on a draft environmental impact statement. A public meeting does not include an open record hearing. The proceedings at a public meeting may be recorded and a report or recommendation may be included in the local

government's project permit application file. [1995 c 347 § 402.]

**36.70B.030 Project review—Required elements—Limitations.** (1) Fundamental land use planning choices made in adopted comprehensive plans and development regulations shall serve as the foundation for project review. The review of a proposed project's consistency with applicable development regulations, or in the absence of applicable regulations the adopted comprehensive plan, under RCW 36.70B.040 shall incorporate the determinations under this section.

(2) During project review, a local government or any subsequent reviewing body shall determine whether the items listed in this subsection are defined in the development regulations applicable to the proposed project or, in the absence of applicable regulations the adopted comprehensive plan. At a minimum, such applicable regulations or plans shall be determinative of the:

(a) Type of land use permitted at the site, including uses that may be allowed under certain circumstances, such as planned unit developments and conditional and special uses, if the criteria for their approval have been satisfied;

(b) Density of residential development in urban growth areas; and

(c) Availability and adequacy of public facilities identified in the comprehensive plan, if the plan or development regulations provide for funding of these facilities as required by chapter 36.70A RCW.

(3) During project review, the local government or any subsequent reviewing body shall not reexamine alternatives to or hear appeals on the items identified in subsection (2) of this section, except for issues of code interpretation. As part of its project review process, a local government shall provide a procedure for obtaining a code interpretation as provided in RCW 36.70B.110.

(4) Pursuant to RCW 43.21C.240, a local government may determine that the requirements for environmental analysis and mitigation measures in development regulations and other applicable laws provide adequate mitigation for some or all of the project's specific adverse environmental impacts to which the requirements apply.

(5) Nothing in this section limits the authority of a permitting agency to approve, condition, or deny a project as provided in its development regulations adopted under chapter 36.70A RCW and in its policies adopted under RCW 43.21C.060. Project review shall be used to identify specific project design and conditions relating to the character of development, such as the details of site plans, curb cuts, drainage swales, transportation demand management, the payment of impact fees, or other measures to mitigate a proposal's probable adverse environmental impacts, if applicable.

(6) Subsections (1) through (4) of this section apply only to local governments planning under RCW 36.70A.040. [1995 c 347 § 404.]

**Intent—Findings—1995 c 347 §§ 404 and 405:** "In enacting RCW 36.70B.030 and 36.70B.040, the legislature intends to establish a mechanism for implementing the provisions of chapter 36.70A RCW regarding compliance, conformity, and consistency of proposed projects with adopted comprehensive plans and development regulations. In order to achieve this purpose the legislature finds that:

(1) Given the extensive investment that public agencies and a broad spectrum of the public are making and will continue to make in comprehensive plans and development regulations for their communities, it is essential that project review start from the fundamental land use planning choices made in these plans and regulations. If the applicable regulations or plans identify the type of land use, specify residential density in urban growth areas, and identify and provide for funding of public facilities needed to serve the proposed development and site, these decisions at a minimum provide the foundation for further project review unless there is a question of code interpretation. The project review process, including the environmental review process under chapter 43.21C RCW and the consideration of consistency, should start from this point and should not reanalyze these land use planning decisions in making a permit decision.

(2) Comprehensive plans and development regulations adopted by local governments under chapter 36.70A RCW and environmental laws and rules adopted by the state and federal government have addressed a wide range of environmental subjects and impacts. These provisions typically require environmental studies and contain specific standards to address various impacts associated with a proposed development, such as building size and location, drainage, transportation requirements, and protection of critical areas. When a permitting agency applies these existing requirements to a proposed project, some or all of a project's potential environmental impacts will be avoided or otherwise mitigated. Through the integrated project review process described in subsection (1) of this section, the local government will determine whether existing requirements, including the applicable regulations or plans, adequately analyze and address a project's environmental impacts. RCW 43.21C.240 provides that project review should not require additional studies or mitigation under chapter 43.21C RCW where existing regulations have adequately addressed a proposed project's probable specific adverse environmental impacts.

(3) Given the hundreds of jurisdictions and agencies in the state and the numerous communities and applicants affected by development regulations and comprehensive plans adopted under chapter 36.70A RCW, it is essential to establish a uniform framework for considering the consistency of a proposed project with the applicable regulations or plan. Consistency should be determined in the project review process by considering four factors found in applicable regulations or plans: The type of land use allowed; the level of development allowed, such as units per acre or other measures of density; infrastructure, such as the adequacy of public facilities and services to serve the proposed project; and the character of the proposed development, such as compliance with specific development standards. This uniform approach corresponds to existing project review practices and will not place a burden on applicants or local government. The legislature intends that this approach should be largely a matter of checking compliance with existing requirements for most projects, which are simple or routine, while more complex projects may require more analysis. RCW 43.21C.240 and 36.70B.030 establish this uniform framework and also direct state agencies to consult with local government and the public to develop a better format than the current environmental checklist to meet this objective.

(4) When an applicant applies for a project permit, consistency between the proposed project and applicable regulations or plan should be determined through a project review process that integrates land use and environmental impact analysis, so that governmental and public review of the proposed project as required by this chapter, by development regulations under chapter 36.70A RCW, and by the environmental process under chapter 43.21C RCW run concurrently and not separately.

(5) RCW 36.70B.030 and 36.70B.040 address three related needs with respect to how the project review process should address consistency between a proposed project and the applicable regulations or plan:

(a) A uniform framework for the meaning of consistency;

(b) An emphasis on relying on existing requirements and adopted standards, with the use of supplemental authority as specified by chapter 43.21C RCW to the extent that existing requirements do not adequately address a project's specific probable adverse environmental impacts; and

(c) The identification of three basic land use planning choices made in applicable regulations or plans that, at a minimum, serve as a foundation for project review and that should not be reanalyzed during project permitting." [1995 c 347 § 403.]

**36.70B.040 Determination of consistency.** (1) A proposed project's consistency with a local government's development regulations adopted under chapter 36.70A RCW, or, in the absence of applicable development regula-

tions, the appropriate elements of the comprehensive plan or subarea plan adopted under chapter 36.70A RCW shall be determined by consideration of:

- (a) The type of land use;
- (b) The level of development, such as units per acre or other measures of density;
- (c) Infrastructure, including public facilities and services needed to serve the development; and
- (d) The character of the development, such as development standards.

(2) In determining consistency, the determinations made pursuant to RCW 36.70B.030(2) shall be controlling.

(3) For purposes of this section, the term "consistency" shall include all terms used in this chapter and chapter 36.70A RCW to refer to performance in accordance with this chapter and chapter 36.70A RCW, including but not limited to compliance, conformity, and consistency.

(4) Nothing in this section requires documentation, dictates an agency's procedures for considering consistency, or limits a unit of government from asking more specific or related questions with respect to any of the four main categories listed in subsection (1) (a) through (d) of this section. [1995 c 347 § 405.]

**Intent—Findings—1995 c 347 §§ 404 and 405:** See note following RCW 36.70B.030.

**36.70B.050 Local government review of project permit applications required—Objectives.** Not later than March 31, 1996, each local government shall provide by ordinance or resolution for review of project permit applications to achieve the following objectives:

(1) Combine the environmental review process, both procedural and substantive, with the procedure for review of project permits; and

(2) Except for the appeal of a determination of significance as provided in RCW 43.21C.075, provide for no more than one open record hearing and one closed record appeal. [1995 c 347 § 406.]

**36.70B.060 Local governments planning under the growth management act to establish integrated and consolidated project permit process—Required elements.** Not later than March 31, 1996, each local government planning under RCW 36.70A.040 shall establish by ordinance or resolution an integrated and consolidated project permit process that may be included in its development regulations. In addition to the elements required by RCW 36.70B.050, the process shall include the following elements:

(1) A determination of completeness to the applicant as required by RCW 36.70B.070;

(2) A notice of application to the public and agencies with jurisdiction as required by RCW 36.70B.110;

(3) Except as provided in RCW 36.70B.140, an optional consolidated project permit review process as provided in RCW 36.70B.120. The review process shall provide for no more than one consolidated open record hearing and one closed record appeal. If an open record predecision hearing is provided prior to the decision on a project permit, the process shall not allow a subsequent open record appeal hearing;

(4) Provision allowing for any public meeting or required open record hearing to be combined with any public meeting or open record hearing that may be held on the project by another local, state, regional, federal, or other agency, in accordance with provisions of RCW 36.70B.090 and 36.70B.110;

(5) A single report stating all the decisions made as of the date of the report on all project permits included in the consolidated permit process that do not require an open record predecision hearing and any recommendations on project permits that do not require an open record predecision hearing. The report shall state any mitigation required or proposed under the development regulations or the agency's authority under RCW 43.21C.060. The report may be the local permit. If a threshold determination other than a determination of significance has not been issued previously by the local government, the report shall include or append this determination;

(6) Except for the appeal of a determination of significance as provided in RCW 43.21C.075, if a local government elects to provide an appeal of its threshold determinations or project permit decisions, the local government shall provide for no more than one consolidated open record hearing on such appeal. The local government need not provide for any further appeal and may provide an appeal for some but not all project permit decisions. If an appeal is provided after the open record hearing, it shall be a closed record appeal before a single decision-making body or officer;

(7) A notice of decision as required by RCW 36.70B.130 and issued within the time period provided in RCW 36.70B.080 and 36.70B.090;

(8) Completion of project review by the local government, including environmental review and public review and any appeals to the local government, within any applicable time periods under RCW 36.70B.090; and

(9) Any other provisions not inconsistent with the requirements of this chapter or chapter 43.21C RCW. [1995 c 347 § 407.]

**36.70B.070 Project permit applications—Determination of completeness—Notice to applicant.** (1) Within twenty-eight days after receiving a project permit application, a local government planning pursuant to RCW 36.70A.040 shall mail or provide in person a written determination to the applicant, stating either:

(a) That the application is complete; or

(b) That the application is incomplete and what is necessary to make the application complete.

To the extent known by the local government, the local government shall identify other agencies of local, state, or federal governments that may have jurisdiction over some aspect of the application.

(2) A project permit application is complete for purposes of this section when it meets the procedural submission requirements of the local government and is sufficient for continued processing even though additional information may be required or project modifications may be undertaken subsequently. The determination of completeness shall not preclude the local government from requesting additional information or studies either at the time of the notice of

completeness or subsequently if new information is required or substantial changes in the proposed action occur.

(3) The determination of completeness may include the following as optional information:

(a) A preliminary determination of those development regulations that will be used for project mitigation;

(b) A preliminary determination of consistency, as provided under RCW 36.70B.040; or

(c) Other information the local government chooses to include.

(4)(a) An application shall be deemed complete under this section if the local government does not provide a written determination to the applicant that the application is incomplete as provided in subsection (1)(b) of this section.

(b) Within fourteen days after an applicant has submitted to a local government additional information identified by the local government as being necessary for a complete application, the local government shall notify the applicant whether the application is complete or what additional information is necessary. [1995 c 347 § 408; 1994 c 257 § 4. Formerly RCW 36.70A.440.]

**Severability—1994 c 257:** See note following RCW 36.70A.270.

**36.70B.080 Development regulations—Requirements.** (*Expires July 1, 1998.*) Development regulations adopted pursuant to RCW 36.70A.040 shall establish time periods consistent with RCW 36.70B.090 for local government actions on specific project permit applications and provide timely and predictable procedures to determine whether a completed project permit application meets the requirements of those development regulations. Such development regulations shall specify the contents of a completed project permit application necessary for the application of such time periods and procedures. [1995 c 347 § 409; 1994 c 257 § 3. Formerly RCW 36.70A.065.]

**Expiration date—1995 c 347 § 409:** "The amendments to \*RCW 36.70A.065 contained in section 409 of this act shall expire July 1, 1998." [1995 c 347 § 411.]

**\*Reviser's note:** RCW 36.70A.065 was recodified as RCW 36.70B.080 pursuant to 1995 c 347 § 432.

**Severability—1994 c 257:** See note following RCW 36.70A.270.

**36.70B.080 Development regulations—Requirements.** (*Effective July 1, 1998.*) Development regulations adopted pursuant to RCW 36.70A.040 shall establish time periods for local government actions on specific project permit applications and provide timely and predictable procedures to determine whether a completed project permit application meets the requirements of those development regulations. Such development regulations shall specify the contents of a completed project permit application necessary for the application of such time periods and procedures. [1995 c 347 § 410; 1994 c 257 § 3. Formerly RCW 36.70A.065.]

**Effective date—1995 c 347 § 410:** "Section 410 of this act shall take effect July 1, 1998." [1995 c 347 § 412.]

**Severability—1994 c 257:** See note following RCW 36.70A.270.

**36.70B.090 Notice of final decision—Time limits—Exceptions.** (*Expires June 30, 1998.*) (1) Except as otherwise provided in subsection (2) of this section, a local

government planning under RCW 36.70A.040 shall issue its notice of final decision on a project permit application within one hundred twenty days after the local government notifies the applicant that the application is complete, as provided in RCW 36.70B.070. In determining the number of days that have elapsed after the local government has notified the applicant that the application is complete, the following periods shall be excluded:

(a)(i) Any period during which the applicant has been requested by the local government to correct plans, perform required studies, or provide additional required information. The period shall be calculated from the date the local government notifies the applicant of the need for additional information until the earlier of the date the local government determines whether the additional information satisfies the request for information or fourteen days after the date the information has been provided to the local government.

(ii) If the local government determines that the information submitted by the applicant under (a)(i) of this subsection is insufficient, it shall notify the applicant of the deficiencies and the procedures under (a)(i) of this subsection shall apply as if a new request for studies had been made;

(b) Any period during which an environmental impact statement is being prepared following a determination of significance pursuant to chapter 43.21C RCW, if the local government by ordinance or resolution has established time periods for completion of environmental impact statements, or if the local government and the applicant in writing agree to a time period for completion of an environmental impact statement;

(c) Any period for administrative appeals of project permits, if an open record appeal hearing or a closed record appeal, or both, are allowed. The local government by ordinance or resolution shall establish a time period to consider and decide such appeals. The time period shall not exceed: (i) Ninety days for an open record appeal hearing; and (ii) sixty days for a closed record appeal. The parties to an appeal may agree to extend these time periods; and

(d) Any extension of time mutually agreed upon by the applicant and the local government.

(2) The time limits established by subsection (1) of this section do not apply if a project permit application:

(a) Requires an amendment to the comprehensive plan or a development regulation;

(b) Requires approval of a new fully contained community as provided in RCW 36.70A.350, a master planned resort as provided in RCW 36.70A.360, or the siting of an essential public facility as provided in RCW 36.70A.200; or

(c) Is substantially revised by the applicant, in which case the time period shall start from the date at which the revised project application is determined to be complete under RCW 36.70B.070.

(3) If the local government is unable to issue its final decision within the time limits provided for in this section, it shall provide written notice of this fact to the project applicant. The notice shall include a statement of reasons why the time limits have not been met and an estimated date for issuance of the notice of final decision.

(4) This section shall apply to project permit applications filed on or after April 1, 1996. [1995 c 347 § 413.]

**Expiration date—Application—1995 c 347 §§ 413 and 421:** "Sections 413 and 421 of this act shall expire June 30, 1998. The

provisions of sections 413 and 421 of this act shall apply to project permit applications determined to be complete pursuant to RCW 36.70B.070 on or before June 30, 1998." [1995 c 347 § 433.]

**36.70B.100 Designation of person or entity to receive determinations and notices.** A local government may require the applicant for a project permit to designate a single person or entity to receive determinations and notices required by this chapter. [1995 c 347 § 414.]

**36.70B.110 Notice of application—Required elements—Integration with other review procedures—Administrative appeals.** (1) Not later than April 1, 1996, a local government planning under RCW 36.70A.040 shall provide a notice of application to the public and the departments and agencies with jurisdiction as provided in this section. If a local government has made a determination of significance under chapter 43.21C RCW concurrently with the notice of application, the notice of application shall be combined with the determination of significance and scoping notice. Nothing in this section prevents a determination of significance and scoping notice from being issued prior to the notice of application.

(2) The notice of application shall be provided within fourteen days after the determination of completeness as provided in RCW 36.70B.070 and include the following in whatever sequence or format the local government deems appropriate:

(a) The date of application, the date of the notice of completion for the application, and the date of the notice of application;

(b) A description of the proposed project action and a list of the project permits included in the application and, if applicable, a list of any studies requested under RCW 36.70B.070 or 36.70B.090;

(c) The identification of other permits not included in the application to the extent known by the local government;

(d) The identification of existing environmental documents that evaluate the proposed project, and, if not otherwise stated on the document providing the notice of application, such as a city land use bulletin, the location where the application and any studies can be reviewed;

(e) A statement of the public comment period, which shall be not less than fourteen nor more than thirty days following the date of notice of application, and statements of the right of any person to comment on the application, receive notice of and participate in any hearings, request a copy of the decision once made, and any appeal rights. A local government may accept public comments at any time prior to the closing of the record of an open record predecision hearing, if any, or, if no open record predecision hearing is provided, prior to the decision on the project permit;

(f) The date, time, place, and type of hearing, if applicable and scheduled at the date of notice of the application;

(g) A statement of the preliminary determination, if one has been made at the time of notice, of those development regulations that will be used for project mitigation and of consistency as provided in RCW 36.70B.040; and

(h) Any other information determined appropriate by the local government.

(3) If an open record predecision hearing is required for the requested project permits, the notice of application shall be provided at least fifteen days prior to the open record hearing.

(4) A local government shall use reasonable methods to give the notice of application to the public and agencies with jurisdiction and may use its existing notice procedures. A local government may use different types of notice for different categories of project permits or types of project actions. If a local government by resolution or ordinance does not specify its method of public notice, the local government shall use the methods provided for in (a) and (b) of this subsection. Examples of reasonable methods to inform the public are:

(a) Posting the property for site-specific proposals;

(b) Publishing notice, including at least the project location, description, type of permit(s) required, comment period dates, and location where the complete application may be reviewed, in the newspaper of general circulation in the general area where the proposal is located or in a local land use newsletter published by the local government;

(c) Notifying public or private groups with known interest in a certain proposal or in the type of proposal being considered;

(d) Notifying the news media;

(e) Placing notices in appropriate regional or neighborhood newspapers or trade journals;

(f) Publishing notice in agency newsletters or sending notice to agency mailing lists, either general lists or lists for specific proposals or subject areas; and

(g) Mailing to neighboring property owners.

(5) A notice of application shall not be required for project permits that are categorically exempt under chapter 43.21C RCW, unless a public comment period or an open record predecision hearing is required.

(6) A local government shall integrate the permit procedures in this section with environmental review under chapter 43.21C RCW as follows:

(a) Except for a determination of significance, the local government may not issue its threshold determination, or issue a decision or a recommendation on a project permit until the expiration of the public comment period on the notice of application.

(b) If an open record predecision hearing is required and the local government's threshold determination requires public notice under chapter 43.21C RCW, the local government shall issue its threshold determination at least fifteen days prior to the open record predecision hearing.

(c) Comments shall be as specific as possible.

(7) A local government may combine any hearing on a project permit with any hearing that may be held by another local, state, regional, federal, or other agency provided that the hearing is held within the geographic boundary of the local government. Hearings shall be combined if requested by an applicant, as long as the joint hearing can be held within the time periods specified in RCW 36.70B.090 or the applicant agrees to the schedule in the event that additional time is needed in order to combine the hearings. All agencies of the state of Washington, including municipal corporations and counties participating in a combined hearing, are hereby authorized to issue joint hearing notices

and develop a joint format, select a mutually acceptable hearing body or officer, and take such other actions as may be necessary to hold joint hearings consistent with each of their respective statutory obligations.

(8) All state and local agencies shall cooperate to the fullest extent possible with the local government in holding a joint hearing if requested to do so, as long as:

(a) The agency is not expressly prohibited by statute from doing so;

(b) Sufficient notice of the hearing is given to meet each of the agencies' adopted notice requirements as set forth in statute, ordinance, or rule; and

(c) The agency has received the necessary information about the proposed project from the applicant to hold its hearing at the same time as the local government hearing.

(9) A local government is not required to provide for administrative appeals. If provided, an administrative appeal of the project decision, combined with any environmental determinations, shall be filed within fourteen days after the notice of the decision or after other notice that the decision has been made and is appealable. The local government shall extend the appeal period for an additional seven days, if state or local rules adopted pursuant to chapter 43.21C RCW allow public comment on a determination of nonsignificance issued as part of the appealable project permit decision.

(10) The applicant for a project permit is deemed to be a participant in any comment period, open record hearing, or closed record appeal.

(11) Each local government planning under RCW 36.70A.040 shall adopt procedures for administrative interpretation of its development regulations. [1995 c 347 § 415.]

**36.70B.120 Permit review process.** (1) Each local government planning under RCW 36.70A.040 shall establish a permit review process that provides for the integrated and consolidated review and decision on two or more project permits relating to a proposed project action, including a single application review and approval process covering all project permits requested by an applicant for all or part of a project action and a designated permit coordinator. If an applicant elects the consolidated permit review process, the determination of completeness, notice of application, and notice of final decision must include all project permits being reviewed through the consolidated permit review process.

(2) Consolidated permit review may provide different procedures for different categories of project permits, but if a project action requires project permits from more than one category, the local government shall provide for consolidated permit review with a single open record hearing and no more than one closed record appeal as provided in RCW 36.70B.060. Each local government shall determine which project permits are subject to an open record hearing and a closed record appeal. Examples of categories of project permits include but are not limited to:

(a) Proposals that are categorically exempt from chapter 43.21C RCW, such as construction permits, that do not require environmental review or public notice;

(b) Permits that require environmental review, but no open record predecision hearing; and

(c) Permits that require a threshold determination and an open record predecision hearing and may provide for a closed record appeal to a hearing body or officer or to the local government legislative body.

(3) A local government may provide by ordinance or resolution for the same or a different decision maker or hearing body or officer for different categories of project permits. In the case of consolidated project permit review, the local government shall specify which decision makers shall make the decision or recommendation, conduct the hearing, or decide the appeal to ensure that consolidated permit review occurs as provided in this section. The consolidated permit review may combine an open record predecision hearing on one or more permits with an open record appeal hearing on other permits. In such cases, the local government by ordinance or resolution shall specify which project permits, if any, shall be subject to a closed record appeal. [1995 c 347 § 416.]

**36.70B.130 Notice of decision—Distribution.** A local government planning under RCW 36.70A.040 shall provide a notice of decision that also includes a statement of any threshold determination made under chapter 43.21C RCW and the procedures for administrative appeal, if any. The notice of decision may be a copy of the report or decision on the project permit application. The notice shall be provided to the applicant and to any person who, prior to the rendering of the decision, requested notice of the decision or submitted substantive comments on the application. The local government shall provide for notice of its decision as provided in RCW 36.70B.110(4). [1995 c 347 § 417.]

**36.70B.140 Project permits that may be excluded from review.** (1) A local government by ordinance or resolution may exclude the following project permits from the provisions of RCW 36.70B.060 through 36.70B.090 and 36.70B.110 through 36.70B.130: Landmark designations, street vacations, or other approvals relating to the use of public areas or facilities, or other project permits, whether administrative or quasi-judicial, that the local government by ordinance or resolution has determined present special circumstances that warrant a review process different from that provided in RCW 36.70B.060 through 36.70B.090 and 36.70B.110 through 36.70B.130.

(2) A local government by ordinance or resolution also may exclude the following project permits from the provisions of RCW 36.70B.060 and 36.70B.110 through 36.70B.130: Lot line or boundary adjustments and building and other construction permits, or similar administrative approvals, categorically exempt from environmental review under chapter 43.21C RCW, or for which environmental review has been completed in connection with other project permits. [1995 c 347 § 418.]

**36.70B.150 Local governments not planning under the growth management act may use provisions.** A local government not planning under RCW 36.70A.040 may incorporate some or all of the provisions of RCW



36.70B.060 through 36.70B.090 and 36.70B.110 through 36.70B.130 into its procedures for review of project permits or other project actions. [1995 c 347 § 419.]

**36.70B.160 Additional project review encouraged—Construction.** (1) Each local government is encouraged to adopt further project review provisions to provide prompt, coordinated review and ensure accountability to applicants and the public, including expedited review for project permit applications for projects that are consistent with adopted development regulations and within the capacity of system-wide infrastructure improvements.

(2) Nothing in this chapter is intended or shall be construed to prevent a local government from requiring a preapplication conference or a public meeting by rule, ordinance, or resolution.

(3) Each local government shall adopt procedures to monitor and enforce permit decisions and conditions.

(4) Nothing in this chapter modifies any independent statutory authority for a government agency to appeal a project permit issued by a local government. [1995 c 347 § 420.]

**36.70B.170 Development agreements—Authorized.**

(1) A local government may enter into a development agreement with a person having ownership or control of real property within its jurisdiction. A city may enter into a development agreement for real property outside its boundaries as part of a proposed annexation or a service agreement. A development agreement must set forth the development standards and other provisions that shall apply to and govern and vest the development, use, and mitigation of the development of the real property for the duration specified in the agreement. A development agreement shall be consistent with applicable development regulations adopted by a local government planning under chapter 36.70A RCW.

(2) RCW 36.70B.170 through 36.70B.190 and section 501, chapter 347, Laws of 1995 do not affect the validity of a contract rezone, concomitant agreement, annexation agreement, or other agreement in existence on July 23, 1995, or adopted under separate authority, that includes some or all of the development standards provided in subsection (3) of this section.

(3) For the purposes of this section, "development standards" includes, but is not limited to:

(a) Project elements such as permitted uses, residential densities, and nonresidential densities and intensities or building sizes;

(b) The amount and payment of impact fees imposed or agreed to in accordance with any applicable provisions of state law, any reimbursement provisions, other financial contributions by the property owner, inspection fees, or dedications;

(c) Mitigation measures, development conditions, and other requirements under chapter 43.21C RCW;

(d) Design standards such as maximum heights, setbacks, drainage and water quality requirements, landscaping, and other development features;

(e) Affordable housing;

(f) Parks and open space preservation;

(g) Phasing;

(h) Review procedures and standards for implementing decisions;

(i) A build-out or vesting period for applicable standards; and

(j) Any other appropriate development requirement or procedure.

(4) The execution of a development agreement is a proper exercise of county and city police power and contract authority. A development agreement may obligate a party to fund or provide services, infrastructure, or other facilities. A development agreement shall reserve authority to impose new or different regulations to the extent required by a serious threat to public health and safety. [1995 c 347 § 502.]

**Findings—Intent—1995 c 347 §§ 502-506:** "The legislature finds that the lack of certainty in the approval of development projects can result in a waste of public and private resources, escalate housing costs for consumers and discourage the commitment to comprehensive planning which would make maximum efficient use of resources at the least economic cost to the public. Assurance to a development project applicant that upon government approval the project may proceed in accordance with existing policies and regulations, and subject to conditions of approval, all as set forth in a development agreement, will strengthen the public planning process, encourage private participation and comprehensive planning, and reduce the economic costs of development. Further, the lack of public facilities and services is a serious impediment to development of new housing and commercial uses. Project applicants and local governments may include provisions and agreements whereby applicants are reimbursed over time for financing public facilities. It is the intent of the legislature by RCW 36.70B.170 through 36.70B.210 to allow local governments and owners and developers of real property to enter into development agreements." [1995 c 347 § 501.]

**36.70B.180 Development agreements—Effect.**

Unless amended or terminated, a development agreement is enforceable during its term by a party to the agreement. A development agreement and the development standards in the agreement govern during the term of the agreement, or for all or that part of the build-out period specified in the agreement, and may not be subject to an amendment to a zoning ordinance or development standard or regulation or a new zoning ordinance or development standard or regulation adopted after the effective date of the agreement. A permit or approval issued by the county or city after the execution of the development agreement must be consistent with the development agreement. [1995 c 347 § 503.]

**Findings—Intent—1995 c 347 §§ 502-506:** See note following RCW 36.70B.170.

**36.70B.190 Development agreements—Recording—**

**Parties and successors bound.** A development agreement shall be recorded with the real property records of the county in which the property is located. During the term of the development agreement, the agreement is binding on the parties and their successors, including a city that assumes jurisdiction through incorporation or annexation of the area covering the property covered by the development agreement. [1995 c 347 § 504.]

**Findings—Intent—1995 c 347 §§ 502-506:** See note following RCW 36.70B.170.

**36.70B.200 Development agreements—Public**

**hearing.** A county or city shall only approve a development agreement by ordinance or resolution after a public hearing.

The county or city legislative body or a planning commission, hearing examiner, or other body designated by the legislative body to conduct the public hearing may conduct the hearing. If the development agreement relates to a project permit application, the provisions of chapter 36.70C RCW shall apply to the appeal of the decision on the development agreement. [1995 c 347 § 505.]

**Findings—Intent—1995 c 347 §§ 502-506:** See note following RCW 36.70B.170.

**36.70B.210 Development agreements—Authority to impose fees not extended.** Nothing in RCW 36.70B.170 through 36.70B.200 and section 501, chapter 347, Laws of 1995 is intended to authorize local governments to impose impact fees, inspection fees, or dedications or to require any other financial contributions or mitigation measures except as expressly authorized by other applicable provisions of state law. [1995 c 347 § 506.]

**Findings—Intent—1995 c 347 §§ 502-506:** See note following RCW 36.70B.170.

**36.70B.900 Finding—Severability—Part headings and table of contents not law—1995 c 347.** See notes following RCW 36.70A.470.

## Chapter 36.70C

### JUDICIAL REVIEW OF LAND USE DECISIONS

#### Sections

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**36.70C.005 Short title.** This chapter may be known and cited as the land use petition act. [1995 c 347 § 701.]

**36.70C.010 Purpose.** The purpose of this chapter is to reform the process for judicial review of land use decisions made by local jurisdictions, by establishing uniform, expedited appeal procedures and uniform criteria for reviewing such decisions, in order to provide consistent, predictable, and timely judicial review. [1995 c 347 § 702.]

**36.70C.020 Definitions.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Land use decision" means a final determination by a local jurisdiction's body or officer with the highest level of authority to make the determination, including those with authority to hear appeals, on:

(a) An application for a project permit or other governmental approval required by law before real property may be improved, developed, modified, sold, transferred, or used, but excluding applications for permits or approvals to use, vacate, or transfer streets, parks, and similar types of public property; excluding applications for legislative approvals such as area-wide rezones and annexations; and excluding applications for business licenses;

(b) An interpretative or declaratory decision regarding the application to a specific property of zoning or other ordinances or rules regulating the improvement, development, modification, maintenance, or use of real property; and

(c) The enforcement by a local jurisdiction of ordinances regulating the improvement, development, modification, maintenance, or use of real property. However, when a local jurisdiction is required by law to enforce the ordinances in a court of limited jurisdiction, a petition may not be brought under this chapter.

(2) "Local jurisdiction" means a county, city, or incorporated town.

(3) "Person" means an individual, partnership, corporation, association, public or private organization, or governmental entity or agency. [1995 c 347 § 703.]

**36.70C.030 Chapter exclusive means of judicial review of land use decisions—Exceptions.** (1) This chapter replaces the writ of certiorari for appeal of land use decisions and shall be the exclusive means of judicial review of land use decisions, except that this chapter does not apply to:

(a) Judicial review of:

(i) Land use decisions made by bodies that are not part of a local jurisdiction;

(ii) Land use decisions of a local jurisdiction that are subject to review by a quasi-judicial body created by state law, such as the shorelines hearings board or the growth management hearings board;

(b) Judicial review of applications for a writ of mandamus or prohibition; or

(c) Claims provided by any law for monetary damages or compensation. If one or more claims for damages or compensation are set forth in the same complaint with a land use petition brought under this chapter, the claims are not subject to the procedures and standards, including deadlines, provided in this chapter for review of the petition. The judge who hears the land use petition may, if appropriate, preside at a trial for damages or compensation.

(2) The superior court civil rules govern procedural matters under this chapter to the extent that the rules are consistent with this chapter. [1995 c 347 § 704.]

**36.70C.040 Commencement of review—Land use petition—Procedure.** (1) Proceedings for review under this chapter shall be commenced by filing a land use petition in superior court.

(2) A land use petition is barred, and the court may not grant review, unless the petition is timely filed with the court

and timely served on the following persons who shall be parties to the review of the land use petition:

(a) The local jurisdiction, which for purposes of the petition shall be the jurisdiction's corporate entity and not an individual decision maker or department;

(b) Each of the following persons if the person is not the petitioner:

(i) Each person identified by name and address in the local jurisdiction's written decision as an applicant for the permit or approval at issue; and

(ii) Each person identified by name and address in the local jurisdiction's written decision as an owner of the property at issue;

(c) If no person is identified in a written decision as provided in (b) of this subsection, each person identified by name and address as a taxpayer for the property at issue in the records of the county assessor, based upon the description of the property in the application; and

(d) Each person named in the written decision who filed an appeal to a local jurisdiction quasi-judicial decision maker regarding the land use decision at issue, unless the person has abandoned the appeal or the person's claims were dismissed before the quasi-judicial decision was rendered. Persons who later intervened or joined in the appeal are not required to be made parties under this subsection.

(3) The petition is timely if it is filed and served on all parties listed in subsection (2) of this section within twenty-one days of the issuance of the land use decision.

(4) For the purposes of this section, the date on which a land use decision is issued is:

(a) Three days after a written decision is mailed by the local jurisdiction or, if not mailed, the date on which the local jurisdiction provides notice that a written decision is publicly available;

(b) If the land use decision is made by ordinance or resolution by a legislative body sitting in a quasi-judicial capacity, the date the body passes the ordinance or resolution; or

(c) If neither (a) nor (b) of this subsection applies, the date the decision is entered into the public record.

(5) Service on the local jurisdiction must be by delivery of a copy of the petition to the persons identified by or pursuant to RCW 4.28.080 to receive service of process. Service on other parties must be in accordance with the superior court civil rules or by first class mail to:

(a) The address stated in the written decision of the local jurisdiction for each person made a party under subsection (2)(b) of this section;

(b) The address stated in the records of the county assessor for each person made a party under subsection (2)(c) of this section; and

(c) The address stated in the appeal to the quasi-judicial decision maker for each person made a party under subsection (2)(d) of this section.

(6) Service by mail is effective on the date of mailing and proof of service shall be by affidavit or declaration under penalty of perjury. [1995 c 347 § 705.]

**36.70C.050 Joinder of parties.** If the applicant for the land use approval is not the owner of the real property at issue, and if the owner is not accurately identified in the

records referred to in RCW 36.70C.040(2) (b) and (c), the applicant shall be responsible for promptly securing the joinder of the owners. In addition, within fourteen days after service each party initially named by the petitioner shall disclose to the other parties the name and address of any person whom such party knows may be needed for just adjudication of the petition, and the petitioner shall promptly name and serve any such person whom the petitioner agrees may be needed for just adjudication. If such a person is named and served before the initial hearing, leave of court for the joinder is not required, and the petitioner shall provide the newly joined party with copies of the pleadings filed before the party's joinder. Failure by the petitioner to name or serve, within the time required by RCW 36.70C.040(3), persons who are needed for just adjudication but who are not identified in the records referred to in RCW 36.70C.040(2)(b), or in RCW 36.70C.040(2)(c) if applicable, shall not deprive the court of jurisdiction to hear the land use petition. [1995 c 347 § 706.]

**36.70C.060 Standing.** Standing to bring a land use petition under this chapter is limited to the following persons:

(1) The applicant and the owner of property to which the land use decision is directed;

(2) Another person aggrieved or adversely affected by the land use decision, or who would be aggrieved or adversely affected by a reversal or modification of the land use decision. A person is aggrieved or adversely affected within the meaning of this section only when all of the following conditions are present:

(a) The land use decision has prejudiced or is likely to prejudice that person;

(b) That person's asserted interests are among those that the local jurisdiction was required to consider when it made the land use decision;

(c) A judgment in favor of that person would substantially eliminate or redress the prejudice to that person caused or likely to be caused by the land use decision; and

(d) The petitioner has exhausted his or her administrative remedies to the extent required by law. [1995 c 347 § 707.]

**36.70C.070 Land use petition—Required elements.** A land use petition must set forth:

(1) The name and mailing address of the petitioner;

(2) The name and mailing address of the petitioner's attorney, if any;

(3) The name and mailing address of the local jurisdiction whose land use decision is at issue;

(4) Identification of the decision-making body or officer, together with a duplicate copy of the decision, or, if not a written decision, a summary or brief description of it;

(5) Identification of each person to be made a party under RCW 36.70C.040(2) (b) through (d);

(6) Facts demonstrating that the petitioner has standing to seek judicial review under RCW 36.70C.060;

(7) A separate and concise statement of each error alleged to have been committed;

(8) A concise statement of facts upon which the petitioner relies to sustain the statement of error, and

(9) A request for relief, specifying the type and extent of relief requested. [1995 c 347 § 708.]

**36.70C.080 Initial hearing.** (1) Within seven days after the petition is served on the parties identified in RCW 36.70C.040(2), the petitioner shall note, according to the local rules of superior court, an initial hearing on jurisdictional and preliminary matters. This initial hearing shall be set no sooner than thirty-five days and no later than fifty days after the petition is served on the parties identified in RCW 36.70C.040(2).

(2) The parties shall note all motions on jurisdictional and procedural issues for resolution at the initial hearing, except that a motion to allow discovery may be brought sooner. Where confirmation of motions is required, each party shall be responsible for confirming its own motions.

(3) The defenses of lack of standing, untimely filing or service of the petition, and failure to join persons needed for just adjudication are waived if not raised by timely motion noted to be heard at the initial hearing, unless the court allows discovery on such issues.

(4) The petitioner shall move the court for an order at the initial hearing that sets the date on which the record must be submitted, sets a briefing schedule, sets a discovery schedule if discovery is to be allowed, and sets a date for the hearing or trial on the merits.

(5) The parties may waive the initial hearing by scheduling with the court a date for the hearing or trial on the merits and filing a stipulated order that resolves the jurisdictional and procedural issues raised by the petition, including the issues identified in subsections (3) and (4) of this section.

(6) A party need not file an answer to the petition. [1995 c 347 § 709.]

**36.70C.090 Expedited review.** The court shall provide expedited review of petitions filed under this chapter. The matter must be set for hearing within sixty days of the date set for submitting the local jurisdiction's record, absent a showing of good cause for a different date or a stipulation of the parties. [1995 c 347 § 710.]

**36.70C.100 Stay of action pending review.** (1) A petitioner or other party may request the court to stay or suspend an action by the local jurisdiction or another party to implement the decision under review. The request must set forth a statement of grounds for the stay and the factual basis for the request.

(2) A court may grant a stay only if the court finds that:

(a) The party requesting the stay is likely to prevail on the merits;

(b) Without the stay the party requesting it will suffer irreparable harm;

(c) The grant of a stay will not substantially harm other parties to the proceedings; and

(d) The request for the stay is timely in light of the circumstances of the case.

(3) The court may grant the request for a stay upon such terms and conditions, including the filing of security, as are necessary to prevent harm to other parties by the stay. [1995 c 347 § 711.]

**36.70C.110 Record for judicial review—Costs.** (1) Within forty-five days after entry of an order to submit the record, or within such a further time as the court allows or as the parties agree, the local jurisdiction shall submit to the court a certified copy of the record for judicial review of the land use decision, except that the petitioner shall prepare at the petitioner's expense and submit a verbatim transcript of any hearings held on the matter.

(2) If the parties agree, or upon order of the court, the record shall be shortened or summarized to avoid reproduction and transcription of portions of the record that are duplicative or not relevant to the issues to be reviewed by the court.

(3) The petitioner shall pay the local jurisdiction the cost of preparing the record before the local jurisdiction submits the record to the court. Failure by the petitioner to timely pay the local jurisdiction relieves the local jurisdiction of responsibility to submit the record and is grounds for dismissal of the petition.

(4) If the relief sought by the petitioner is granted in whole or in part the court shall equitably assess the cost of preparing the record among the parties. In assessing costs the court shall take into account the extent to which each party prevailed and the reasonableness of the parties' conduct in agreeing or not agreeing to shorten or summarize the record under subsection (2) of this section. [1995 c 347 § 712.]

**36.70C.120 Scope of review—Discovery.** (1) When the land use decision being reviewed was made by a quasi-judicial body or officer who made factual determinations in support of the decision and the parties to the quasi-judicial proceeding had an opportunity consistent with due process to make a record on the factual issues, judicial review of factual issues and the conclusions drawn from the factual issues shall be confined to the record created by the quasi-judicial body or officer, except as provided in subsections (2) through (4) of this section.

(2) For decisions described in subsection (1) of this section, the record may be supplemented by additional evidence only if the additional evidence relates to:

(a) Grounds for disqualification of a member of the body or of the officer that made the land use decision, when such grounds were unknown by the petitioner at the time the record was created;

(b) Matters that were improperly excluded from the record after being offered by a party to the quasi-judicial proceeding; or

(c) Matters that were outside the jurisdiction of the body or officer that made the land use decision.

(3) For land use decisions other than those described in subsection (1) of this section, the record for judicial review may be supplemented by evidence of material facts that were not made part of the local jurisdiction's record.

(4) The court may require or permit corrections of ministerial errors or inadvertent omissions in the preparation of the record.

(5) The parties may not conduct pretrial discovery except with the prior permission of the court, which may be sought by motion at any time after service of the petition. The court shall not grant permission unless the party

requesting it makes a prima facie showing of need. The court shall strictly limit discovery to what is necessary for equitable and timely review of the issues that are raised under subsections (2) and (3) of this section. If the court allows the record to be supplemented, the court shall require the parties to disclose before the hearing or trial on the merits the specific evidence they intend to offer. If any party, or anyone acting on behalf of any party, requests records under chapter 42.17 RCW relating to the matters at issue, a copy of the request shall simultaneously be given to all other parties and the court shall take such request into account in fashioning an equitable discovery order under this section. [1995 c 347 § 713.]

**36.70C.130 Standards for granting relief.** (1) The superior court, acting without a jury, shall review the record and such supplemental evidence as is permitted under RCW 36.70C.120. The court may grant relief only if the party seeking relief has carried the burden of establishing that one of the standards set forth in (a) through (f) of this subsection has been met. The standards are:

(a) The body or officer that made the land use decision engaged in unlawful procedure or failed to follow a prescribed process, unless the error was harmless;

(b) The land use decision is an erroneous interpretation of the law, after allowing for such deference as is due the construction of a law by a local jurisdiction with expertise;

(c) The land use decision is not supported by evidence that is substantial when viewed in light of the whole record before the court;

(d) The land use decision is a clearly erroneous application of the law to the facts;

(e) The land use decision is outside the authority or jurisdiction of the body or officer making the decision; or

(f) The land use decision violates the constitutional rights of the party seeking relief.

(2) In order to grant relief under this chapter, it is not necessary for the court to find that the local jurisdiction engaged in arbitrary and capricious conduct. A grant of relief by itself may not be deemed to establish liability for monetary damages or compensation. [1995 c 347 § 714.]

**36.70C.140 Decision of the court.** The court may affirm or reverse the land use decision under review or remand it for modification or further proceedings. If the decision is remanded for modification or further proceedings, the court may make such an order as it finds necessary to preserve the interests of the parties and the public, pending further proceedings or action by the local jurisdiction. [1995 c 347 § 715.]

**36.70C.900 Finding—Severability—Part headings and table of contents not law—1995 c 347.** See notes following RCW 36.70A.470.

### Chapter 36.80

#### ROADS AND BRIDGES—ENGINEER

##### Sections

36.80.040 Records to be kept.

36.80.080 Cost-audit examination by state auditor—Expense.

**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 or her office, all matters concerning the public roads, highways, bridges, ditches, or other surveys of the 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. The county engineer is not required to retain and file financial documents retained and filed in other departments in the county. [1995 c 194 § 8; 1969 ex.s. c 182 § 9; 1963 c 4 § 36.80.040. Prior: 1907 c 160 § 4; RRS § 4147.]

**36.80.080 Cost-audit examination by state auditor—Expense.** The state auditor shall annually make a cost-audit examination of the books and records of the county road engineer and make a written report thereon to the county legislative authority. The expense of the examination shall be paid from the county road fund. [1995 c 301 § 69; 1985 c 120 § 3; 1984 c 7 § 34; 1963 c 4 § 36.80.080. Prior: 1957 c 146 § 1.]

**Effective date—1985 c 120 § 3:** "Section 3 of this act shall take effect July 1, 1987." [1985 c 120 § 4.]

**Severability—1984 c 7:** See note following RCW 47.01.141.

### Chapter 36.82

#### ROADS AND BRIDGES—FUNDS—BUDGET

##### Sections

36.82.200 County road budget—Hearing, adoption, supplemental budget.

**36.82.200 County road budget—Hearing, adoption, 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, a copy of which supplemental budget shall be forwarded to the director. [1995 c 301 § 70; 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.]

### Chapter 36.89

#### HIGHWAYS—OPEN SPACES—PARKS—OTHER FACILITIES—STORM WATER CONTROL

##### Sections

36.89.080 Storm water control facilities—Rates and charges—Use.

**36.89.080 Storm water control facilities—Rates and charges—Use.** Any county legislative authority 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 county legislative authority may in its discretion consider: (1) Services furnished or to be furnished; (2) benefits received or to be received; (3) the character and use of land or its water runoff characteristics; (4) the nonprofit public benefit status, as defined in RCW 24.03.490, of the land user; or (5) any other matters which present a reasonable difference as a ground for distinction. The service charges and rates 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. [1995 c 124 § 1; 1970 ex.s. c 30 § 7.]

*Sewerage, water, and drainage systems: Chapter 36.94 RCW.*

### Chapter 36.93

#### LOCAL GOVERNMENTAL ORGANIZATION— BOUNDARIES—REVIEW BOARDS

##### Sections

36.93.080 Expenditures—Remittance of costs to counties.  
36.93.090 Filing notice of proposed actions with board.

**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 department of community, trade, and economic development 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. [1995 c 399 § 44; 1985 c 6 § 7; 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 within one hundred eighty days a notice of intention with the board: PROVIDED, That when the initiator is the legislative body of a governmental unit, the notice of intention may be filed immediately following the body's first acceptance or approval of the action. The board may review any such proposed actions pertaining to:

(1) The: (a) Creation, incorporation, or change in the boundary, other than a consolidation, of any city, town, or special purpose district; (b) consolidation of special purpose districts, but not including consolidation of cities and towns; or (c) dissolution or disincorporation of any city, town, or special purpose district, except that a board may not review the dissolution or disincorporation of a special purpose district which was dissolved or disincorporated pursuant to the provisions of chapter 36.96 RCW: PROVIDED, That

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the change in the boundary of a city or town arising from the annexation of contiguous city or town owned property held for a public purpose shall be exempted from the requirements of this section; 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 chapter 57.40 RCW, as now or hereafter amended; or

(4) The establishment of or change in the boundaries of a mutual sewer and water system or separate water system by a sewer district pursuant to RCW 56.20.015 or chapter 56.36 RCW, as now or hereafter amended; or

(5) The extension of permanent water or sewer service outside of its existing service area by a city, town, or special purpose district. The service area of a city, town, or special purpose district shall include all of the area within its corporate boundaries plus, (a) for extensions of water service, the area outside of the corporate boundaries which it is designated to serve pursuant to a coordinated water system plan approved in accordance with RCW 70.116.050; and (b) for extensions of sewer service, the area outside of the corporate boundaries which it is designated to serve pursuant to a comprehensive sewerage plan approved in accordance with chapter 36.94 RCW and RCW 90.48.110. [1995 c 131 § 1; 1987 c 477 § 2; 1985 c 281 § 28; 1982 c 10 § 7. Prior: 1981 c 332 § 9; 1981 c 45 § 2; 1979 ex.s. c 5 § 12; 1971 ex.s. c 127 § 1; 1969 ex.s. c 111 § 5; 1967 c 189 § 9.]

**Effective date—1995 c 131:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [April 24, 1995]." [1995 c 131 § 2.]

**Severability—1985 c 281:** See RCW 35.10.905.

**Severability—1982 c 10:** See note following RCW 6.13.080.

**Severability—1981 c 332:** See note following RCW 35.13.165.

**Legislative declaration—"District" defined—Severability—1981 c 45:** See notes following RCW 56.36.060.

**Severability—1979 ex.s. c 5:** See RCW 36.96.920.

*Consolidation of cities and towns—Role of boundary review board: RCW 35.10.450.*

### Chapter 36.94

#### SEWERAGE, WATER, AND DRAINAGE SYSTEMS

##### Sections

36.94.140 Authority of county to operate system—Rates and charges, fixing of—Factors to be considered.

**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 the 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 county legislative authority 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;
- (6) The cost of acquiring the system or portions of the system in making system improvements necessary for the public health and safety;
- (7) The nonprofit public benefit status, as defined in RCW 24.03.490, of the land user; and
- (8) Any other matters which present a reasonable difference as a ground for distinction.

The service charges and 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. [1995 c 124 § 2; 1990 c 133 § 2; 1975 1st ex.s. c 188 § 2; 1967 c 72 § 14.]

**Findings—1990 c 133:** "The legislature finds the best interests of the citizens of the state are served if:

- (1) Customers served by public water systems are assured of an adequate quantity and quality of water supply at reasonable rates;
- (2) There is improved coordination between state agencies engaged in water system planning and public health regulation and local governments responsible for land use regulation and public health and safety;
- (3) Public water systems in violation of health and safety standards adopted under RCW 43.20.050 remain in operation and continue providing water service providing that public health is not compromised, assuming a suitable replacement purveyor is found and deficiencies are corrected in an expeditious manner consistent with public health and safety; and
- (4) The state address[es], in a systematic and comprehensive fashion, new operating requirements which will be imposed on public water systems under the federal Safe Drinking Water Act." [1990 c 133 § 1.]

**Severability—1990 c 133:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1990 c 133 § 12.]

**Severability—1975 1st ex.s. c 188:** See RCW 36.94.921.

## Chapter 36.100

### PUBLIC FACILITIES DISTRICTS

#### Sections

36.100.010	Public facilities districts—Creation.
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36.100.180	Service provider agreements.
36.100.190	Purchases and sales—Procedures.
36.100.200	Revenue bonds—Limitations.

#### 36.100.010 Public facilities districts—Creation. (1)

A public facilities district may be created in any county and shall be coextensive with the boundaries of the county.

(2) A public facilities district shall be created upon adoption of a resolution providing for the creation of such a district by the county legislative authority in which the proposed district is located.

(3) A public facilities district is a municipal corporation, an independent taxing "authority" within the meaning of Article VII, section 1 of the state Constitution, and a "taxing district" within the meaning of Article VII, section 2 of the state Constitution.

(4) No taxes authorized under this chapter may be assessed or levied unless a majority of the voters of the public facilities district has approved such tax at a general or special election. A single ballot proposition may both validate the imposition of the sales and use tax under RCW 82.14.048 and the excise tax under RCW 36.100.040.

(5) A public facilities district shall constitute a body corporate and shall possess all the usual powers of a corporation for public purposes as well as all other powers that may now or hereafter be specifically conferred by statute, including, but not limited to, the authority to hire employees, staff, and services, to enter into contracts, and to sue and be sued.

(6) The county legislative authority may transfer property to the public facilities district as part of the process of creating the public facilities district under this chapter. [1995 1st sp.s. c 14 § 1; 1995 c 396 § 1; 1989 1st ex.s. c 8 § 1; 1988 ex.s. c 1 § 11.]

**Severability—1995 1st sp.s. c 14:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1995 1st sp.s. c 14 § 12.]

**Effective dates—1995 1st sp.s. c 14:** "(1) Sections 1 through 9 and 11 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995.

(2) Sections 10 and 12 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [June 14, 1995]." [1995 1st sp.s. c 14 § 13.]

**Severability—1995 c 396:** "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." [1995 c 396 § 19.]

**36.100.020 Governance—Board of directors. (1)** A public facilities district shall be governed by a board of directors consisting of five or seven members as provided in this section. If the largest city in the county has a population that is at least forty percent of the total county population, the board of directors of the public facilities district shall consist of five members selected as follows: (a) Two members appointed by the county legislative authority to serve for four-year staggered terms; (b) two members appointed by the city council of the largest city in the county

to serve for four-year staggered terms; and (c) one person to serve for a four-year term who is selected by the other directors. If the largest city in the county has a population of less than forty percent of the total county population, the county legislative authority shall establish in the resolution creating the public facilities district whether the board of directors of the public facilities district has either five or seven members, and the county legislative authority shall appoint the members of the board of directors to reflect the interests of cities and towns in the county, as well as the unincorporated area of the county. However, if the largest city in the county has a population of less than forty percent of the total county population, and the county operates under a county charter, which provides for an elected county executive, the members shall be appointed by the county executive subject to confirmation by the county legislative authority.

(2) At least one member on the board of directors shall be representative of the lodging industry in the public facilities district before the public facilities district imposes the excise tax under RCW 36.100.040.

(3) Members of the board of directors shall serve four-year terms of office, except that two of the initial five board members or three of the initial seven board members shall serve two-year terms of office.

(4) A vacancy shall be filled in the same manner as the original appointment was made and the person appointed to fill a vacancy shall serve for the remainder of the unexpired term of the office for the position to which he or she was appointed.

(5) A director may be removed from office by action of at least two-thirds of the members of the authority which made the appointment. [1995 1st sp.s. c 14 § 2; 1995 c 396 § 2; 1989 1st ex.s. c 8 § 2; 1988 ex.s. c 1 § 12.]

**Severability—Effective dates—1995 1st sp.s. c 14:** See notes following RCW 36.100.010.

**Severability—1995 c 396:** See note following RCW 36.100.010.

**36.100.030 Facilities—Agreements—Fees.** (1) A public facilities district is authorized to acquire, construct, own, remodel, maintain, equip, reequip, repair, and operate sports facilities, entertainment facilities, or convention facilities, or any combination of such facilities, together with contiguous parking facilities. The taxes that are provided for in this chapter may only be imposed for these purposes.

(2) A public facilities district may enter into agreements under chapter 39.34 RCW for the joint provision and operation of such facilities and may enter into contracts under chapter 39.34 RCW where any party to the contract provides and operates such facilities for the other party or parties to the contract.

(3) Notwithstanding the establishment of a career, civil, or merit service system, a public facility [facilities] district may contract with a public or private entity for the operation or management of its public facilities.

(4) A public facilities district is authorized to use the supplemental alternative public works contracting procedures set forth in chapter 39.10 RCW in connection with the design, construction, reconstruction, remodel, or alteration of any of its public facilities.

(5) A public facilities district may impose charges and fees for the use of its facilities, and may accept and expend or use gifts, grants, and donations. [1995 1st sp.s. c 14 § 3; 1995 c 396 § 3; 1989 1st ex.s. c 8 § 3; 1988 ex.s. c 1 § 13.]

**Severability—Effective dates—1995 1st sp.s. c 14:** See notes following RCW 36.100.010.

**Severability—1995 c 396:** See note following RCW 36.100.010.

**36.100.040 Excise tax imposed in public facilities districts—Hotel, motel, rooming house, trailer camp, etc. charges—Ballot proposition—Rate.** A public facilities district may impose an excise tax on the sale of or charge made for the furnishing of lodging by a hotel, rooming house, tourist court, motel, or trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property, except that no such tax may be levied on any premises having fewer than forty lodging units. However, if a public facilities district has not imposed such an excise tax prior to December 31, 1995, the public facilities district may only impose the excise tax if a ballot proposition authorizing the imposition of the tax has been approved by a simple majority vote of voters of the public facilities district voting on the proposition.

The rate of the tax shall not exceed two percent and the proceeds of the tax shall only be used for the acquisition, design, construction, remodeling, maintenance, equipping, reequipping, repairing, and operation of its public facilities. This excise tax shall not be imposed until the district has approved the proposal to acquire, design, and construct the public facilities.

A public facilities district may not impose the tax authorized in this section if, after the tax authorized in this section was imposed, the effective combined rate of state and local excise taxes, including sales and use taxes and excise taxes on lodging, imposed on the sale of or charge made for furnishing of lodging in any jurisdiction in the public facilities district exceeds eleven and one-half percent. [1995 c 396 § 4; 1989 1st ex.s. c 8 § 4; 1988 ex.s. c 1 § 14.]

**Severability—1995 c 396:** See note following RCW 36.100.010.

**36.100.060 General obligation bonds—Termination of excise tax.** (1) To carry out the purpose of this chapter, a public facilities district may issue general obligation bonds, not to exceed an amount, together with any outstanding nonvoter approved general obligation indebtedness, equal to one-half of one percent of the value of taxable property within the district, as the term "value of taxable property" is defined in RCW 39.36.015. A facilities district additionally may issue general obligation bonds for capital purposes only, together with any outstanding general obligation indebtedness, not to exceed an amount equal to one and one-fourth percent of the value of the taxable property within the district, as the term "value of taxable property" is defined in RCW 39.36.015, when authorized by the voters of the public facilities district pursuant to Article VIII, section 6 of the state Constitution, and to provide for the retirement thereof by excess property tax levies as provided in this chapter.

(2) General obligation bonds may be issued with a maturity of up to thirty years, and shall be issued and sold in accordance with the provisions of chapter 39.46 RCW.



(3) The general obligation bonds may be payable from the operating revenues of the public facilities district in addition to the tax receipts of the district.

(4) The excise tax imposed pursuant to RCW 36.100.040 shall terminate upon final payment of all bonded indebtedness for its public facilities. [1995 1st sp.s. c 14 § 4; 1995 c 396 § 5; 1989 1st ex.s. c 8 § 5; 1988 ex.s. c 1 § 16.]

**Severability—Effective dates—1995 1st sp.s. c 14:** See notes following RCW 36.100.010.

**Severability—1995 c 396:** See note following RCW 36.100.010.

**36.100.080 Direct or collateral attack barred after thirty days.** No direct or collateral attack on any public facilities district purported to be authorized or created in conformance with this chapter may be commenced more than thirty days after creation by the county legislative authority. [1995 1st sp.s. c 14 § 5.]

**Severability—Effective dates—1995 1st sp.s. c 14:** See notes following RCW 36.100.010.

**36.100.090 Tax deferral—New public facilities.** (1) The governing board of a public facilities district may apply for deferral of taxes on the construction of buildings, site preparation, and the acquisition of related machinery and equipment for a new public facility. Application shall be made to the department of revenue in a form and manner prescribed by the department of revenue. The application shall contain information regarding the location of the public facility, estimated or actual costs, time schedules for completion and operation, and other information required by the department of revenue. The department of revenue shall approve the application within sixty days if it meets the requirements of this section.

(2) The department of revenue shall issue a sales and use tax deferral certificate for state and local sales and use taxes due under chapters 82.08, 82.12, and 82.14 RCW on the public facility. The use of the certificate shall be governed by rules established by the department of revenue.

(3) The public facilities district shall begin paying the deferred taxes in the fifth year after the date certified by the department of revenue as the date on which the public facility is operationally complete. The first payment is due on December 31st of the fifth calendar year after such certified date, with subsequent annual payments due on December 31st of the following nine years. Each payment shall equal ten percent of the deferred tax.

(4) The department of revenue may authorize an accelerated repayment schedule upon request of the public facilities district.

(5) Interest shall not be charged on any taxes deferred under this section for the period of deferral, although all other penalties and interest applicable to delinquent excise taxes may be assessed and imposed for delinquent payments under this section. The debt for deferred taxes is not extinguished by insolvency or other failure of the public facilities district.

(6) Applications and any other information received by the department of revenue under this section are not confidential and are subject to disclosure. Chapter 82.32 RCW applies to the administration of this section.

(7) As used in this section, "public facility" means a baseball stadium with a retractable roof or canopy and natural turf. [1995 1st sp.s. c 14 § 6.]

**Severability—Effective dates—1995 1st sp.s. c 14:** See notes following RCW 36.100.010.

**36.100.100 Ex officio treasurer.** The treasurer of the county in which a public facilities district is located shall be the ex officio treasurer of the district. [1995 c 396 § 7.]

**Severability—1995 c 396:** See note following RCW 36.100.010.

**36.100.110 Travel, expense reimbursement policy—Required.** The board of directors of the public facilities district shall adopt a resolution that may be amended from time to time that shall establish the basic requirements governing methods and amounts of reimbursement payable to such district officials and employees for travel and other business expenses incurred on behalf of the district. The resolution shall, among other things, establish procedures for approving such expenses; the form of the travel and expense voucher; and requirements governing the use of credit cards issued in the name of the district. The resolution may also establish procedures for payment of per diem to board members. The state auditor shall, as provided by general law, cooperate with the public facilities district in establishing adequate procedures for regulating and auditing the reimbursement of all such expenses. [1995 c 396 § 8.]

**Severability—1995 c 396:** See note following RCW 36.100.010.

**36.100.120 Travel, expense reimbursement policy—Limitations.** The board of directors of the public facilities district may authorize payment of actual and necessary expenses of officers and employees for lodging, meals, and travel-related costs incurred in attending meetings or conferences on behalf of the public facilities district and strictly in the public interest and for public purposes. Officers and employees may be advanced sufficient sums to cover their anticipated expenses in accordance with rules adopted by the state auditor, which shall substantially conform to the procedures provided in RCW 43.03.150 through 43.03.210. [1995 c 396 § 9.]

**Severability—1995 c 396:** See note following RCW 36.100.010.

**36.100.130 Board of directors—Compensation.** Each member of the board of directors of the public facilities district may receive compensation of fifty dollars per day for attending meetings or conferences on behalf of the district, not to exceed three thousand dollars per year. A director may waive all or a portion of his or her compensation under this section as to a month or months during his or her term of office, by a written waiver filed with the public facilities district. The compensation provided in this section is in addition to reimbursement for expenses paid to the directors by the public facilities district. [1995 c 396 § 10.]

**Severability—1995 c 396:** See note following RCW 36.100.010.

**36.100.140 Liability insurance.** The board of directors of the public facilities district may purchase liability insurance with such limits as the directors may deem reasonable for the purpose of protecting and holding person-

ally harmless district officers 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. [1995 c 396 § 11.]

**Severability—1995 c 396:** See note following RCW 36.100.010.

**36.100.150 Costs of defense.** Whenever an action, claim, or proceeding is instituted against a person who is or was an officer or employee of the public facilities district arising out of the performance of duties for or employment with the district, the public facilities district may grant a request by the person that the attorney of the district's choosing be authorized to defend the claim, suit, or proceeding, and the costs of defense, attorneys' fees, and obligation for payments arising from the action may be paid from the district's funds. Costs of defense or judgment or settlement against the person shall not be paid in a case where the court has found that the person was not acting in good faith or within the scope of employment with or duties for the public facilities district. [1995 c 396 § 12.]

**Severability—1995 c 396:** See note following RCW 36.100.010.

**36.100.160 Expenditure of funds—Purposes.** The board of directors of the public facilities district shall have authority to authorize the expenditure of funds for the public purposes of preparing and distributing information to the general public and promoting, advertising, improving, developing, operating, and maintaining facilities of the district. Nothing contained in this section may be construed to authorize preparation and distribution of information to the general public for the purpose of influencing the outcome of a district election. [1995 c 396 § 13.]

**Severability—1995 c 396:** See note following RCW 36.100.010.

**36.100.170 Employees—Benefits.** The public facilities district shall have authority to create and fill positions, fix wages, salaries, and bonds therefor, pay costs involved in securing or arranging to secure employees, and establish benefits for employees, including holiday pay, vacations or vacation pay, retirement benefits, medical, life, accident, or health disability insurance, as approved by the board. Public facilities district board members, at their own expense, shall be entitled to medical, life, accident, or health disability insurance. Insurance for employees and board members shall not be considered compensation. District coverage for the board is not to exceed that provided public facilities district employees. [1995 c 396 § 14.]

**Severability—1995 c 396:** See note following RCW 36.100.010.

**36.100.180 Service provider agreements.** The public facilities district may secure services by means of an agreement with a service provider. The public facilities district shall publish notice, establish criteria, receive and evaluate proposals, and negotiate with respondents under requirements set forth by district resolution. [1995 c 396 § 15.]

**Severability—1995 c 396:** See note following RCW 36.100.010.

**36.100.190 Purchases and sales—Procedures.** In addition to provisions contained in chapter 39.04 RCW, the public facilities district is authorized to follow procedures contained in RCW 43.19.1906 and 43.19.1911 for all purchases, contracts for purchase, and sales. [1995 c 396 § 16.]

**Severability—1995 c 396:** See note following RCW 36.100.010.

**36.100.200 Revenue bonds—Limitations.** (1) A public facilities district may issue revenue bonds to fund revenue generating facilities, or portions of facilities, which it is authorized to provide or operate. Whenever revenue bonds are to be issued, the board of directors of the district shall create or have created a special fund or funds from which, along with any reserves created pursuant to RCW 39.44.140, the principal and interest on such revenue bonds shall exclusively be payable. The board may obligate the district to set aside and pay into the special fund or funds a fixed proportion or a fixed amount of the revenues from the public improvements, projects, or facilities, and all related additions, that are funded by the revenue bonds. This amount or proportion shall be a lien and charge against these revenues, subject only to operating and maintenance expenses. The board shall have due regard for the cost of operation and maintenance of the public improvements, projects, or facilities, or additions, that are funded by the revenue bonds, and shall not set aside into the special fund or funds a greater amount or proportion of the revenues than in its judgment will be available over and above the cost of maintenance and operation and the amount or proportion, if any, of the revenue so previously pledged. The board may also provide that revenue bonds payable out of the same source or sources of revenue may later be issued on a parity with any revenue bonds being issued and sold.

(2) Revenue bonds issued pursuant to this section shall not be an indebtedness of the district issuing the bonds, and the interest and principal on the bonds shall only be payable from the revenues lawfully pledged to meet the principal and interest requirements and any reserves created pursuant to RCW 39.44.140. The owner or bearer of a revenue bond or any interest coupon issued pursuant to this section shall not have any claim against the district arising from the bond or coupon except for payment from the revenues lawfully pledged to meet the principal and interest requirements and any reserves created pursuant to RCW 39.44.140. The substance of the limitations included in this subsection shall be plainly printed, written, or engraved on each bond issued pursuant to this section.

(3) Revenue bonds with a maturity in excess of thirty years shall not be issued. The board of directors of the district shall by resolution determine for each revenue bond issue the amount, date, form, terms, conditions, denominations, maximum fixed or variable interest rate or rates, maturity or maturities, redemption rights, registration privileges, manner of execution, manner of sale, callable provisions, if any, and covenants including the refunding of existing revenue bonds. Facsimile signatures may be used on the bonds and any coupons. Refunding revenue bonds may be issued in the same manner as revenue bonds are issued. [1995 c 396 § 17.]

**Severability—1995 c 396:** See note following RCW 36.100.010.

**Chapter 36.110**  
**JAIL INDUSTRIES PROGRAM**

Sections

36.110.020	Definitions.
36.110.030	Board of directors established—Membership.
36.110.040	Repealed.
36.110.085	Board of directors—Immunity.
36.110.120	Free venture industries, tax reduction industries— Employment status of inmates—Insurance cover- age.
36.110.130	Free venture industry agreements—Effect of failure.
36.110.160	Technical training assistance.

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

(1) "Board" means the state-wide jail industries board of directors.

(2) "City" means any city, town, or code city.

(3) "Cost accounting center" means a specific industry program operated under the private sector prison industry enhancement certification program as specified in 18 U.S.C. Sec. 1761.

(4) "Court-ordered legal financial obligation" means a sum of money that is ordered by a superior, district, or municipal court of the state of Washington for payment of restitution to a victim, a statutorily imposed crime victims compensation fee, court costs, a county or interlocal drug fund, court appointed attorneys' fees and costs of defense, fines, and other legal financial obligations that are assessed as a result of a felony or misdemeanor conviction.

(5) "Free venture employer model industries" means an agreement between a city or county and a private sector business or industry or nonprofit organization to produce goods or services to both public and private sectors utilizing jail inmates whose compensation and supervision are provided by the private sector business or entity.

"Free venture customer model industries" means an agreement between a city or county and a private sector business or industry, or nonprofit organization to provide Washington state manufacturers or businesses with products or services currently produced, provided, or assembled by out-of-state or foreign suppliers utilizing jail inmates whose compensation and supervision are provided by the incarcerating facility or local jurisdiction.

(6) "Jail inmate" means a preconviction or postconviction resident of a city or county jail who is determined to be eligible to participate in jail inmate work programs according to the eligibility criteria of the work program.

(7) "Private sector prison industry enhancement certification program" means that program authorized by the United States justice assistance act of 1984, 18 U.S.C. Sec. 1761.

(8) "Tax reduction industries" means those industries as designated by a city or county owning and operating such an industry to provide work training and employment opportunities for jail inmates, in total confinement, which reduce public support costs. The goods and services of these industries may be sold to public agencies, nonprofit organizations, and private contractors when the goods purchased will be ultimately used by a public agency or nonprofit organization. Surplus goods from these operations may be

donated to government and nonprofit organizations. [1995 c 154 § 1; 1993 c 285 § 2.]

**36.110.030 Board of directors established—Membership.** A state-wide jail industries board of directors is established. The board shall consist of the following members:

(1) One sheriff and one police chief, to be selected by the Washington association of sheriffs and police chiefs;

(2) One county commissioner or one county councilmember to be selected by the Washington state association of counties;

(3) One city official to be selected by the association of Washington cities;

(4) Two jail administrators to be selected by the Washington state jail association, one of whom shall be from a county or a city with an established jail industries program;

(5) One prosecuting attorney to be selected by the Washington association of prosecuting attorneys;

(6) One administrator from a city or county corrections department to be selected by the Washington correctional association;

(7) One county clerk to be selected by the Washington association of county clerks;

(8) Three representatives from labor to be selected by the governor. The representatives may be chosen from a list of nominations provided by state-wide labor organizations representing a cross-section of trade organizations;

(9) Three representatives from business to be selected by the governor. The representatives may be chosen from a list of nominations provided by state-wide business organizations representing a cross-section of businesses, industries, and all sizes of employers;

(10) The governor's representative from the employment security department;

(11) One member representing crime victims, to be selected by the governor;

(12) One member representing on-line law enforcement officers, to be selected by the governor;

(13) One member from the department of community, trade, and economic development to be selected by the governor;

(14) One member representing higher education, vocational education, or adult basic education to be selected by the governor; and

(15) The governor's representative from the correctional industries division of the state department of corrections shall be an ex officio member for the purpose of coordination and cooperation between prison and jail industries and to further a positive relationship between state and local government offender programs. [1995 c 399 § 45; 1993 c 285 § 3.]

**36.110.040 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**36.110.085 Board of directors—Immunity.** Any member serving in their official capacity on the Washington state jail industries board, in either an appointed or advisory capacity, or either their employer or employers, or other entity that selected the members to serve, are immune from

a civil action based upon an act performed in good faith. [1995 c 154 § 5.]

**36.110.120 Free venture industries, tax reduction industries—Employment status of inmates—Insurance coverage.** (1) A jail inmate who works in a free venture industry or a tax reduction industry shall be considered an employee of that industry only for the purpose of the Washington industrial safety and health act, chapter 49.17 RCW, as long as the public safety is not compromised, and for eligibility for industrial insurance benefits under Title 51 RCW, as provided in this section.

(2) For jail inmates participating in free venture employer model industries, the private sector business or industry or the nonprofit organization that is party to the agreement, shall provide industrial insurance coverage under Title 51 RCW. Local jurisdictions shall not be responsible for obligations under Title 51 RCW in a free venture employer model industry except as provided in RCW 36.110.130.

(3) For jail inmates participating in free venture customer model industries, the incarcerating entity or jurisdiction, the private sector business or industry, or the nonprofit organization that is party to the agreement, shall provide industrial insurance coverage under Title 51 RCW dependent upon how the parties to the agreement choose to finalize the agreement.

(4) For jail inmates incarcerated and participating in tax reduction industries:

(a) Local jurisdictions that are self-insured may elect to provide medical aid benefits coverage only under chapter 51.36 RCW through the state fund.

(b) Local jurisdictions, to include self-insured jurisdictions, may elect to provide industrial insurance coverage under Title 51 RCW through the state fund.

(5) If industrial insurance coverage under Title 51 RCW is provided for inmates under this section, eligibility for benefits for either the inmate or the inmate's dependents or beneficiaries for temporary total disability or permanent total disability under RCW 51.32.090 or 51.32.060, respectively, shall not take effect until the inmate is discharged from custody by order of a court of appropriate jurisdiction. Nothing in this section shall be construed to confer eligibility for any industrial insurance benefits to any jail inmate who is not employed in a free venture industry or a tax reduction industry. [1995 c 154 § 2; 1993 c 285 § 12.]

**36.110.130 Free venture industry agreements—Effect of failure.** In the event of a failure such as a bankruptcy or dissolution, of a private sector business, industry, or nonprofit organization engaged in a free venture industry agreement, responsibility for obligations under Title 51 RCW shall be borne by the city or county responsible for establishment of the free venture industry agreement, as if the city or county had been the employing agency. To ensure that this obligation can be clearly identified and accomplished, and to provide accountability for purposes of the department of labor and industries, a free venture jail industry agreement entered into by a city or county and private sector business, industry, or nonprofit organization should be filed under a separate master business application, establishing a new and separate account with the department

of labor and industries, and not be reported under an existing account for parties to the agreement. [1995 c 154 § 3; 1993 c 285 § 13.]

**36.110.160 Technical training assistance.** Technical training assistance shall be provided to local jurisdictions by the board at the jurisdiction's request. To facilitate and promote the development of local jail industries programs, this training and technical assistance may include the following: (1) Delivery of state-wide jail industry implementation workshops for administrators of jail industries programs; (2) development of recruitment and education programs for local business and labor to gain their participation; (3) ongoing staff assistance regarding local jail industries issues, such as sound business management skills, development of a professional business plan, responding to questions regarding risk management, industrial insurance, and similar matters; and (4) provision of guidelines and assistance for the coordination of basic educational programs and jail industries as well as other technical skills required by local jails in the implementation of safe, productive, and effective jail industries programs. [1995 c 154 § 4.]

## Title 37

### FEDERAL AREAS—INDIANS

#### Chapters

#### 37.12 Indians and Indian lands—Jurisdiction.

#### Chapter 37.12

#### INDIANS AND INDIAN LANDS—JURISDICTION

##### Sections

- |           |  |
|-----------|--|
| 37.12.100 | Quileute, Chehalis, Swinomish, Skokomish, Muckleshoot, Tulalip, and Colville Indian reservations—Retrocession of criminal jurisdiction—Intent.                   |
| 37.12.110 | Quileute, Chehalis, Swinomish, Skokomish, Muckleshoot, Tulalip, and Colville Indian reservations—Retrocession of criminal jurisdiction—Definitions.              |
| 37.12.120 | Quileute, Chehalis, Swinomish, Skokomish, Muckleshoot, Tulalip, and Colville Indian reservations—Retrocession of criminal jurisdiction—Proclamation by governor. |

**37.12.100 Quileute, Chehalis, Swinomish, Skokomish, Muckleshoot, Tulalip, and Colville Indian reservations—Retrocession of criminal jurisdiction—Intent.** It is the intent of the legislature to authorize a procedure for the retrocession, to the Quileute Tribe, Chehalis Tribe, Swinomish Tribe, Skokomish Tribe, Muckleshoot Tribe, Tulalip Tribes, and the Colville Confederated Tribes of Washington and the United States, of criminal jurisdiction over Indians for acts occurring on tribal lands or allotted lands within the Quileute, Chehalis, Swinomish, Skokomish, Muckleshoot, Tulalip, or Colville Indian reservation and held in trust by the United States or subject to a restriction against alienation imposed by the United States.

RCW 37.12.100 through 37.12.140 in no way expand the Quileute, Chehalis, Swinomish, Skokomish, Muckleshoot, Tulalip, or Colville tribe's criminal or civil jurisdiction, if

any, over non-Indians or fee title property. RCW 37.12.100 through 37.12.140 shall have no effect whatsoever on water rights, hunting and fishing rights, the established pattern of civil jurisdiction existing on the lands of the Quileute, Chehalis, Swinomish, Skokomish, Muckleshoot, Tulalip, or Colville Indian reservation, the established pattern of regulatory jurisdiction existing on the lands of the Quileute, Chehalis, Swinomish, Skokomish, Muckleshoot, Tulalip, or Colville Indian reservation, taxation, or any other matter not specifically included within the terms of RCW 37.12.100 through 37.12.140. [1995 c 202 § 1; 1995 c 177 § 1; 1994 c 12 § 1; 1988 c 108 § 1; 1986 c 267 § 2.]

**Reviser's note:** This section was amended by 1995 c 177 § 1 and by 1995 c 202 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Severability—1986 c 267:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1986 c 267 § 8.]

**37.12.110 Quileute, Chehalis, Swinomish, Skokomish, Muckleshoot, Tulalip, and Colville Indian reservations—Retrocession of criminal jurisdiction—Definitions.** Unless the context clearly requires otherwise, the following definitions apply throughout RCW 37.12.100 through 37.12.140:

(1) "Colville reservation" or "Colville Indian reservation," "Quileute reservation" or "Quileute Indian reservation," "Chehalis reservation" or "Chehalis Indian reservation," "Swinomish reservation" or "Swinomish Indian reservation," "Skokomish reservation" or "Skokomish Indian reservation," "Muckleshoot reservation" or "Muckleshoot Indian reservation," or "Tulalip reservation" or "Tulalip Indian reservation" means all tribal lands or allotted lands lying within the reservation of the named tribe and held in trust by the United States or subject to a restriction against alienation imposed by the United States, but does not include those lands which lie north of the present Colville Indian reservation which were included in original reservation boundaries created in 1872 and which are referred to as the "diminished reservation."

(2) "Indian tribe," "tribe," "Colville tribes," or "Quileute, Chehalis, Swinomish, Skokomish, Muckleshoot, or Tulalip tribe" means the confederated tribes of the Colville reservation or the tribe of the Quileute, Chehalis, Swinomish, Skokomish, Muckleshoot, or Tulalip reservation.

(3) "Tribal court" means the trial and appellate courts of the Colville tribes or the Quileute, Chehalis, Swinomish, Skokomish, Muckleshoot, or Tulalip tribe. [1995 c 202 § 2; 1995 c 177 § 2; 1994 c 12 § 2; 1988 c 108 § 2; 1986 c 267 § 3.]

**Reviser's note:** This section was amended by 1995 c 177 § 2 and by 1995 c 202 § 2, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Severability—1986 c 267:** See note following RCW 37.12.100.

**37.12.120 Quileute, Chehalis, Swinomish, Skokomish, Muckleshoot, Tulalip, and Colville Indian reservations—Retrocession of criminal jurisdiction—Proclamation by governor.** Whenever the governor

receives from the confederated tribes of the Colville reservation or the Quileute, Chehalis, Swinomish, Skokomish, Muckleshoot, or Tulalip tribe a resolution expressing their desire for the retrocession by the state of all or any measure of the criminal jurisdiction acquired by the state pursuant to RCW 37.12.021 over lands of that tribe's reservation, the governor may, within ninety days, issue a proclamation retroceding to the United States the criminal jurisdiction previously acquired by the state over such reservation. However, the state of Washington shall retain jurisdiction as provided in RCW 37.12.010. The proclamation of retrocession shall not become effective until it is accepted by an officer of the United States government in accordance with 25 U.S.C. Sec. 1323 (82 Stat. 78, 79) and in accordance with procedures established by the United States for acceptance of such retrocession of jurisdiction. The Colville tribes and the Quileute, Chehalis, Swinomish, Skokomish, Muckleshoot, and Tulalip tribes shall not exercise criminal or civil jurisdiction over non-Indians. [1995 c 202 § 3; 1995 c 177 § 3; 1994 c 12 § 3; 1988 c 108 § 3; 1986 c 267 § 4.]

**Reviser's note:** This section was amended by 1995 c 177 § 3 and by 1995 c 202 § 3, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Severability—1986 c 267:** See note following RCW 37.12.100.

## Title 38

### MILITIA AND MILITARY AFFAIRS

#### Chapters

- 38.52** Emergency management.  
**38.54** State fire services mobilization.

#### Chapter 38.52

#### EMERGENCY MANAGEMENT

##### Sections

- 38.52.005** State military department to administer emergency management program—Local organizations authorized to change name.  
**38.52.010** Definitions.  
**38.52.030** Director—Comprehensive emergency management plan—State-wide enhanced 911 emergency communications network—State coordinator of search and rescue operations—State program for emergency assistance—State coordinator for radioactive and hazardous waste emergency response programs.  
**38.52.040** Emergency management council—Members—Ad hoc committees—Function as state emergency response commission—Rules review.  
**38.52.090** Mutual aid arrangements—Interstate civil defense and disaster compact—Interstate mutual aid compact.  
**38.52.420** Model contingency plan for pollution control facilities and hazardous waste management.  
**38.52.525** State enhanced 911 coordination office—Public education materials.  
**38.52.535** State enhanced 911 coordination office and advisory committee—Uniform national standards.  
**38.52.930** Transfer of powers, duties, and functions to state military department.

**38.52.005 State military department to administer emergency management program—Local organizations**

**authorized to change name.** The department shall administer the comprehensive emergency management program of the state of Washington as provided for in this chapter. All local organizations, organized and performing emergency management functions pursuant to RCW 38.52.070, may change their name and be called the . . . . . department/division of emergency management. [1995 c 391 § 1; 1986 c 266 § 22; 1984 c 38 § 1; 1972 ex.s. c 6 § 1.]

**Effective date—1995 c 391:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995." [1995 c 391 § 18.]

**Transfer of powers and duties of department of emergency management and office of archaeology and historic preservation—Construction of statutory references:** "The department of emergency management and the office of archaeology and historic preservation are hereby abolished and their powers, duties, and functions are hereby transferred to the department of community development. All references to the director of emergency management or the department of emergency management and the office of archaeology and historic preservation in the Revised Code of Washington shall be construed to mean the director or department of community development." [1986 c 266 § 1.]

**Severability—1986 c 266:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1986 c 266 § 138.]

### **38.52.010 Definitions.** As used in this chapter:

(1) "Emergency management" or "comprehensive emergency management" means the preparation for and the carrying out of all emergency functions, other than functions for which the military forces are primarily responsible, to mitigate, prepare for, respond to, and recover from emergencies and disasters, and to aid victims suffering from injury or damage, resulting from disasters caused by all hazards, whether natural or man-made, and to provide support for search and rescue operations for persons and property in distress. However, "emergency management" or "comprehensive emergency management" does not mean preparation for emergency evacuation or relocation of residents in anticipation of nuclear attack.

(2) "Local organization for emergency services or management" means an organization created in accordance with the provisions of this chapter by state or local authority to perform local emergency management functions.

(3) "Political subdivision" means any county, city or town.

(4) "Emergency worker" means any person, including but not limited to an architect registered under chapter 18.08 RCW or a professional engineer registered under chapter 18.43 RCW, who is registered with a local emergency management organization or the department and holds an identification card issued by the local emergency management director or the department for the purpose of engaging in authorized emergency management activities or is an employee of the state of Washington or any political subdivision thereof who is called upon to perform emergency management activities.

(5) "Injury" as used in this chapter shall mean and include accidental injuries and/or occupational diseases arising out of emergency management activities.

(6)(a) "Emergency or disaster" as used in all sections of this chapter except RCW 38.52.430 shall mean an event or set of circumstances which: (i) Demands immediate action

to preserve public health, protect life, protect public property, or to provide relief to any stricken community overtaken by such occurrences, or (ii) reaches such a dimension or degree of destructiveness as to warrant the governor declaring a state of emergency pursuant to RCW 43.06.010.

(b) "Emergency" as used in RCW 38.52.430 means an incident that requires a normal police, coroner, fire, rescue, emergency medical services, or utility response as a result of a violation of one of the statutes enumerated in RCW 38.52.430.

(7) "Search and rescue" means the acts of searching for, rescuing, or recovering by means of ground, marine, or air activity any person who becomes lost, injured, or is killed while outdoors or as a result of a natural or man-made disaster, including instances involving searches for downed aircraft when ground personnel are used. Nothing in this section shall affect appropriate activity by the department of transportation under chapter 47.68 RCW.

(8) "Executive head" and "executive heads" means the county executive in those charter counties with an elective office of county executive, however designated, and, in the case of other counties, the county legislative authority. In the case of cities and towns, it means the mayor.

(9) "Director" means the adjutant general.

(10) "Local director" means the director of a local organization of emergency management or emergency services.

(11) "Department" means the state military department.

(12) "Emergency response" as used in RCW 38.52.430 means a public agency's use of emergency services during an emergency or disaster as defined in subsection (6)(b) of this section.

(13) "Expense of an emergency response" as used in RCW 38.52.430 means reasonable costs incurred by a public agency in reasonably making an appropriate emergency response to the incident, but shall only include those costs directly arising from the response to the particular incident. Reasonable costs shall include the costs of providing police, coroner, fire fighting, rescue, emergency medical services, or utility response at the scene of the incident, as well as the salaries of the personnel responding to the incident.

(14) "Public agency" means the state, and a city, county, municipal corporation, district, or public authority located, in whole or in part, within this state which provides or may provide fire fighting, police, ambulance, medical, or other emergency services. [1995 c 391 § 2. Prior: 1993 c 251 § 5; 1993 c 206 § 1; 1986 c 266 § 23; 1984 c 38 § 2; 1979 ex.s. c 268 § 1; 1975 1st ex.s. c 113 § 1; 1974 ex.s. c 171 § 4; 1967 c 203 § 1; 1953 c 223 § 2; 1951 c 178 § 3.]

**Effective date—1995 c 391:** See note following RCW 38.52.005.

**Finding—Intent—1993 c 251:** See note following RCW 38.52.430.

**Severability—1986 c 266:** See note following RCW 38.52.005.

**38.52.030 Director—Comprehensive emergency management plan—State-wide enhanced 911 emergency communications network—State coordinator of search and rescue operations—State program for emergency assistance—State coordinator for radioactive and hazardous waste emergency response programs.** (1) The director may employ such personnel and may make such expenditures within the appropriation therefor, or from other funds

made available for purposes of emergency management, as may be necessary to carry out the purposes of this chapter.

(2) The director, subject to the direction and control of the governor, shall be responsible to the governor for carrying out the program for emergency management of this state. The director shall coordinate the activities of all organizations for emergency management within the state, and shall maintain liaison with and cooperate with emergency management agencies and organizations of other states and of the federal government, and shall have such additional authority, duties, and responsibilities authorized by this chapter, as may be prescribed by the governor.

(3) The director shall develop and maintain a comprehensive, all-hazard emergency plan for the state which shall include an analysis of the natural and man-caused hazards which could affect the state of Washington, and shall include the procedures to be used during emergencies for coordinating local resources, as necessary, and the resources of all state agencies, departments, commissions, and boards. The comprehensive emergency management plan shall direct the department in times of state emergency to administer and manage the state's emergency operations center. This will include representation from all appropriate state agencies and be available as a single point of contact for the authorizing of state resources or actions, including emergency permits. The comprehensive, all-hazard emergency plan authorized under this subsection may not include preparation for emergency evacuation or relocation of residents in anticipation of nuclear attack. This plan shall be known as the comprehensive emergency management plan.

(4) In accordance with the comprehensive emergency management plans and the programs for the emergency management of this state, the director shall procure supplies and equipment, institute training programs and public information programs, and shall take all other preparatory steps, including the partial or full mobilization of emergency management organizations in advance of actual disaster, to insure the furnishing of adequately trained and equipped forces of emergency management personnel in time of need.

(5) The director shall make such studies and surveys of the industries, resources, and facilities in this state as may be necessary to ascertain the capabilities of the state for emergency management, and shall plan for the most efficient emergency use thereof.

(6) The emergency management council shall advise the director on all aspects of the communications and warning systems and facilities operated or controlled under the provisions of this chapter.

(7) The director, through the state enhanced 911 coordinator, shall coordinate and facilitate implementation and operation of a state-wide enhanced 911 emergency communications network.

(8) The director shall appoint a state coordinator of search and rescue operations to coordinate those state resources, services and facilities (other than those for which the state director of aeronautics is directly responsible) requested by political subdivisions in support of search and rescue operations, and on request to maintain liaison with and coordinate the resources, services, and facilities of political subdivisions when more than one political subdivision is engaged in joint search and rescue operations.

(9) The director, subject to the direction and control of the governor, shall prepare and administer a state program for emergency assistance to individuals within the state who are victims of a natural or man-made disaster, as defined by RCW 38.52.010(6). Such program may be integrated into and coordinated with disaster assistance plans and programs of the federal government which provide to the state, or through the state to any political subdivision thereof, services, equipment, supplies, materials, or funds by way of gift, grant, or loan for purposes of assistance to individuals affected by a disaster. Further, such program may include, but shall not be limited to, grants, loans, or gifts of services, equipment, supplies, materials, or funds of the state, or any political subdivision thereof, to individuals who, as a result of a disaster, are in need of assistance and who meet standards of eligibility for disaster assistance established by the department of social and health services: **PROVIDED, HOWEVER,** That nothing herein shall be construed in any manner inconsistent with the provisions of Article VIII, section 5 or section 7 of the Washington state Constitution.

(10) The director shall appoint a state coordinator for radioactive and hazardous waste emergency response programs. The coordinator shall consult with the state radiation control officer in matters relating to radioactive materials. The duties of the state coordinator for radioactive and hazardous waste emergency response programs shall include:

(a) Assessing the current needs and capabilities of state and local radioactive and hazardous waste emergency response teams on an ongoing basis;

(b) Coordinating training programs for state and local officials for the purpose of updating skills relating to emergency response;

(c) Utilizing appropriate training programs such as those offered by the federal emergency management agency, the department of transportation and the environmental protection agency; and

(d) Undertaking other duties in this area that are deemed appropriate by the director. [1995 c 269 § 1201. Prior: 1991 c 322 § 20; 1991 c 54 § 2; 1986 c 266 § 25; 1984 c 38 § 4; 1975 1st ex.s. c 113 § 3; 1973 1st ex.s. c 154 § 58; 1967 c 203 § 3; 1951 c 178 § 4.]

**Effective date—1995 c 269:** See note following RCW 13.40.025.

**Part headings not law—Severability—1995 c 269:** See notes following RCW 13.40.005.

**Findings—Intent—1991 c 322:** See note following RCW 86.12.200.

**Referral to electorate—1991 c 54:** "Sections 1 through 6 and 9 through 16 of this act shall be submitted to the people for their adoption and ratification, or rejection, at the next succeeding general election to be held in this state, in accordance with Article II, section 1 of the state Constitution, as amended, and the laws adopted to facilitate the operation thereof. The ballot title for this act shall be: "Shall enhanced 911 emergency telephone dialing be provided throughout the state and be funded by a tax on telephone lines?" [1991 c 54 § 17.]

**Reviser's note:** "This act," chapter 54, Laws of 1991, was adopted and ratified by the people at the November 5, 1991, general election (Referendum Bill No. 42).

**Severability—1986 c 266:** See note following RCW 38.52.005.

**Severability—1973 1st ex.s. c 154:** See note following RCW 2.12.030.

*Hazardous and radioactive wastes: Chapters 70.98, 70.99, 70.105, 70.136 RCW.*

**38.52.040 Emergency management council—Members—Ad hoc committees—Function as state emergency response commission—Rules review.** (1) There is hereby created the emergency management council (hereinafter called the council), to consist of not more than seventeen members who shall be appointed by the governor. The membership of the council shall include, but not be limited to, representatives of city and county governments, sheriffs and police chiefs, the Washington state patrol, the military department, the department of ecology, state and local fire chiefs, seismic safety experts, state and local emergency management directors, search and rescue volunteers, medical professions who have expertise in emergency medical care, building officials, and private industry. The representatives of private industry shall include persons knowledgeable in emergency and hazardous materials management. The council members shall elect a chairman from within the council membership. The members of the council shall serve without compensation, but may be reimbursed for their travel expenses incurred in the performance of their duties in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

(2) The emergency management council shall advise the governor and the director on all matters pertaining to state and local emergency management. The council may appoint such ad hoc committees, subcommittees, and working groups as are required to develop specific recommendations for the improvement of emergency management practices, standards, policies, or procedures. The council shall ensure that the governor receives an annual assessment of state-wide emergency preparedness including, but not limited to, specific progress on hazard mitigation and reduction efforts, implementation of seismic safety improvements, reduction of flood hazards, and coordination of hazardous materials planning and response activities. The council or a subcommittee thereof shall periodically convene in special session and serve during those sessions as the state emergency response commission required by P.L. 99-499, the emergency planning and community right-to-know act. When sitting in session as the state emergency response commission, the council shall confine its deliberations to those items specified in federal statutes and state administrative rules governing the coordination of hazardous materials policy. The council shall review administrative rules governing state and local emergency management practices and recommend necessary revisions to the director. [1995 c 269 § 1202; 1988 c 81 § 18; 1984 c 38 § 5; 1979 ex.s. c 57 § 8; 1975-'76 2nd ex.s. c 34 § 82; 1974 ex.s. c 171 § 6; 1951 c 178 § 5.]

**Effective date—1995 c 269:** See note following RCW 13.40.025.

**Part headings not law—Severability—1995 c 269:** See notes following RCW 13.40.005.

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

**38.52.090 Mutual aid arrangements—Interstate civil defense and disaster compact—Interstate mutual aid compact.** (1) The director of each local organization for emergency management may, in collaboration with other public and private agencies within this state, develop or cause to be developed mutual aid arrangements for reciprocal emergency management aid and assistance in case of disaster too great to be dealt with unassisted. Such arrangements

shall be consistent with the state emergency management plan and program, and in time of emergency it shall be the duty of each local organization for emergency management to render assistance in accordance with the provisions of such mutual aid arrangements. The adjutant general 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 adjutant general and the director of each local organization for emergency management may, subject to the approval of the governor, enter into mutual aid arrangements with emergency management agencies or organizations in other states for reciprocal emergency management aid and assistance in case of disaster too great to be dealt with unassisted. All such arrangements shall be pursuant to either of the compacts contained in subsection (2) (a) or (b) of this section.

(a) The legislature recognizes that the compact language contained in this subsection is inadequate to meet many forms of emergencies. For this reason, after June 7, 1984, the state may not enter into any additional compacts under this subsection (2)(a).

#### INTERSTATE CIVIL DEFENSE AND DISASTER COMPACT

The contracting States solemnly agree:

Article 1. The purpose of this compact is to provide mutual aid among the States in meeting any emergency or disaster from enemy attack or other cause (natural or otherwise) including sabotage and subversive acts and direct attacks by bombs, shellfire, and atomic, radiological, chemical, bacteriological means, and other weapons. The prompt, full and effective utilization of the resources of the respective States, including such resources as may be available from the United States Government or any other source, are essential to the safety, care and welfare of the people thereof in the event of enemy action or other emergency, and any other resources, including personnel, equipment or supplies, shall be incorporated into a plan or plans of mutual aid to be developed among the civil defense agencies or similar bodies of the States that are parties hereto. The Directors of Civil Defense (Emergency Services) of all party States shall constitute a committee to formulate plans and take all necessary steps for the implementation of this compact.

Article 2. It shall be the duty of each party State to formulate civil defense plans and programs for application within such State. There shall be frequent consultation between the representatives of the States and with the United States Government and the free exchange of information and plans, including inventories of any materials and equipment available for civil defense. In carrying out such civil defense plans and programs the party States shall so far as possible provide and follow uniform standards, practices and rules and regulations including:

(a) Insignia, arm bands and any other distinctive articles to designate and distinguish the different civil defense services;

(b) Blackouts and practice blackouts, air raid drills, mobilization of civil defense forces and other tests and exercises;



(c) Warnings and signals for drills or attacks and the mechanical devices to be used in connection therewith;

(d) The effective screening or extinguishing of all lights and lighting devices and appliances;

(e) Shutting off water mains, gas mains, electric power connections and the suspension of all other utility services;

(f) All materials or equipment used or to be used for civil defense purposes in order to assure that such materials and equipment will be easily and freely interchangeable when used in or by any other party State;

(g) The conduct of civilians and the movement and cessation of movement of pedestrians and vehicular traffic, prior, during, and subsequent to drills or attacks;

(h) The safety of public meetings or gatherings; and

(i) Mobile support units.

Article 3. Any party State requested to render mutual aid shall take such action as is necessary to provide and make available the resources covered by this compact in accordance with the terms hereof; provided that it is understood that the State rendering aid may withhold resources to the extent necessary to provide reasonable protection for such State. Each party State shall extend to the civil defense forces of any other party State, while operating within its State limits under the terms and conditions of this compact, the same powers (except that of arrest unless specifically authorized by the receiving State), duties, rights, privileges and immunities as if they were performing their duties in the State in which normally employed or rendering services. Civil defense forces will continue under the command and control of their regular leaders but the organizational units will come under the operational control of the civil defense authorities of the State receiving assistance.

Article 4. Whenever any person holds a license, certificate or other permit issued by any State evidencing the meeting of qualifications for professional, mechanical or other skills, such person may render aid involving such skill in any party State to meet an emergency or disaster and such State shall give due recognition to such license, certificate or other permit as if issued in the State in which aid is rendered.

Article 5. No party State or its officers or employees rendering aid in another State pursuant to this compact shall be liable on account of any act or omission in good faith on the part of such forces while so engaged, or on account of the maintenance or use of any equipment or supplies in connection therewith.

Article 6. Inasmuch as it is probable that the pattern and detail of the machinery for mutual aid among two or more states may differ from that appropriate among other States party hereto, this instrument contains elements of a broad base common to all States, and nothing herein contained shall preclude any State from entering into supplementary agreements with another State or States. Such supplementary agreements may comprehend, but shall not be limited to, provisions for evacuation and reception of injured and other persons, and the exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation and communications personnel, equipment and supplies.

Article 7. Each party State shall provide for the payment of compensation and death benefits to injured members of the civil defense forces of that State and the

representatives of deceased members of such forces in case such members sustain injuries or are killed while rendering aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within such State.

Article 8. Any party State rendering aid in another State pursuant to this compact shall be reimbursed by the party State receiving such aid for any loss or damage to, or expense incurred in the operation of any equipment answering a request for aid, and for the cost incurred in connection with such requests; provided, that any aiding State may assume in whole or in part such loss, damage, expense, or other cost, or may loan such equipment or donate such services to the receiving party State without charge or cost; and provided further that any two or more party States may enter into supplementary agreements establishing a different allocation of costs as among those States. The United States Government may relieve the party State receiving aid from any liability and reimburse the party State supplying civil defense forces for the compensation paid to and the transportation, subsistence and maintenance expenses of such forces during the time of the rendition of such aid or assistance outside the State and may also pay fair and reasonable compensation for the use or utilization of the supplies, materials, equipment or facilities so utilized or consumed.

Article 9. Plans for the orderly evacuation and reception of the civilian population as the result of an emergency or disaster shall be worked out from time to time between representatives of the party States and the various local civil defense areas thereof. Such plans shall include the manner of transporting such evacuees, the number of evacuees to be received in different areas, the manner in which food, clothing, housing, and medical care will be provided, the registration of the evacuees, the providing of facilities for the notification of relatives or friends and the forwarding of such evacuees to other areas or the bringing in of additional materials, supplies, and all other relevant factors. Such plans shall provide that the party State receiving evacuees shall be reimbursed generally for the out-of-pocket expenses incurred in receiving and caring for such evacuees, for expenditures for transportation, food, clothing, medicines and medical care and like items. Such expenditures shall be reimbursed by the party State of which the evacuees are residents, or by the United States Government under plans approved by it. After the termination of the emergency or disaster the party State of which the evacuees are resident shall assume the responsibility for the ultimate support or repatriation of such evacuees.

Article 10. This compact shall be available to any State, territory or possession of the United States, and the District of Columbia. The term "State" may also include any neighboring foreign country or province or state thereof.

Article 11. The committee established pursuant to Article 1 of this compact may request the Civil Defense Agency of the United States Government to act as an informational and coordinating body under this compact, and representatives of such agency of the United States Government may attend meetings of such committee.

Article 12. This compact shall become operative immediately upon its ratification by any State as between it and any other State or States so ratifying and shall be subject

to approval by Congress unless prior Congressional approval has been given. Duly authenticated copies of this compact and of such supplementary agreements as may be entered into shall, at the time of their approval, be deposited with each of the party States and with the Civil Defense Agency and other appropriate agencies of the United States Government.

Article 13. This compact shall continue in force and remain binding on each party State until the legislature or the Governor of such party State takes action to withdraw therefrom. Such action shall not be effective until 30 days after notice thereof has been sent by the Governor of the party State desiring to withdraw to the Governors of all other party States.

Article 14. This compact shall be construed to effectuate the purposes stated in Article 1 hereof. If any provision of this compact is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of this compact and the applicability thereof to other persons and circumstances shall not be effected thereby.

Article 15. (a) This Article shall be in effect only as among those states which have enacted it into law or in which the Governors have adopted it pursuant to constitutional or statutory authority sufficient to give it the force of law as part of this compact. Nothing contained in this Article or in any supplementary agreement made in implementation thereof shall be construed to abridge, impair or supersede any other provision of this compact or any obligation undertaken by a State pursuant thereto, except that if its terms so provide, a supplementary agreement in implementation of this Article may modify, expand or add to any such obligation as among the parties to the supplementary agreement.

(b) In addition to the occurrences, circumstances and subject matters to which preceding articles of this compact make it applicable, this compact and the authorizations, entitlements and procedures thereof shall apply to:

1. Searches for and rescue of person who are lost, marooned, or otherwise in danger.
2. Action useful in coping with disasters arising from any cause or designed to increase the capability to cope with any such disasters.
3. Incidents, or the imminence thereof, which endanger the health or safety of the public and which require the use of special equipment, trained personnel or personnel in larger numbers than are locally available in order to reduce, counteract or remove the danger.
4. The giving and receiving of aid by subdivisions of party States.
5. Exercises, drills or other training or practice activities designed to aid personnel to prepare for, cope with or prevent any disaster or other emergency to which this compact applies.

(c) Except as expressly limited by this compact or a supplementary agreement in force pursuant thereto, any aid authorized by this compact or such supplementary agreement may be furnished by any agency of a party State, a subdivision of such State, or by a joint agency providing such aid shall be entitled to reimbursement therefor to the same extent and in the same manner as a State. The personnel of such a joint agency, when rendering aid pursuant to this compact

shall have the same rights, authority and immunity as personnel of party States.

(d) Nothing in this Article shall be construed to exclude from the coverage of Articles 1-15 of this compact any matter which, in the absence of this Article, could reasonably be construed to be covered thereby.

(b) The compact language contained in this subsection (2)(b) is intended to deal comprehensively with emergencies requiring assistance from other states.

## INTERSTATE MUTUAL AID COMPACT

### Purpose

The purpose of this Compact is to provide voluntary assistance among participating states in responding to any disaster or imminent disaster, that over extends the ability of local and state governments to reduce, counteract or remove the danger. Assistance may include, but not be limited to, rescue, fire, police, medical, communication, transportation services and facilities to cope with problems which require use of special equipment, trained personnel or personnel in large numbers not locally available.

### Authorization

Article I, Section 10 of the Constitution of the United States permits a state to enter into an agreement or compact with another state, subject to the consent of Congress. Congress, through enactment of Title 50 U.S.C. Sections 2281(g), 2283 and the Executive Department, by issuance of Executive Orders No. 10186 of December 1, 1950, encourages the states to enter into emergency, disaster and civil defense mutual aid agreements or pacts.

### Implementation

It is agreed by participating states that the following conditions will guide implementation of the Compact:

1. Participating states through their designated officials are authorized to request and to receive assistance from a participating state. Requests will be granted only if the requesting state is committed to the mitigation of the emergency, and other resources are not immediately available.
2. Requests for assistance may be verbal or in writing. If the request is made by other than written communication, it shall be confirmed in writing as soon as practical after the request. A written request shall provide an itemization of equipment and operators, types of expertise, personnel or other resources needed. Each request must be signed by an authorized official.
3. Personnel and equipment of the aiding party made available to the requesting party shall, whenever possible, remain under the control and direction of the aiding party. The activities of personnel and equipment of the aiding party must be coordinated by the requesting party.
4. An aiding state shall have the right to withdraw some or all of their personnel and/or equipment whenever the personnel or equipment are needed by that state. Notice of intention to withdraw should be communicated to the requesting party as soon as possible.

### General Fiscal Provisions

The state government of the requesting party shall reimburse the state government of the aiding party. It is understood that reimbursement shall be made as soon as possible after the receipt by the requesting party of an itemized voucher requesting reimbursement of costs.

1. Any party rendering aid pursuant to this Agreement shall be reimbursed by the state receiving such aid for any damage to, loss of, or expense incurred in the operation of any equipment used in responding to a request for aid, and for the cost incurred in connection with such requests.

2. Any state rendering aid pursuant to this Agreement shall be reimbursed by the state receiving such aid for the cost of payment of compensation and death benefits to injured officers, agents, or employees and their dependents or representatives in the event such officers, agents, or employees sustain injuries or are killed while rendering aid pursuant to this arrangement, provided that such payments are made in the same manner and on the same terms as if the injury or death were sustained within such state.

### Privileges and Immunities

1. All privileges and immunities from liability, exemptions from law, ordinances, rules, all pension, relief disability, workers' compensation, and other benefits which apply to the activity of officers, agents, or employees when performing their respective functions within the territorial limits of their respective political subdivisions, shall apply to them to the same degree and extent while engaged in the performance of any of their functions and duties extra-territorially under the provisions of this Agreement.

2. All privileges and immunities from liability, exemptions from law, ordinances, and rules, workers' compensation and other benefits which apply to duly enrolled or registered volunteers when performing their respective functions at the request of their state and within its territorial limits, shall apply to the same degree and extent while performing their functions extra-territorially under the provisions of this Agreement. Volunteers may include, but not be limited to, physicians, surgeons, nurses, dentists, structural engineers, and trained search and rescue volunteers.

3. The signatory states, their political subdivisions, municipal corporations and other public agencies shall hold harmless the corresponding entities and personnel thereof from the other state with respect to the acts and omissions of its own agents and employees that occur while providing assistance pursuant to the common plan.

4. Nothing in this arrangement shall be construed as repealing or impairing any existing Interstate Mutual Aid Agreements.

5. Upon enactment of this Agreement by two or more states, and by January 1, annually thereafter, the participating states will exchange with each other the names of officials designated to request and/or provide services under this arrangement. In accordance with the cooperative nature of this arrangement, it shall be permissible and desirable for the parties to exchange operational procedures to be followed in requesting assistance and reimbursing expenses.

6. This compact shall enter into force and become effective and binding upon the states so acting when it has been enacted into law by any two states. Thereafter, this

compact shall enter into force and become effective and binding as to any other of said states upon similar action by such state.

7. This compact shall continue in force and remain binding upon a party state until it shall have enacted a statute repealing the same and providing for the sending of formal written notice of withdrawal from the compact to the appropriate official of all other party states. An actual withdrawal shall not take effect until the thirtieth consecutive day after the notice provided in the statute has been sent. Such withdrawal shall not relieve the withdrawing state from its obligations assumed hereunder prior to the effective date of withdrawal. [1995 c 391 § 3; 1987 c 185 § 6; 1986 c 266 § 29; 1984 c 38 § 9; 1974 ex.s. c 171 § 11; 1951 c 178 § 10.]

**Effective date—1995 c 391:** See note following RCW 38.52.005.

**Intent—Severability—1987 c 185:** See notes following RCW 51.12.130.

**Severability—1986 c 266:** See note following RCW 38.52.005.

### 38.52.420 Model contingency plan for pollution control facilities and hazardous waste management.

(1) The department, in consultation with appropriate federal agencies, the departments of natural resources, fish and wildlife, and ecology, representatives of local government, and any other person the director may deem appropriate, shall develop a model contingency plan, consistent with other plans required for hazardous materials by federal and state law, to serve as a draft plan for local governments which may be incorporated into the state and local emergency management plans.

(2) The model contingency plan shall:

(a) Include specific recommendations for pollution control facilities which are deemed to be most appropriate for the control, collection, storage, treatment, disposal, and recycling of oil and other spilled material and furthering the prevention and mitigation of such pollution;

(b) Include recommendations for the training of local personnel consistent with other training proposed, funded, or required by federal or state laws for hazardous materials;

(c) Suggest cooperative training exercises between the public and private sector consistent with other training proposed, funded, or required by federal or state laws for hazardous materials;

(d) Identify federal and state laws requiring contingency or management plans applicable or related to prevention of pollution, emergency response capabilities, and hazardous waste management, together with a list of funding sources that local governments may use in development of their specific plans;

(e) Promote formal agreements between the department and local entities for effective spill response; and

(f) Develop policies and procedures for the augmentation of emergency services and agency spill response personnel through the use of volunteers: PROVIDED, That no contingency plan may require the use of volunteers by a responding responsible party without that party's consent. [1995 c 391 § 4; 1994 c 264 § 11; 1988 c 36 § 11; 1987 c 479 § 3.]

**Effective date—1995 c 391:** See note following RCW 38.52.005.

**38.52.525 State enhanced 911 coordination office—Public education materials.** The state enhanced 911 coordination office may develop and implement public education materials regarding the capability of specific equipment used as part of a private telecommunications system or in the provision of private shared telecommunications services to forward automatic location identification and automatic number identification. [1995 c 243 § 9.]

**Findings—Severability—1995 c 243:** See notes following RCW 80.36.555.

**38.52.535 State enhanced 911 coordination office and advisory committee—Uniform national standards.** The state enhanced 911 coordination office and the enhanced 911 advisory committee may participate in efforts to set uniform national standards for automatic number identification and automatic location identification data transmission for private telecommunications systems and private shared telecommunications services. The enhanced 911 advisory committee shall report to the legislature by January 1, 1997, the progress of such standards development and shall make recommendations on steps to be taken if such standards have not been adopted. [1995 c 243 § 10.]

**Findings—Severability—1995 c 243:** See notes following RCW 80.36.555.

**38.52.930 Transfer of powers, duties, and functions to state military department.** All powers, duties, and functions of the department of community, trade, and economic development pertaining to emergency management are transferred to the state military department. All references to the director or the department of community development or the department of community, trade, and economic development in the Revised Code of Washington shall be construed to mean the adjutant general or the state military department when referring to the functions transferred in this section. [1995 c 391 § 10.]

**Effective date—1995 c 391:** See note following RCW 38.52.005.

**Chapter 38.54**

**STATE FIRE SERVICES MOBILIZATION**

Sections

- 38.54.010 Definitions (as amended by 1995 c 369).
- 38.54.010 Definitions (as amended by 1995 c 391).
- 38.54.020 Legislative declaration and intent.
- 38.54.030 State fire protection policy board—State fire services mobilization plan—State fire resources coordinator.
- 38.54.050 Development of reimbursement procedures.

**38.54.010 Definitions (as amended by 1995 c 369).** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

~~(1) ("Department" means the department of community development.~~  
~~(2) "Director" means the director of the department of community development.~~

~~(3) "State fire marshal" means the assistant director of the division of fire protection services in the (department of community development) Washington state patrol.~~

~~((4)) (2) "Fire chief" includes the chief officer of a statutorily authorized fire agency, or the fire chief's authorized representative. Also included are the department of natural resources fire control chief, and the department of natural resources regional managers.~~

~~((5)) (3) "Jurisdiction" means state, county, city, fire district, or port district ((fire)) fire fighting units, or other units covered by this chapter.~~

~~((6)) (4) "Mobilization" means that fire fighting resources beyond those available through existing agreements will be requested and, when available, sent to fight a fire that has or soon will exceed the capabilities of available local resources. During a large scale fire emergency, mobilization includes redistribution of regional or state-wide fire fighting resources to either direct fire fighting assignments or to assignment in communities where fire fighting resources are needed. This chapter shall not reduce or suspend the authority or responsibility of the department of natural resources under chapter 76.04 RCW.~~

~~((7)) (5) "Mutual aid" means emergency interagency assistance provided without compensation under ((and for)) an agreement between jurisdictions under chapter 39.34 RCW. [1995 c 369 § 10; 1992 c 117 § 9.]~~

**Effective date—1995 c 369:** See note following RCW 43.43.930.

**38.54.010 Definitions (as amended by 1995 c 391).** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Department" means the department of community, trade, and economic development.

(2) "Director" means the director of the department of community, trade, and economic development.

(3) "State fire marshal" means the assistant director of the division of fire protection services in the department of community, trade, and economic development.

(4) "Fire chief" includes the chief officer of a statutorily authorized fire agency, or the fire chief's authorized representative. Also included are the department of natural resources fire control chief, and the department of natural resources regional managers.

(5) "Jurisdiction" means state, county, city, fire district, or port district ((fire)) fire fighting units, or other units covered by this chapter.

(6) "Mobilization" means that fire fighting resources beyond those available through existing agreements will be requested and, when available, sent ((to fight a fire)) in response to an emergency or disaster situation that has ((or soon will exceed)) exceeded the capabilities of available local resources. During a large scale ((fire)) emergency, mobilization includes the redistribution of regional or state-wide fire fighting resources to either direct ((fire fighting)) emergency incident assignments or to assignment in communities where fire fighting resources are needed.

When mobilization is declared and authorized as provided in this chapter, all fire fighting resources except those of the host fire protection authorities, i.e. incident jurisdiction, shall be deemed as mobilized under this chapter, including those that responded earlier under existing mutual aid or other agreement. All nonhost fire protection authorities providing fire fighting resources in response to a mobilization declaration shall be eligible for expense reimbursement as provided by this chapter from the time of the mobilization declaration.

This chapter shall not reduce or suspend the authority or responsibility of the department of natural resources under chapter 76.04 RCW.

(7) "Mutual aid" means emergency interagency assistance provided without compensation under ((and for)) an agreement between jurisdictions under chapter 39.34 RCW. [1995 c 391 § 5; 1992 c 117 § 9.]

**Reviser's note:** RCW 38.54.010 was amended twice during the 1995 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

**Effective date—1995 c 391:** See note following RCW 38.52.005.

**38.54.020 Legislative declaration and intent.** Because of the possibility of the occurrence of disastrous fires or other disasters of unprecedented size and destructiveness, the need to insure that the state is adequately prepared to respond to such a fire or disaster, the need to establish a mechanism and a procedure to provide for reimbursement to fire fighting agencies that respond to help others in time of need or to a host fire district that experiences expenses beyond the resources of the fire district, and generally to protect the public peace, health, safety, lives, and property of the people of Washington, it is hereby declared necessary to:

(1) Provide the policy and organizational structure for large scale mobilization of fire fighting resources in the state through creation of the Washington state fire services mobilization plan;

(2) Confer upon the director the powers provided herein;

(3) Provide a means for reimbursement to fire jurisdictions that incur expenses when mobilized by the director under the Washington state fire services mobilization plan; and

(4) Provide for reimbursement of host district fire fighting resources when the local district has: (a) Exhausted all of its resources; and (b) invoked its local mutual aid network and exhausted those resources. Upon implementation of state fire mobilization, the host district resources shall become state fire mobilization resources consistent with the fire mobilization plan.

It is the intent of the legislature that mutual aid and other interlocal agreements providing for enhanced emergency response be encouraged as essential to the public peace, safety, health, and welfare, and for the protection of the lives and property of the people of the state of Washington. If possible, mutual aid agreements should be without stated limitations as to resources available, time, or area. Nothing in this chapter shall be construed or interpreted to limit the eligibility of any nonhost fire protection authority for reimbursement of expenses incurred in providing fire fighting resources for mobilization. [1995 c 391 § 6; 1992 c 117 § 10.]

**Effective date—1995 c 391:** See note following RCW 38.52.005.

**38.54.030 State fire protection policy board—State fire services mobilization plan—State fire resources coordinator.** The state fire protection policy board shall review and make recommendations to the director on the refinement and maintenance of the Washington state fire services mobilization plan, which shall include the procedures to be used during fire and other emergencies for coordinating local, regional, and state fire jurisdiction resources. In carrying out this duty, the fire protection policy board shall consult with and solicit recommendations from representatives of state and local fire and emergency management organizations, regional fire defense boards, and the department of natural resources. The Washington state fire services mobilization plan shall be consistent with, and made part of, the Washington state comprehensive emergency management plan. The director shall review the fire services mobilization plan as submitted by the state fire defense board and after consultation with the fire protection policy board, recommend changes that may be necessary, and approve the fire services mobilization plan for inclusion within the state comprehensive emergency management plan.

It is the responsibility of the director to mobilize jurisdictions under the Washington state fire services mobilization plan. The state fire marshal shall serve as the state fire resources coordinator when the Washington state fire services mobilization plan is mobilized. [1995 c 269 § 1101; 1992 c 117 § 11.]

**Effective date—1995 c 269:** See note following RCW 13.40.025.

**Part headings not law—Severability—1995 c 269:** See notes following RCW 13.40.005.

**38.54.050 Development of reimbursement procedures.** The department in consultation with the office of financial management shall develop procedures to facilitate reimbursement to jurisdictions from appropriate federal and state funds when jurisdictions are mobilized by the director under the Washington state fire services mobilization plan. The department shall ensure that these procedures provide reimbursement to the host district in as timely a manner as possible. [1995 c 391 § 7; 1992 c 117 § 13.]

**Effective date—1995 c 391:** See note following RCW 38.52.005.

## Title 39

### PUBLIC CONTRACTS AND INDEBTEDNESS

#### Chapters

<b>39.16</b>	<b>Resident employees on public works.</b>
<b>39.19</b>	<b>Office of minority and women's business enterprises.</b>
<b>39.29</b>	<b>Personal service contracts.</b>
<b>39.30</b>	<b>Contracts—Indebtedness limitations—Competitive bidding violations.</b>
<b>39.32</b>	<b>Purchase of federal property.</b>
<b>39.33</b>	<b>Intergovernmental disposition of property.</b>
<b>39.34</b>	<b>Interlocal cooperation act.</b>
<b>39.44</b>	<b>Bonds—Miscellaneous provisions, bond information reporting.</b>
<b>39.46</b>	<b>Bonds—Issuance—Registration of ownership.</b>
<b>39.50</b>	<b>Short-term obligations—Municipal corporations.</b>
<b>39.52</b>	<b>Funding indebtedness in counties, cities and towns.</b>
<b>39.58</b>	<b>Public funds—Deposits and investments—Public depositories.</b>
<b>39.84</b>	<b>Industrial development revenue bonds.</b>
<b>39.86</b>	<b>Private activity bond allocation.</b>
<b>39.96</b>	<b>Payment agreements.</b>

#### Chapter 39.16

##### RESIDENT EMPLOYEES ON PUBLIC WORKS

#### Sections

39.16.005 through 39.16.040 Repealed.

**39.16.005 through 39.16.040 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

#### Chapter 39.19

##### OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES

#### Sections

39.19.040 Repealed.  
39.19.041 Ad hoc advisory committees.

**39.19.040 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**39.19.041 Ad hoc advisory committees.** The director may establish ad hoc advisory committees, as necessary, to assist in the development of policies to carry out the purposes of this chapter. [1995 c 269 § 1302.]

**Effective date—1995 c 269:** See note following RCW 13.40.025.

**Part headings not law—Severability—1995 c 269:** See notes following RCW 13.40.005.

## Chapter 39.29

### PERSONAL SERVICE CONTRACTS

#### Sections

39.29.040 Exemption of certain contracts.

**39.29.040 Exemption of certain contracts.** This chapter does not apply to:

(1) Contracts specifying a fee of less than two thousand five hundred dollars if the total of the contracts from that agency with the contractor within a fiscal year does not exceed two thousand five hundred dollars;

(2) Contracts awarded to companies that furnish a service where the tariff is established by the utilities and transportation commission or other public entity;

(3) Intergovernmental agreements awarded to any governmental entity, whether federal, state, or local and any department, division, or subdivision thereof;

(4) Contracts awarded for services to be performed for a standard fee, when the standard fee is established by the contracting agency or any other governmental entity and a like contract is available to all qualified applicants;

(5) Contracts for services that are necessary to the conduct of collaborative research if prior approval is granted by the funding source;

(6) Contracts for client services;

(7) Contracts for architectural and engineering services as defined in RCW 39.80.020, which shall be entered into under chapter 39.80 RCW; and

(8) Contracts for the employment of expert witnesses for the purposes of litigation. [1995 c 80 § 1; 1987 c 414 § 7; 1986 c 33 § 3; 1979 ex.s. c 61 § 4.]

## Chapter 39.30

### CONTRACTS—INDEBTEDNESS LIMITATIONS— COMPETITIVE BIDDING VIOLATIONS

#### Sections

39.30.060 Bids on public works—Subcontractors must be identified—When.

**39.30.060 Bids on public works—Subcontractors must be identified—When.** Every invitation to bid on a contract that is expected to cost in excess of one hundred thousand dollars for the construction, alteration, or repair of any public building or public work of the state or a state agency or municipality as defined under RCW 39.04.010, an institution of higher education as defined under RCW 28B.10.016, or a school district shall require each bidder to

submit as part of the bid, or within one hour after the published bid submittal time, the names of the subcontractors whose subcontract amount is more than ten percent of the bid price with whom the bidder, if awarded the contract, will subcontract for performance of the work designated on the list to be submitted with the bid. Failure to name such subcontractors shall render the bidder's bid nonresponsive and, therefore, void. [1995 c 94 § 1; 1994 c 91 § 1; 1993 c 378 § 1.]

**Application—1994 c 91:** "This act applies prospectively only and not retroactively. It applies only to invitations to bid issued on or after June 9, 1994." [1994 c 91 § 2.]

**Application—1993 c 378:** "This act applies prospectively only and not retroactively. It applies only to invitations to bid issued on or after July 25, 1993." [1993 c 378 § 2.]

## Chapter 39.32

### PURCHASE OF FEDERAL PROPERTY

#### Sections

39.32.010 Definitions.

39.32.020 Acquisition of surplus property authorized.

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.

**39.32.010 Definitions.** For the purposes of RCW 39.32.010 through 39.32.060:

The term "eligible donee" means any public agency carrying out or promoting for the residents of a given political area one or more public purposes, such as conservation, economic development, education, parks and recreation, public health, and public safety; or nonprofit educational or public health institutions or organizations, such as medical institutions, hospitals, clinics, health centers, schools, colleges, universities, schools for the mentally retarded, schools for the physically handicapped, child care centers, radio and television stations licensed by the federal communications commission as educational radio or educational television stations, museums attended by the public, and public libraries serving all residents of a community, district, state, or region, and which are exempt from taxation under Section 501 of the Internal Revenue Code of 1954, for purposes of education or public health, including research for any such purpose.

The term "public agency" means the state or any subdivision thereof, including any unit of local government, economic development district, emergency services organization, or any instrumentality created by compact or other agreement between the state and a political subdivision, or any Indian tribe, band, group, or community located on a state reservation.

The term "surplus property" means any property, title to which is in the federal, state, or local government or any department or agency thereof, and which property is to be disposed of as surplus under any act of congress or the legislature or local statute, heretofore or hereafter enacted providing for such disposition. [1995 c 137 § 2; 1977 ex.s. c 135 § 1; 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 is hereby authorized to purchase, lease or otherwise acquire from federal, state, or local government or any surplus property disposal agency thereof surplus property to be used in accordance with the provisions of this chapter. [1995 c 137 § 3; 1977 ex.s. c 135 § 2; 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.235 RCW.*

**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, state, or local government surplus property disposal agency. The director may purchase, lease or acquire such surplus property on the requisition of an eligible donee 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. [1995 c 137 § 4; 1977 ex.s. c 135 § 3; 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 federal surplus property on requisition for any eligible donee 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 eligible donee 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 eligible donees as desire to avail themselves of the privilege of purchasing. All moneys received in payment for surplus property from eligible donees shall be deposited by the director in the surplus property purchase revolving fund. The director shall sell federal surplus property to eligible donees 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 an eligible donee 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. [1995 c 137 § 5; 1977 ex.s. c 135 § 4; 1967 ex.s. c 70 § 5; 1945 c 205 § 5; Rem. Supp. 1945 § 10322-64.]

## Chapter 39.33

### INTERGOVERNMENTAL DISPOSITION OF PROPERTY

#### Sections

39.33.020 Disposal of surplus property—Hearing—Notice.

**39.33.020 Disposal of surplus property—Hearing—Notice.** Before disposing of surplus property with an estimated value of more than fifty thousand dollars, the state or a political subdivision shall hold a public hearing in the county where the property or the greatest portion thereof is located. At least ten days but not more than twenty-five days prior to the hearing, there shall be published a public notice of reasonable size in display advertising form, setting forth the date, time, and place of the hearing at least once in a newspaper of general circulation in the area where the property is located. A news release pertaining to the hearing shall be disseminated among printed and electronic media in the area where the property is located. If real property is involved, the public notice and news release shall identify the property using a description which can easily be understood by the public. If the surplus is real property, the public notice and news release shall also describe the proposed use of the lands involved. If there is a failure to substantially comply with the procedures set forth in this section, then the sale, transfer, exchange, lease, or other disposal shall be subject to being declared invalid by a court. Any such suit must be brought within one year from the date of the disposal agreement. [1995 c 123 § 1; 1981 c 96 § 2.]

## Chapter 39.34

### INTERLOCAL COOPERATION ACT

#### Sections

39.34.040 Agreements to be filed—Status of interstate agreements—Real party in interest—Actions.  
39.34.120 Repealed.

**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 county auditor. 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 the 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. [1995 c 22 § 1; 1992 c 161 § 5; 1967 c 239 § 5.]

**Intent—1992 c 161:** See note following RCW 70.44.450.

**39.34.120 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

### Chapter 39.44

#### BONDS—MISCELLANEOUS PROVISIONS, BOND INFORMATION REPORTING

##### Sections

- 39.44.130 Treasurers as registration officers—Fiscal agent.  
 39.44.210 State and local government bond information—Submittal—Contents—Annual report.  
 39.44.230 State and local government bond information—Rules.

**39.44.130 Treasurers as registration officers—Fiscal agent.** (1) The duties prescribed in this chapter 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 treasurer as defined in RCW 39.46.020 may designate 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 bond owner of a fee for each registration.

(2) The county treasurer as ex officio treasurer of a special district shall act as fiscal agent or may appoint the fiscal agent to be used by the county. [1995 c 38 § 5; 1994 c 301 § 9; 1985 c 84 § 2; 1983 c 167 § 110; 1971 ex.s. c 79 § 1; 1915 c 91 § 3; RRS § 5496.]

**Acts of municipal officers ratified and confirmed—1995 c 38:** See note following RCW 3.02.045.

**Liberal construction—Severability—1983 c 167:** See RCW 39.46.010 and note following.

*Fiscal agencies: Chapter 43.80 RCW.*

**39.44.210 State and local government bond information—Submittal—Contents—Annual report.** For each state or local government bond issued, the underwriter of the issue shall supply the department of community, trade, and economic development with information on the bond issue within twenty days of its issuance. In cases where the issuer of the bond makes a direct or private sale to a purchaser without benefit of an underwriter, the issuer shall supply the required information. The bond issue information shall be provided on a form prescribed by the department of community, trade, and economic development and shall include but is not limited to: (1) The par value of the bond issue; (2) the effective interest rates; (3) a schedule of maturities; (4) the purposes of the bond issue; (5) cost of issuance information; and (6) the type of bonds that are issued. A copy of the bond covenants shall be supplied with this information.

For each state or local government bond issued, the issuer's bond counsel promptly shall provide to the underwriter or to the department of community, trade, and economic development information on the amount of any fees charged for services rendered with regard to the bond issue.

Each local government that issues any type of bond shall make a report annually to the department of community, trade, and economic development that includes a summary of all the outstanding bonds of the local government as of

the first day of January in that year. Such report shall distinguish the outstanding bond issues on the basis of the type of bond, as defined in RCW 39.44.200, and shall report the local government's outstanding indebtedness compared to any applicable limitations on indebtedness, including RCW 35.42.200, 39.30.010, and 39.36.020. [1995 c 399 § 54; 1990 c 220 § 2; 1989 c 225 § 2; 1985 c 130 § 1.]

*Fiscal agencies: Chapter 43.80 RCW.*

*Publication of local government bond information by department of community, trade, and economic development—Adoption of rules: RCW 43.63A.155.*

**39.44.230 State and local government bond information—Rules.** The department of community, trade, and economic development may adopt rules and regulations pursuant to the administrative procedure act to require (1) the submission of bond issuance information by underwriters and bond counsel to the department of community, trade, and economic development in a timely manner and (2) the submission of additional information on bond issues by state and local governments, including summaries of outstanding bond issues. [1995 c 399 § 55; 1989 c 225 § 3; 1985 c 130 § 3.]

### Chapter 39.46

#### BONDS—ISSUANCE—REGISTRATION OF OWNERSHIP

##### Sections

- 39.46.020 Definitions.  
 39.46.030 Registration system authorized—Requirements—Fiscal agencies, agents.  
 39.46.110 Local government general obligation bonds—Indebtedness—Payment—Notice by special district.

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

(1) "Bond" means any agreement which may or may not be represented by a physical instrument, including notes, warrants, or certificates of indebtedness, that evidences an indebtedness of the state or a local government or a fund thereof, where the state or local government agrees to pay a specified amount of money, with or without interest, at a designated time or times to either registered owners or bearers.

(2) "Local government" means any county, city, town, special purpose district, political subdivision, municipal corporation, or quasi municipal corporation, including any public corporation created by such an entity.

(3) "Obligation" means an agreement that evidences an indebtedness of the state or a local government, other than a bond, and includes, but is not limited to, conditional sales contracts, lease obligations, and promissory notes.

(4) "State" includes the state, agencies of the state, and public corporations created by the state or agencies of the state.

(5) "Treasurer" means the state treasurer, county treasurer, city treasurer, or treasurer of any other municipal corporation. [1995 c 38 § 6; 1994 c 301 § 10; 1983 c 167 § 2.]



**Acts of municipal officers ratified and confirmed—1995 c 38:** See note following RCW 3.02.045.

**Liberal construction—Severability—1983 c 167:** See RCW 39.46.010 and note following.

**39.46.030 Registration system authorized—Requirements—Fiscal agencies, agents.** (1) The state and local governments are authorized to establish a system of registering the ownership of their bonds or other obligations as to principal and interest, or principal only. Registration may include, without limitation: (a) A book entry system of recording the ownership of a bond or other obligation whether or not a physical instrument is issued; or (b) recording the ownership of a bond or other obligation together with the requirement that the transfer of ownership may only be effected by the surrender of the old bond or other obligation and either the reissuance of the old bond or other obligation or the issuance of a new bond or other obligation to the new owner.

(2) The system of registration shall define the method or methods by which transfer of the registered bonds or other obligations shall be effective, and by which payment of principal and any interest shall be made. The system of registration may permit the issuance of bonds or other obligations in any denomination to represent several registered bonds or other obligations of smaller denominations. The system of registration may also provide for any writing relating to a bond or other obligation that is not issued as a physical instrument, for identifying numbers or other designations, for a sufficient supply of certificates for subsequent transfers, for record and payment dates, for varying denominations, for communications to the owners of bonds or other obligations, for accounting, canceled certificate destruction, registration and release of securing interests, and for such other incidental matters pertaining to the registration of bonds or other obligations as the issuer may deem to be necessary or appropriate.

(3)(a) The state treasurer or a local treasurer may appoint (i) one or more of the fiscal agencies appointed from time to time by the state finance committee in accordance with chapter 43.80 RCW or (ii) other fiscal agents to act with respect to an issue of its bonds or other obligations as authenticating trustee, transfer agent, registrar, and paying or other agent and specify the rights and duties and means of compensation of any such fiscal agency so acting. The state treasurer or local treasurers may also enter into agreements with the fiscal agency or agencies in connection with the establishment and maintenance by such fiscal agency or agencies of a central depository system for the transfer or pledge of bonds or other obligations.

(b) The county treasurer as ex officio treasurer of a special district shall act as fiscal agent for such special district, unless the county treasurer appoints either one or more of the fiscal agencies appointed from time to time by the state finance committee in accordance with chapter 43.80 RCW or other fiscal agents selected in a manner consistent with RCW 43.80.120 to act with respect to an issue of its bonds or other obligations as authenticating trustee, transfer agent, registrar, and paying or other agent and specify the rights and duties and means of compensation of any such fiscal agency.

(4) Nothing in this section precludes the issuer, or a trustee appointed by the issuer pursuant to any other provision of law, from itself performing, either alone or jointly with other issuers, fiscal agencies, or trustees, any transfer, registration, authentication, payment, or other function described in this section. [1995 c 38 § 7; 1994 c 301 § 11; 1985 c 84 § 1; 1983 c 167 § 3.]

**Acts of municipal officers ratified and confirmed—1995 c 38:** See note following RCW 3.02.045.

**Liberal construction—Severability—1983 c 167:** See RCW 39.46.010 and note following.

**39.46.110 Local government general obligation bonds—Indebtedness—Payment—Notice by special district.** (1) General obligation bonds of local governments shall be subject to this section. Unless otherwise stated in law, the maximum term of any general obligation bond issue shall be forty years.

(2) General obligation bonds constitute an indebtedness of the local government issuing the bonds that are subject to the indebtedness limitations provided in Article VIII, section 6 of the state Constitution and are payable from tax revenues of the local government and such other money lawfully available and pledged or provided by the governing body of the local government for that purpose. Such governing body may pledge the full faith, credit and resources of the local government for the payment of general obligation bonds. The payment of such bonds shall be enforceable in mandamus against the local government and its officials. The officials now or hereafter charged by law with the duty of levying taxes pledged for the payment of general obligation bonds and interest thereon shall, in the manner provided by law, make an annual levy of such taxes sufficient together with other moneys lawfully available and pledge therefor to meet the payments of principal and interest on said bonds as they come due.

(3) General obligation bonds issued as physical instruments shall be executed in the manner determined by the governing body or legislative body of the issuer. If the issuer is a special district for which the county treasurer is the treasurer, the issuer shall notify the county treasurer at least thirty days in advance of authorizing the issuance of bonds or the incurrence of other certificates of indebtedness.

(4) Unless another statute specifically provides otherwise, the owner of a general obligation bond, or the owner of an interest coupon, issued by a local government shall not have any claim against the state arising from the general obligation bond or interest coupon.

(5) As used in this section, the term "local government" means every unit of local government, including municipal corporations, quasi municipal corporations, and political subdivisions, where property ownership is not a prerequisite to vote in the local government's elections. [1995 c 38 § 8; 1994 c 301 § 12; 1984 c 186 § 2.]

**Acts of municipal officers ratified and confirmed—1995 c 38:** See note following RCW 3.02.045.

**Purpose—1984 c 186:** "The purpose of this 1984 act is to provide simplified and uniform authorities for various local governments to issue and sell general obligation bonds. It is not the purpose of this 1984 act to alter the indebtedness limitation of local governments." [1984 c 186 § 1.]

**Chapter 39.50**  
**SHORT-TERM OBLIGATIONS—MUNICIPAL**  
**CORPORATIONS**

## Sections

39.50.030 Issuance of short-term obligations—Procedure—Interest rate—Contracts for future sale.

**39.50.030 Issuance of short-term obligations—Procedure—Interest rate—Contracts for future sale.** (1) The issuance of short-term obligations shall be authorized by ordinance of the governing body which ordinance shall fix the maximum amount of the obligations to be issued or, if applicable, the maximum amount which may be outstanding at any time, the maximum term and interest rate or rates to be borne thereby, the manner of sale, maximum price, form including bearer or registered as provided in RCW 39.46.030, terms, conditions, and the covenants thereof. The ordinance may provide for designation and employment of a paying agent for the short-term obligations and may authorize a designated representative of the municipal corporation, or if the county, the county treasurer to act on its behalf and subject to the terms of the ordinance in selling and delivering short-term obligations authorized and fixing the dates, price, interest rates, and other details as may be specified in the ordinance. Short-term obligations issued under this section shall bear such fixed or variable rate or rates of interest as the governing body considers to be in the best interests of the municipal corporation. Variable rates of interest may be fixed in relationship to such standard or index as the governing body designates.

The governing body may make contracts for the future sale of short-term obligations pursuant to which the purchasers are committed to purchase the short-term obligations from time to time on the terms and conditions stated in the contract, and may pay such consideration as it considers proper for the commitments. Short-term obligations issued in anticipation of the receipt of taxes shall be paid within six months from the end of the fiscal year in which they are issued. For the purpose of this subsection, short-term obligations issued in anticipation of the sale of general obligation bonds shall not be considered to be obligations issued in anticipation of the receipt of taxes.

(2) Notwithstanding subsection (1) of this section, such short-term obligations may be issued and sold in accordance with chapter 39.46 RCW. [1995 c 38 § 9; 1994 c 301 § 13; 1985 c 71 § 1; 1983 c 167 § 112; 1982 c 216 § 4.]

**Acts of municipal officers ratified and confirmed—1995 c 38:** See note following RCW 3.02.045.

**Liberal construction—Severability—1983 c 167:** See RCW 39.46.010 and note following.

**Chapter 39.52**  
**FUNDING INDEBTEDNESS IN COUNTIES, CITIES**  
**AND TOWNS**

## Sections

39.52.010 Issuance of funding bonds authorized.  
39.52.020 Limitations on issuance of bonds.

**39.52.010 Issuance of funding bonds authorized.** 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 county, city, or town which are special fund obligations of and constitute a lien upon the waterworks or other public utilities of such county, city, or town, and are payable only from the income or funds derived or to be derived therefrom, whether issued originally within the limitations of the Constitution of this state, or of any law thereof, or whether such outstanding indebtedness has been or may hereafter be validated or legalized in the manner prescribed by law, may, by its corporate authorities, provide by ordinance or resolution for the issuance of funding bonds with which to take up and cancel such outstanding indebtedness in the manner hereinafter described, said bonds to constitute general obligations of such county, city, or town: PROVIDED, That special fund obligations payable only from the income funds of the public utility, shall not be refunded by the issuance of general municipal bonds where voter approval is required before general municipal bonds may be issued for such public utility purposes, unless such general municipal bonds shall have been previously authorized. Nothing in this chapter shall be so construed as to prevent any such county, city, or town from funding its indebtedness as now provided by law. [1995 2nd sp.s. c 17 § 6; 1984 c 186 § 36; 1917 c 145 § 1; 1895 c 170 § 1; RRS § 5617.]

**Severability—1995 2nd sp.s. c 17:** See RCW 43.99K.900.

**Purpose—1984 c 186:** See note following RCW 39.46.110.

**39.52.020 Limitations on issuance of bonds.** No bonds issued under this chapter shall be issued for a longer period than twenty years. Nothing in this chapter shall be deemed to authorize the issuing of any funding bonds which exceeds any constitutional or statutory limitations of indebtedness. Such bonds shall be issued and sold in accordance with chapters 39.46 and 39.53 RCW, exclusive of RCW 39.53.120. [1995 2nd sp.s. c 17 § 7; 1984 c 186 § 37; 1983 c 167 § 113; 1970 ex.s. c 56 § 60; 1969 ex.s. c 232 § 31; 1895 c 170 § 2; RRS § 5619.]

**Severability—1995 2nd sp.s. c 17:** See RCW 43.99K.900.

**Purpose—1984 c 186:** See note following RCW 39.46.110.

**Liberal construction—Severability—1983 c 167:** See RCW 39.46.010 and note following.

**Purpose—1970 ex.s. c 56:** "Because market conditions are such that the state, state agencies, state colleges and universities, and the political subdivisions, municipal corporations and quasi municipal corporations of this state are finding it increasingly difficult and, in some cases, impossible to market bond issues and all other obligations, at the maximum permissible rate of interest payable on such bonds and obligations, it is the purpose of this 1970 amendatory act to remove all maximum rates of interest payable on such bonds and obligations." [1970 ex.s. c 56 § 1; 1969 ex.s. c 232 § 1.]

**Validation—Saving—1969 ex.s. c 232:** "All bonds, the issuance of which was authorized or ratified at a general or special election held within the issuing jurisdiction prior to the effective date of this amendatory act or the proposition for the issuance of which will be submitted at such an election pursuant to action of the legislative authority of the issuer taken prior to the effective date of this amendatory act, may be sold and issued with an interest rate or rates greater than any interest rate restriction contained in the ballot proposition or ordinance or resolution relating to such authorization or ratification if such bonds are sold and issued with an interest rate or rates not greater than those permitted by the applicable provision of this amendatory act." [1969 ex.s. c 232 § 94.]

**Severability—1969 ex.s. c 232:** "If a court of competent jurisdiction shall adjudge to be invalid or unconstitutional any clause, sentence, paragraph, section, or part of this 1969 amendatory act, such judgment or decree shall not affect, impair or nullify the remainder of this act, but the effect thereof shall be confined to the clause, sentence, paragraph, section, or part of this act so adjudged to be invalid or unconstitutional." [1969 ex.s. c 232 § 95.]

*Bonds, form, terms of sale, payment, etc.: Chapter 39.44 RCW.*

## Chapter 39.58

### PUBLIC FUNDS—DEPOSITS AND INVESTMENTS—PUBLIC DEPOSITARIES

#### Sections

39.58.180 Local governments—Use of credit cards.

#### 39.58.180 Local governments—Use of credit cards.

(1) Local governments, including counties, cities, towns, special purpose districts, municipal and quasi-municipal corporations, and political subdivisions, are authorized to use credit cards for official government purchases and acquisitions.

(2) A local government may contract for issuance of the credit cards.

(3) The legislative body shall adopt a system for:

(a) The distribution of the credit cards;

(b) The authorization and control of the use of credit card funds;

(c) The credit limits available on the credit cards;

(d) Payment of the bills; and

(e) Any other rule necessary to implement or administer the system under this section.

(4) As used in this section, "credit card" means a card or device issued under an arrangement pursuant to which the issuer gives to a card holder the privilege of obtaining credit from the issuer.

(5) Any credit card system adopted under this section is subject to examination by the state auditor's office pursuant to chapter 43.09 RCW.

(6) Cash advances on credit cards are prohibited. [1995 c 30 § 2.]

**Findings—1995 c 30:** "The legislature finds that (1) the use of credit cards is a customary and economical business practice to improve cash management, reduce costs, and increase efficiency; and (2) local governments should consider and use credit cards when appropriate." [1995 c 30 § 1.]

## Chapter 39.84

### INDUSTRIAL DEVELOPMENT REVENUE BONDS

#### Sections

39.84.090 Reporting to the department of community, trade, and economic development.

**39.84.090 Reporting to the department of community, trade, and economic development.** (1) Prior to issuance of any revenue bonds, each public corporation shall submit a copy of its enabling ordinance and charter, a description of any industrial development facility proposed to be undertaken, and the basis for its qualification as an industrial development facility to the department of community, trade, and economic development.

(2) If the industrial development facility is not eligible under this chapter, the department of community, trade, and economic development shall give notice to the public corporation, in writing and by certified mail, within twelve working days of receipt of the description.

(3) The \*department of trade and economic development shall report annually through 1989 to the chairs of the committees on ways and means of the senate and house of representatives, including one copy to the staff of each of the committees, and to the governor on the amount of capital investment undertaken under this chapter and the amount of permanent employment reasonably related to the existence of such industrial development facilities.

(4) The department of community, trade, and economic development shall provide such advice and assistance to public corporations and municipalities which have created or may wish to create public corporations as the public corporations or municipalities request and the department of community, trade, and economic development considers appropriate. [1995 c 399 § 56; 1987 c 505 § 22; 1985 c 466 § 46; 1981 c 300 § 9.]

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

**Effective date—Severability—1985 c 466:** See notes following RCW 43.31.085.

*Department of community, trade, and economic development: Chapter 43.330 RCW.*

## Chapter 39.86

### PRIVATE ACTIVITY BOND ALLOCATION

#### Sections

39.86.110 Definitions.

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

(1) "Agency" means the department of community, trade, and economic development.

(2) "Board" means the community economic revitalization board established under chapter 43.160 RCW.

(3) "Bonds" means bonds, notes, or other obligations of an issuer.

(4) "Bond use category" means any of the following categories of bonds which are subject to the state ceiling: (a) Housing, (b) student loans, (c) small issue, (d) exempt facility, (e) redevelopment, (f) public utility; and (g) remainder.

(5) "Carryforward" is an allocation or reallocation of the state ceiling which is carried from one calendar year to a later year, in accordance with the code.

(6) "Code" means the federal internal revenue code of 1986 as it exists on May 8, 1987. It also means the code as amended after May 8, 1987, but only if the amendments are approved by the agency under RCW 39.86.180.

(7) "Director" means the director of the agency or the director's designee.

(8) "Exempt facility" means the bond use category which includes all bonds which are exempt facility bonds as

described in the code, except those for qualified residential rental projects.

(9) "Firm and convincing evidence" means documentation that satisfies the director that the issuer is committed to the prompt financing of, and will issue tax exempt bonds for, the project or program for which it requests an allocation from the state ceiling.

(10) "Housing" means the bond use category which includes: (a) Mortgage revenue bonds and mortgage credit certificates as described in the code; and (b) exempt facility bonds for qualified residential rental projects as described in the code.

(11) "Initial allocation" means the portion (or dollar value of the state ceiling which initially in each calendar year is allocated to a bond use category for the issuance of private activity bonds, in accordance with RCW 39.86.120.

(12) "Issuer" means the state, any agency or instrumentality of the state, any political subdivision, or any other entity authorized to issue private activity bonds under state law.

(13) "Private activity bonds" means obligations that are private activity bonds as defined in the code or bonds for purposes described in section 1317(25) of the tax reform act of 1986.

(14) "Program" means the activities for which housing bonds or student loan bonds may be issued.

(15) "Public utility" means the bond use category which includes those bonds described in section 1317(25) of the tax reform act of 1986.

(16) "Redevelopment" means the bond use category which includes qualified redevelopment bonds as described in the code.

(17) "Remainder" means that portion of the state ceiling remaining after initial allocations are made under RCW 39.86.120 for any other bond use category.

(18) "Small issue" means the bond use category which includes all industrial development bonds that constitute qualified small issue bonds, as described in the code.

(19) "State" means the state of Washington.

(20) "State ceiling" means the volume limitation for each calendar year on tax-exempt private activity bonds, as imposed by the code.

(21) "Student loans" means the bond use category which includes qualified student loan bonds as described in the code. [1995 c 399 § 57; 1987 c 297 § 2.]

### Chapter 39.96

#### PAYMENT AGREEMENTS

##### Sections

- 39.96.010 Findings and declaration—Seven-year expiration.  
39.96.070 Payment agreements not allowed after June 30, 2000—  
Exception—Report to legislature.

**39.96.010 Findings and declaration—Seven-year expiration.** The legislature finds and declares that the issuance by state and local governments of bonds and other obligations, and the investment of moneys in connection with these obligations, involve exposure to changes in interest rates; that a number of financial instruments are available to lower the net cost of these borrowings, to increase the net

return on these investments, or to reduce the exposure of state and local governments to changes in interest rates; that these reduced costs and increased returns for state and local governments will benefit taxpayers and ratepayers; and that the legislature desires to provide state and local governments with express statutory authority to take advantage of these instruments. In recognition of the complexity of these financial instruments, the legislature desires that this authority be subject to certain limitations, and be granted for a period of seven years. [1995 c 192 § 1; 1993 c 273 § 1.]

**Effective date—1995 c 192:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995." [1995 c 192 § 3.]

**39.96.070 Payment agreements not allowed after June 30, 2000—Exception—Report to legislature.** (1) Except as provided in subsection (3) of this section, no governmental entity may enter a payment agreement under RCW 39.96.030 after June 30, 2000.

(2) The termination of authority to enter payment agreements after June 30, 2000, shall not affect the validity of any payment agreements or other contracts entered into under RCW 39.96.030 on or before that date.

(3) A governmental entity may enter into a payment agreement under and in accordance with this chapter after June 30, 2000, to replace a payment agreement that relates to specified obligations issued on or before that date and that has terminated before the final term of those obligations.

(4) The state finance committee shall make a report to the appropriate legislative committees on payment agreements authorized in this chapter. The report shall include the governmental entity entering into a payment agreement, the amount of the agreement, the expected savings resulting from the agreement, the transactions cost, and any other information the state finance committee determines relevant. The report shall be submitted each December. [1995 c 192 § 2; 1993 c 273 § 7.]

**Effective date—1995 c 192:** See note following RCW 39.96.010.

## Title 40

### PUBLIC DOCUMENTS, RECORDS, AND PUBLICATIONS

#### Chapters

- 40.04** Public documents.  
**40.10** Microfilming of records to provide continuity of civil government.  
**40.14** Preservation and destruction of public records.

#### Chapter 40.04

##### PUBLIC DOCUMENTS

##### Sections

- 40.04.030 Session laws, legislative journals, supreme court and court of appeals reports—Duties of public printer, publisher.  
40.04.035 Temporary edition of session laws—Distribution and sale.

- 40.04.040 Permanent edition of session laws—Distribution, sale, exchange—Sale of surplus copies.
- 40.04.090 Legislative journals—Distribution, sale, exchange.
- 40.04.100 Supreme court and court of appeals reports—Distribution, exchange—Duties of reporter of decisions.
- 40.04.110 Supreme court and court of appeals reports—Provision by publisher to reporter.

**40.04.030 Session laws, legislative journals, supreme court and court of appeals reports—Duties of public printer, publisher.** The public printer shall deliver to the statute law committee all bound volumes of the session laws. The public printer shall deliver the house and senate journals as they are published to the chief clerk of the house of representatives and the secretary of the senate, as appropriate. The publisher of the supreme court reports and the court of appeals reports of the state of Washington shall deliver the copies that are purchased by the supreme court for the use of the state to the state law librarian. [1995 c 24 § 1; 1971 c 42 § 2; 1941 c 150 § 3; Rem. Supp. 1941 § 8217-3.]

**40.04.035 Temporary edition of session laws—Distribution and sale.** The statute law committee, after each legislative session, shall furnish one temporary bound copy of each act as published under chapter 44.20 RCW to each requesting member of the legislature at which such law was enacted, and to each requesting state department or division thereof, commission, committee, board, and council, and to community colleges. Copies shall be furnished to the senate and the house of representatives as may be requested. Two copies shall be furnished the administrator for the courts. One copy shall be furnished for each assistant attorney general; and one copy each to the Olympia representatives of the Associated Press and the United Press.

Each county auditor shall submit each year to the statute law committee a list of county officials requiring temporary session laws for official use only, and the auditor shall receive and distribute such copies to the county officials.

There shall be a charge established by the statute law committee for each of the complete sets of such temporary publications when delivered to any person, firm, corporation, or institution excepting the persons and institutions named in this section. All moneys received from the sale of such temporary sets shall be transmitted to the state treasurer, who shall deposit them in the state treasury to the credit of the general fund. [1995 c 24 § 2; 1982 1st ex.s. c 32 § 5.]

*Publication of temporary edition of session laws: RCW 44.20.030.*

**40.04.040 Permanent edition of session laws—Distribution, sale, exchange—Sale of surplus copies.** Permanent session laws shall be distributed, sold, and exchanged by the statute law committee as follows:

(1) Copies shall be given as follows: One to each requesting United States senator and representative in congress from this state; two to the Library of Congress; one to the United States supreme court library; three to the library of the circuit court of appeals of the ninth circuit; two to each United States district court room within this state; two to each office and branch office of the United States district attorneys in this state; one to each requesting state official whose office is created by the Constitution; one each

to the secretary of the senate and the chief clerk of the house of representatives and such additional copies as they may request; fourteen copies to the code reviser; two copies to the state library; two copies each to the law libraries of any accredited law schools established in this state; one copy to each state adult correctional institution; and one copy to each state mental institution.

(2) Copies, for official use only, shall be distributed as follows: Two copies to the governor; one each to the state historical society and the state bar association; and one copy to each prosecuting attorney.

Sufficient copies shall be furnished for the use of the supreme court, the court of appeals, the superior courts, and the state law library as from time to time are requested. One copy to the University of Washington library; one copy to the library of each of the regional universities and to The Evergreen State College; and one copy 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; 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.

(3) Surplus copies of the session laws shall be sold and delivered by the statute law committee, in which case the price of the bound volumes shall be sufficient to cover costs. 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 statute law committee may exchange bound copies of the session laws for similar laws or legal materials of other states, territories, and governments, and make such other and further distribution of the bound volumes as in its judgment seems proper. [1995 c 24 § 3; 1982 1st ex.s. c 32 § 1; 1981 c 162 § 1; 1977 ex.s. c 169 § 94; 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.]

**Severability—Nomenclature—Savings—1977 ex.s. c 169:** See notes following RCW 28B.10.016.

*Publication of permanent edition of session laws: RCW 44.20.050.*

**40.04.090 Legislative journals—Distribution, sale, exchange.** The house and senate journals shall be distributed and sold by the chief clerk of the house of representatives and the secretary of the senate as follows:

(1) Subject to subsection (5) of this section, sets shall be distributed as follows: One to each requesting official whose office is created by the Constitution, and one to each requesting state department director; two copies to the state library; ten copies to the state 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 regional universities and to The Evergreen State College; one each to the law library of any accredited law school in this state; and one to each free public library in the state that requests it.

(2) House and senate journals of the preceding regular session during an odd- or even-numbered year, and of any intervening special session, shall be provided for use of legislators and legislative staff in such numbers as directed by the chief clerk of the house of representatives and secretary of the senate.

(3) Surplus sets of the house and senate journals shall be sold and delivered by the chief clerk of the house of representatives and the secretary of the senate at a price set by them after consulting with the state printer to determine reasonable costs associated with the production of the journals, and the proceeds therefrom shall be paid to the state treasurer for the general fund.

(4) The chief clerk of the house of representatives and the secretary of the senate may exchange copies of the house and senate journals for similar journals of other states, territories, and governments, or for other legal materials, and make such other and further distribution of them as in their judgment seems proper.

(5) Periodically the chief clerk of the house of representatives and the secretary of the senate may canvas those entitled to receive copies under this section, and may reduce or eliminate the number of copies distributed to anyone who so concurs. [1995 c 24 § 4; 1993 c 169 § 1; 1982 1st ex.s. c 32 § 2; 1980 c 87 § 13; 1977 ex.s. c 169 § 95; 1973 c 33 § 2; 1941 c 150 § 5; Rem. Supp. 1941 § 8217-5.]

**Severability—Nomenclature—Savings—1977 ex.s. c 169:** See notes following RCW 28B.10.016.

**40.04.100 Supreme court and court of appeals reports—Distribution, exchange—Duties of reporter of decisions.** The supreme court reports and the court of appeals reports shall be distributed by the reporter of decisions 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 or her.

(2) The state law library shall receive 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.

(3) The reporter shall provide one copy of each volume to each county for use in the county law library and one copy of the same to each accredited law school established in the state.

(4) The reporter shall likewise provide the state law library with such copies of volumes as necessary to exchange copies of the supreme court reports and the court of appeals reports for similar reports of other states, territories, and governments. [1995 c 257 § 4; 1991 c 363 § 113; 1979 c 151 § 49; 1973 c 33 § 3; 1971 c 42 § 3; 1941 c 150 § 6; Rem. Supp. 1941 § 8217-6.]

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

*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—Provision by publisher to reporter.** On the publication of each volume of reports the publisher to whom the contract is awarded shall provide to the reporter the number of copies of each volume of supreme court and court of appeals reports necessary for the reporter and the state law library to comply with RCW 40.04.100. [1995 c 257 § 5; 1971 c 42 § 4; 1941 c 150 § 7; Rem. Supp. 1941 § 8217-7.]

## Chapter 40.10

### MICROFILMING OF RECORDS TO PROVIDE CONTINUITY OF CIVIL GOVERNMENT

#### Sections

40.10.020 Essential records—Reproduction and storage—Coordination of protection program—Fees.

**40.10.020 Essential records—Reproduction and storage—Coordination of protection program—Fees.** 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 state archivist with the advice of the director of community, trade, and economic development. The state archivist shall coordinate the essential records protection program and shall carry out the provisions of the state emergency plan as they relate to the preservation of essential records. 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. [1995 c 399 § 58; 1986 c 266 § 45; 1985 c 7 § 106; 1982 c 36 § 2; 1973 c 54 § 2; 1963 c 241 § 2.]

**Severability—1986 c 266:** See note following RCW 38.52.005.

## Chapter 40.14

### PRESERVATION AND DESTRUCTION OF PUBLIC RECORDS

#### Sections

40.14.020 Division of archives and records management—State archivist—Powers and duties—Duties of public officials.

40.14.027 Public archives and records management services—Judgment debtor surcharge.

40.14.070 Destruction, disposition of local government records—Preservation for historical interest—Local records committee, duties—Record retention schedules.

**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 and records management is established in the office of the secretary of state. The state archivist, who shall administer the division and 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 adopt rules under chapter 34.05 RCW:

(a) Setting standards for the durability and permanence of public records maintained by state and local agencies;

(b) Governing procedures for the creation, maintenance, transmission, cataloging, indexing, storage, or reproduction of photographic, optical, electronic, or other images of public documents or records in a manner consistent with current standards, policies, and procedures of the department of information services for the acquisition of information technology;

(c) Governing the accuracy and durability of, and facilitating access to, photographic, optical, electronic, or other images used as public records; or

(d) To carry out any other provision of this chapter;

(7) To gather and disseminate to interested agencies information on all phases of records management and current practices, methods, procedures, techniques, and devices for efficient and economical management and preservation of records;

(8) 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;

(9) 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; [and]

(10) To assist and train state and local agencies in the proper methods of creating, maintaining, cataloging, indexing, transmitting, storing, and reproducing photographic, optical, electronic, or other images used as public records. [1995 c 326 § 1. Prior: 1991 c 237 § 4; 1991 c 184 § 1; 1986 c 275 § 1; 1983 c 84 § 1; 1981 c 115 § 1; 1957 c 246 § 2.]

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

**Effective date—1981 c 115:** "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1981." [1981 c 115 § 10.]

**40.14.027 Public archives and records management services—Judgment debtor surcharge.** State agencies shall collect a surcharge of twenty dollars from the judgment debtor upon the satisfaction of a warrant filed in superior court for unpaid taxes or liabilities. The surcharge is imposed on the judgment debtor in the form of a penalty in addition to the filing fee provided in RCW 36.18.012(3).

The surcharge revenue shall be transmitted to the state treasurer for deposit in the archives and records management account, or procedures for the collection and transmittal of surcharge revenue to the archives and records management account shall be established cooperatively between the filing agencies and clerks of superior court.

Surcharge revenue deposited in the archives and records management account shall be expended by the secretary of state exclusively for the payment of costs and expenses incurred in the provision of public archives and records management services to local government agencies by the division of archives and records management. The secretary of state shall work with local government representatives to establish a committee to advise the state archivist on the local government archives and records management program. Surcharge revenue shall be allocated exclusively to:

(1) Appraise, process, store, preserve, and provide public research access to original records designated by the state archivist as archival which are no longer required to be kept by the agencies which originally made or filed them;

(2) Protect essential records, as provided by chapters 40.10 and 40.20 RCW. Permanent facsimiles of essential records shall be produced and placed in security storage with the state archivist;

(3) Coordinate records retention and disposition management and provide support for the following functions under RCW 40.14.070:

(a) Advise and assist individual agencies on public records management requirements and practices; and

(b) Compile, maintain, and regularly update general records retention schedules and destruction authorizations; and

(4) Develop and maintain standards for the application of recording media and records storage technologies. [1995 c 292 § 17; 1994 c 193 § 2.]

**Findings—1994 c 193:** "The legislature finds that: (1) Accountability for and the efficient management of local government records are in the public interest and that compliance with public records management requirements significantly affects the cost of local government administration; (2) the secretary of state is responsible for insuring the preservation of local government archives and may assist local government compliance with public records statutes; (3) as provided in RCW 40.14.025, all archives and records management services provided by the secretary of state are funded exclusively by a schedule of fees and charges established jointly by the secretary of state and the director of financial management; (4) the secretary of state's costs for preserving and providing public access to local government archives and providing records management assistance to local government agencies have been funded by fees paid by state government agencies; (5) local government agencies are responsible for costs associated with managing, protecting, and providing public access to the records in their custody; (6) local government should help fund the secretary of state's local government archives and records management services; (7) the five-dollar fee collected by county clerks for processing warrants for unpaid taxes or liabilities filed by the state of Washington is not sufficient to cover processing costs and is far below filing fees commonly charged for similar types of minor civil actions; (8) a surcharge of twenty dollars would bring the filing fee for warrants for the collection of unpaid taxes and liabilities up to a level comparable to other minor civil filings and should be applied to the support of the secretary of state's local government archives and records services without placing an undue burden on local government; and (9) the process of collecting and transmitting surcharge revenue should not have an undue impact on the operations of the state agencies that file warrants for the collection of unpaid taxes and liabilities or the clerks of superior court who process them." [1994 c 193 § 1.]

**Effective date—1994 c 193:** "This act shall take effect July 1, 1994." [1994 c 193 § 3.]

**40.14.070 Destruction, disposition of local government records—Preservation for historical interest—Local records committee, duties—Record retention schedules.** 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 on forms prepared by the division. The archivist, a representative appointed by the state auditor, and a representative appointed by the attorney general shall constitute a committee, known as the local records committee, which shall review such lists and which 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.

Except as otherwise provided by law, no public records shall be destroyed until approved for destruction by the local records committee. Official public records shall not be destroyed unless:

- (1) The records are six or more years old;
- (2) The department of origin of the records has made a satisfactory showing to the state records committee that the retention of the records for a minimum of six years is both unnecessary and uneconomical, particularly where lesser federal retention periods for records generated by the state under federal programs have been established; or
- (3) The originals of official public records less than six years old have been copied or reproduced by any photographic, photostatic, microfilm, miniature photographic, or other process approved by the state archivist which accurately reproduces or forms a durable medium for so reproducing the original.

An automatic reduction of retention periods from seven to six years for official public records on record retention schedules existing on June 10, 1982, shall not be made, but the same shall be reviewed individually by the local records committee for approval or disapproval of the change to a retention period of six 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. [1995 c 301 § 71; 1982 c 36 § 6; 1973 c 54 § 5; 1971 ex.s. c 10 § 1; 1957 c 246 § 7.]

*Copying, preserving, and indexing of documents recorded by county auditor: RCW 36.22.160 through 36.22.190.*

*Destruction and reproduction of court records: RCW 36.23.065 through 36.23.070.*

## Title 41

### PUBLIC EMPLOYMENT, CIVIL SERVICE AND PENSIONS

#### Chapters

- 41.04** General provisions.
- 41.05** State health care authority.
- 41.06** State civil service law.
- 41.24** Volunteer fire fighters' relief and pensions.
- 41.26** Law enforcement officers' and fire fighters' retirement system.
- 41.32** Teachers' retirement.
- 41.34** Contributions under teachers' retirement system plan III.
- 41.40** Washington public employees' retirement system.
- 41.45** Actuarial funding of state retirement systems.
- 41.50** Department of retirement systems.
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#### Chapter 41.04

##### GENERAL PROVISIONS

#### Sections

- 41.04.205 Participation of county, municipal, and other political subdivision employees in state employees' insurance or self-insurance and health care program—Transfer procedure.
- 41.04.230 Payroll deductions authorized.
- 41.04.250 Repealed. (*Effective July 1, 1996.*)
- 41.04.255 Repealed. (*Effective July 1, 1996.*)
- 41.04.260 Repealed. (*Effective July 1, 1996.*)
- 41.04.440 Members' retirement contributions—Pick up by employer—Purpose—Benefits not contractual right. (*Effective July 1, 1996.*)
- 41.04.445 Members' retirement contributions—Pick up by employer—Implementation. (*Effective July 1, 1996.*)
- 41.04.450 Members' retirement contributions—Pick up by employer—Optional implementation and withdrawal. (*Effective July 1, 1996.*)

**41.04.205 Participation of county, municipal, and other political subdivision employees in state employees' insurance or self-insurance and health care program—Transfer procedure.** (1) Notwithstanding the provisions of RCW 41.04.180, the employees, with their dependents, of any county, municipality, or other political subdivision of this state shall be eligible to participate in any insurance or self-insurance program for employees administered under chapter 41.05 RCW if the legislative authority of any such county, municipality, or other political subdivisions of this state determines, subject to collective bargaining under applicable statutes, a transfer to an insurance or self-insur-



ance program administered under chapter 41.05 RCW should be made. In the event of a special district employee transfer pursuant to this section, members of the governing authority shall be eligible to be included in such transfer if such members are authorized by law as of June 25, 1976 to participate in the insurance program being transferred from and subject to payment by such members of all costs of insurance for members.

(2) When the legislative authority of a county, municipality, or other political subdivision determines to so transfer, the state health care authority shall:

- (a) Establish the conditions for participation; and
- (b) Have the sole right to reject the application.

Approval of the application by the state health care authority shall effect a transfer of the employees involved to the insurance, self-insurance, or health care program applied for.

(3) Any application of this section to members of the law enforcement officers' and fire fighters' retirement system under chapter 41.26 RCW is subject to chapter 41.56 RCW.

(4) School districts may voluntarily transfer, except that all eligible employees in a bargaining unit of a school district may transfer only as a unit and all nonrepresented employees in a district may transfer only as a unit. [1995 1st sp.s. c 6 § 8; 1993 c 386 § 3; 1992 c 199 § 1; 1990 c 222 § 1; 1988 c 107 § 17; 1975-'76 2nd ex.s. c 106 § 1.]

**Effective date**—1995 1st sp.s. c 6: See note following RCW 28A.400.410.

**Effective date**—1993 c 386 §§ 3, 7, and 11: "Sections 3, 7, and 11 of this act shall take effect October 1, 1993." [1993 c 386 § 17.]

**Intent**—1993 c 386: See note following RCW 28A.400.391.

**Implementation**—**Effective dates**—1988 c 107: See RCW 41.05.901.

**41.04.230 Payroll deductions authorized.** Any official of the state authorized to disburse funds in payment of salaries and wages of public officers or employees is authorized, upon written request of the officer or employee, to deduct from the salaries or wages of the officers or employees, the amount or amounts of subscription payments, premiums, contributions, or continuation thereof, for payment of the following:

(1) Credit union deductions: PROVIDED, That twenty-five or more employees of a single state agency or a total of one hundred or more state employees of several agencies have authorized such a deduction for payment to the same credit union. An agency may, in its own discretion, establish a minimum participation requirement of fewer than twenty-five employees.

(2) Parking fee deductions: PROVIDED, That payment is made for parking facilities furnished by the agency or by the department of general administration.

(3) U.S. savings bond deductions: PROVIDED, That a person within the particular agency shall be appointed to act as trustee. The trustee will receive all contributions; purchase and deliver all bond certificates; and keep such records and furnish such bond or security as will render full accountability for all bond contributions.

(4) Board, lodging or uniform deductions when such board, lodging and uniforms are furnished by the state, or

deductions for academic tuitions or fees or scholarship contributions payable to the employing institution.

(5) Dues and other fees deductions: PROVIDED, That the deduction is for payment of membership dues to any professional organization formed primarily for public employees or college and university professors: AND PROVIDED, FURTHER, That twenty-five or more employees of a single state agency, or a total of one hundred or more state employees of several agencies have authorized such a deduction for payment to the same professional organization.

(6) Labor or employee organization dues may be deducted in the event that a payroll deduction is not provided under a collective bargaining agreement under the provisions of RCW 41.06.150: PROVIDED, That twenty-five or more officers or employees of a single agency, or a total of one hundred or more officers or employees of several agencies have authorized such a deduction for payment to the same labor or employee organization: PROVIDED, FURTHER, That labor or employee organizations with five hundred or more members in state government may have payroll deduction for employee benefit programs.

(7) Insurance contributions to the authority for payment of premiums under contracts authorized by the state health care authority. However, enrollment or assignment by the state health care authority to participate in a health care benefit plan, as required by RCW 41.05.065(5), shall authorize a payroll deduction of premium contributions without a written consent under the terms and conditions established by the public employees' benefits board.

(8) Deductions to a bank, savings bank, or savings and loan association if (a) the bank, savings bank, or savings and loan association is authorized to do business in this state; and (b) twenty-five or more employees of a single agency, or fewer, if a lesser number is established by such agency, or a total of one hundred or more state employees of several agencies have authorized a deduction for payment to the same bank, savings bank, or savings and loan association.

Deductions from salaries and wages of public officers and employees other than those enumerated in this section or by other law, may be authorized by the director of financial management for purposes clearly related to state employment or goals and objectives of the agency and for plans authorized by the state health care authority.

The authority to make deductions from the salaries and wages of public officers and employees as provided for in this section shall be in addition to such other authority as may be provided by law: PROVIDED, That the state or any department, division, or separate agency of the state shall not be liable to any insurance carrier or contractor for the failure to make or transmit any such deduction. [1995 1st sp.s. c 6 § 21. Prior: 1993 c 2 § 26 (Initiative Measure No. 134, approved November 3, 1992); 1992 c 192 § 1; 1988 c 107 § 19; 1985 c 271 § 1; 1983 1st ex.s. c 28 § 3; 1980 c 120 § 1; 1979 c 151 § 54; 1973 1st ex.s. c 147 § 5; 1970 ex.s. c 39 § 11; 1969 c 59 § 5.]

**Effective date**—1995 1st sp.s. c 6: See note following RCW 28A.400.410.

**Implementation**—**Effective dates**—1988 c 107: See RCW 41.05.901.

**Application—1983 1st ex.s. c 28:** See note following RCW 42.16.010.

**Effective date—Effect of veto—Savings—Severability—1973 1st ex.s. c 147:** See notes following RCW 41.05.050.

**Severability—1970 ex.s. c 39:** See note following RCW 41.05.050.

**41.04.250 Repealed. (Effective July 1, 1996.)** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**41.04.255 Repealed. (Effective July 1, 1996.)** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**41.04.260 Repealed. (Effective July 1, 1996.)** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**41.04.440 Members' retirement contributions—Pick up by employer—Purpose—Benefits not contractual right. (Effective July 1, 1996.)** (1) The sole purpose of RCW 41.04.445 and 41.04.450 is to allow the members of the retirement systems created in chapters 2.10, 2.12, 41.26, 41.32, 41.40, 41.34, and 43.43 RCW to enjoy the tax deferral benefits allowed under 26 U.S.C. 414(h). Chapter 227, Laws of 1984 does not alter in any manner the provisions of RCW 41.26.450 and 41.40.650 which require that the member contribution rates shall be set so as to provide fifty percent of the cost of the respective retirement plans.

(2) Should the legislature revoke any benefit allowed under 26 U.S.C. 414(h), no affected employee shall be entitled thereafter to receive such benefit as a matter of contractual right. [1995 c 239 § 322; 1984 c 227 § 1.]

**Intent—Purpose—1995 c 239:** See note following RCW 41.32.831.

**Effective date—Part and subchapter headings not law—1995 c 239:** See notes following RCW 41.32.005.

**Effective date—1984 c 227:** "This act shall take effect on September 1, 1984." [1984 c 227 § 4.]

**Conflict with federal requirements—1984 c 227:** "If any part of this act is found to be in conflict with federal requirements, the conflicting part of the act is hereby declared to be inoperative solely to the extent of the conflict and such finding or determination shall not affect the operation of the remainder of the act in its application: PROVIDED, That the employee proportional contributions required under RCW 41.26.450, 41.32.775 and 41.40.650 may not be altered in any manner. The rules under this act shall meet federal requirements." [1984 c 227 § 6.]

**Severability—1984 c 227:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected: PROVIDED, That the employee proportional contributions required under RCW 41.26.450, 41.32.775 and 41.40.650 may not be altered in any manner." [1984 c 227 § 7.]

*Benefits not contractual right until July 1, 1996: RCW 41.34.100.*

**41.04.445 Members' retirement contributions—Pick up by employer—Implementation. (Effective July 1, 1996.)** (1) This section applies to all members who are:

(a) Judges under the retirement system established under chapter 2.10, 2.12, or 2.14 RCW;

(b) Employees of the state under the retirement system established by chapter 41.32, 41.40, or 43.43 RCW;

(c) Employees of school districts under the retirement system established by chapter 41.32 or 41.40 RCW, except for substitute teachers as defined by RCW 41.32.010;

(d) Employees of educational service districts under the retirement system established by chapter 41.32 or 41.40 RCW; or

(e) Employees of community college districts under the retirement system established by chapter 41.32 or 41.40 RCW.

(2) Only for compensation earned after the effective date of the implementation of this section and as provided by section 414(h) of the federal internal revenue code, the employer of all the members specified in subsection (1) of this section shall pick up only those member contributions as required under:

- (a) RCW 2.10.090(1);
- (b) RCW 2.12.060;
- (c) RCW 2.14.090;
- (d) RCW 41.32.263;
- (e) RCW 41.32.350;
- (f) RCW 41.40.330 (1) and (3);
- (g) RCW 41.40.650;
- (h) RCW 41.34.070;
- (i) RCW 43.43.300; and
- (j) RCW 41.34.040.

(3) Only for the purposes of federal income taxation, the gross income of the member shall be reduced by the amount of the contribution to the respective retirement system picked up by the employer.

(4) All member contributions to the respective retirement system picked up by the employer as provided by this section, plus the accrued interest earned thereon, shall be paid to the member upon the withdrawal of funds or lump-sum payment of accumulated contributions as provided under the provisions of the retirement systems.

(5) At least forty-five days prior to implementing this section, the employer shall provide:

(a) A complete explanation of the effects of this section to all members; and

(b) Notification of such implementation to the director of the department of retirement systems. [1995 c 239 § 323; 1992 c 212 § 15; 1990 c 274 § 6; 1988 c 109 § 24; 1985 c 13 § 2; 1984 c 227 § 2.]

**Intent—Purpose—1995 c 239:** See note following RCW 41.32.831.

**Effective date—Part and subchapter headings not law—1995 c 239:** See notes following RCW 41.32.005.

**Findings—Effective date—Construction—1990 c 274:** See notes following RCW 41.32.010.

**Effective date—1988 c 109:** See note following RCW 2.10.030.

**Purpose—Application—1985 c 13:** "The sole purpose of this 1985 act is to clarify and more explicitly state the intent of the legislature in enacting chapter 227, Laws of 1984. This 1985 act makes no substantive changes in the meaning or impact of that chapter and the provisions of this 1985 act shall be deemed to have retrospective application to September 1, 1984." [1985 c 13 § 1.]

**Retrospective application—1985 c 13:** "This act shall have retrospective application to September 1, 1984." [1985 c 13 § 8.]

**Effective date—Conflict with federal requirements—Severability—1984 c 227:** See notes following RCW 41.04.440.

*Benefits not contractual right until July 1, 1996: RCW 41.34.100.*

**41.04.450 Members' retirement contributions—Pick up by employer—Optional implementation and withdrawal.** (*Effective July 1, 1996.*) (1) Employers of those members under chapters 41.26, 41.40, and 41.34 RCW who are not specified in RCW 41.04.445 may choose to implement the employer pick up of all member contributions without exception under RCW 41.26.080(1), 41.26.450, 41.40.330(1), 41.40.650, and chapter 41.34 RCW. If the employer does so choose, the employer and members shall be subject to the conditions and limitations of RCW 41.04.445 (3), (4), and (5) and RCW 41.04.455.

(2) An employer exercising the option under this section may later choose to withdraw from and/or reestablish the employer pick up of member contributions only once in a calendar year following forty-five days prior notice to the director of the department of retirement systems. [1995 c 239 § 324; 1985 c 13 § 3; 1984 c 227 § 3.]

**Intent—Purpose—1995 c 239:** See note following RCW 41.32.831.

**Effective date—Part and subchapter headings not law—1995 c 239:** See notes following RCW 41.32.005.

**Purpose—Application—Retrospective application—1985 c 13:** See notes following RCW 41.04.445.

**Effective date—Conflict with federal requirements—Severability—1984 c 227:** See notes following RCW 41.04.440.

*Benefits not contractual right until July 1, 1996: RCW 41.34.100.*

## Chapter 41.05

### STATE HEALTH CARE AUTHORITY

(Formerly: State employees' insurance and health care)

#### Sections

41.05.011	Definitions.
41.05.021	State health care authority—Administrator—Cost control and delivery strategies—Managed competition.
41.05.022	State agent for purchasing health services—Single community-rated risk pool.
41.05.050	Contributions for employees and dependents.
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41.05.065	Public employees' benefits board—Duties.
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41.05.240	Repealed.
41.05.300	Benefits contribution plan—Authorized.
41.05.310	Benefits contribution plan—Policies and procedures—Plan document.
41.05.320	Benefits contribution plan—Eligibility—Participation, withdrawal.
41.05.330	Benefits contribution plan—Accounts and records.
41.05.340	Benefits contribution plan—Termination—Amendment.
41.05.350	Benefits contribution plan—Rules.
41.05.360	Benefits contribution plan—Construction.

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

(1) "Administrator" means the administrator of the authority.

(2) "State purchased health care" or "health care" means medical and health care, pharmaceuticals, and medical equipment purchased with state and federal funds by the department of social and health services, the department of health, the basic health plan, the state health care authority, the department of labor and industries, the department of

corrections, the department of veterans affairs, and local school districts.

(3) "Authority" means the Washington state health care authority.

(4) "Insuring entity" means an insurer as defined in chapter 48.01 RCW, a health care service contractor as defined in chapter 48.44 RCW, or a health maintenance organization as defined in chapter 48.46 RCW.

(5) "Flexible benefit plan" means a benefit plan that allows employees to choose the level of health care coverage provided and the amount of employee contributions from among a range of choices offered by the authority.

(6) "Employee" includes all full-time and career seasonal employees of the state, whether or not covered by civil service; elected and appointed officials of the executive branch of government, including full-time members of boards, commissions, or committees; and includes any or all part-time and temporary employees under the terms and conditions established under this chapter by the authority; justices of the supreme court and judges of the court of appeals and the superior courts; and members of the state legislature or of the legislative authority of any county, city, or town who are elected to office after February 20, 1970. "Employee" also includes: (a) Employees of a county, municipality, or other political subdivision of the state if the legislative authority of the county, municipality, or other political subdivision of the state seeks and receives the approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.04.205; (b) employees of employee organizations representing state civil service employees, at the option of each such employee organization, and, effective October 1, 1995, employees of employee organizations currently pooled with employees of school districts for the purpose of purchasing insurance benefits, at the option of each such employee organization; and (c) employees of a school district if the authority agrees to provide any of the school districts' insurance programs by contract with the authority as provided in RCW 28A.400.350.

(7) "Board" means the public employees' benefits board established under RCW 41.05.055.

(8) "Retired or disabled school employee" means:

(a) Persons who separated from employment with a school district or educational service district and are receiving a retirement allowance under chapter 41.32 or 41.40 RCW as of September 30, 1993;

(b) Persons who separate from employment with a school district or educational service district on or after October 1, 1993, and immediately upon separation receive a retirement allowance under chapter 41.32 or 41.40 RCW;

(c) Persons who separate from employment with a school district or educational service district due to a total and permanent disability, and are eligible to receive a deferred retirement allowance under chapter 41.32 or 41.40 RCW.

(9) "Benefits contribution plan" means a premium only contribution plan, a medical flexible spending arrangement, or a cafeteria plan whereby state and public employees may agree to a contribution to benefit costs which will allow the employee to participate in benefits offered pursuant to 26

U.S.C. Sec. 125 or other sections of the internal revenue code.

(10) "Salary" means a state employee's monthly salary or wages.

(11) "Participant" means an individual who fulfills the eligibility and enrollment requirements under the benefits contribution plan.

(12) "Plan year" means the time period established by the authority. [1995 1st sp.s. c 6 § 2; 1994 c 153 § 2. Prior: 1993 c 492 § 214; 1993 c 386 § 5; 1990 c 222 § 2; 1988 c 107 § 3.]

**Effective date—1995 1st sp.s. c 6:** See note following RCW 28A.400.410.

**Intent—1994 c 153:** "It is the intent of the legislature to increase access to health insurance for retired and disabled state and school district employees and to increase equity between state and school employees and between state and school retirees." [1994 c 153 § 1.]

**Effective dates—1994 c 153:** "This act shall take effect January 1, 1995, except section 15 of this act, which takes effect October 1, 1995." [1994 c 153 § 16.]

**Findings—Intent—1993 c 492:** See notes following RCW 43.72.005.

**Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492:** See RCW 43.72.910 through 43.72.915.

**Intent—1993 c 386:** See note following RCW 28A.400.391.

**Effective date—1993 c 386 §§ 1, 2, 4-6, 8-10, and 12-16:** See note following RCW 28A.400.391.

**41.05.021 State health care authority—Administrator—Cost control and delivery strategies—Managed competition.** (1) The Washington state health care authority is created within the executive branch. The authority shall have an administrator appointed by the governor, with the consent of the senate. The administrator shall serve at the pleasure of the governor. The administrator may employ up to seven staff members, who shall be exempt from chapter 41.06 RCW, and any additional staff members as are necessary to administer this chapter. The administrator may delegate any power or duty vested in him or her by this chapter, including authority to make final decisions and enter final orders in hearings conducted under chapter 34.05 RCW. The primary duties of the authority shall be to: Administer state employees' insurance benefits and retired or disabled school employees' insurance benefits; administer the basic health plan pursuant to chapter 70.47 RCW; study state-purchased health care programs in order to maximize cost containment in these programs while ensuring access to quality health care; and implement state initiatives, joint purchasing strategies, and techniques for efficient administration that have potential application to all state-purchased health services. The authority's duties include, but are not limited to, the following:

(a) To administer health care benefit programs for employees and retired or disabled school employees as specifically authorized in RCW 41.05.065 and in accordance with the methods described in RCW 41.05.075, 41.05.140, and other provisions of this chapter;

(b) To analyze state-purchased health care programs and to explore options for cost containment and delivery alternatives for those programs that are consistent with the purposes of those programs, including, but not limited to:

(i) Creation of economic incentives for the persons for whom the state purchases health care to appropriately utilize

and purchase health care services, including the development of flexible benefit plans to offset increases in individual financial responsibility;

(ii) Utilization of provider arrangements that encourage cost containment, including but not limited to prepaid delivery systems, utilization review, and prospective payment methods, and that ensure access to quality care, including assuring reasonable access to local providers, especially for employees residing in rural areas;

(iii) Coordination of state agency efforts to purchase drugs effectively as provided in RCW 70.14.050;

(iv) Development of recommendations and methods for purchasing medical equipment and supporting services on a volume discount basis; and

(v) Development of data systems to obtain utilization data from state-purchased health care programs in order to identify cost centers, utilization patterns, provider and hospital practice patterns, and procedure costs, utilizing the information obtained pursuant to RCW 41.05.031;

(c) To analyze areas of public and private health care interaction;

(d) To provide information and technical and administrative assistance to the board;

(e) To review and approve or deny applications from counties, municipalities, and other political subdivisions of the state to provide state-sponsored insurance or self-insurance programs to their employees in accordance with the provisions of RCW 41.04.205, setting the premium contribution for approved groups as outlined in RCW 41.05.050;

(f) To appoint a health care policy technical advisory committee as required by RCW 41.05.150;

(g) To establish billing procedures and collect funds from school districts and educational service districts under \*RCW 28A.400.400 in a way that minimizes the administrative burden on districts; and

(h) To promulgate and adopt rules consistent with this chapter as described in RCW 41.05.160.

(2) On and after January 1, 1996, the public employees' benefits board may implement strategies to promote managed competition among employee health benefit plans. Strategies may include but are not limited to:

(a) Standardizing the benefit package;

(b) Soliciting competitive bids for the benefit package;

(c) Limiting the state's contribution to a percent of the lowest priced qualified plan within a geographical area;

(d) Monitoring the impact of the approach under this subsection with regards to: Efficiencies in health service delivery, cost shifts to subscribers, access to and choice of managed care plans state-wide, and quality of health services. The health care authority shall also advise on the value of administering a benchmark employer-managed plan to promote competition among managed care plans. The health care authority shall report its findings and recommendations to the legislature by January 1, 1997.

(3) The health care authority shall, no later than July 1, 1996, submit to the appropriate committees of the legislature, proposed methods whereby, through the use of a voucher-type process, state employees may enroll with any health carrier to receive employee benefits. Such methods shall include the employee option of participating in a health care savings account, as set forth in Title 48 RCW.

(4) The Washington health care policy board shall study the necessity and desirability of the health care authority continuing as a self-insuring entity and make recommendations to the appropriate committees of the legislature by December 1, 1996. [1995 1st sp.s. c 6 § 7; 1994 c 309 § 1. Prior: 1993 c 492 § 215; 1993 c 386 § 6; 1990 c 222 § 3; 1988 c 107 § 4.]

\*Reviser's note: RCW 28A.400.400 was repealed by 1994 c 153 § 15, effective October 1, 1995.

**Effective date—1995 1st sp.s. c 6:** See note following RCW 28A.400.410.

**Findings—Intent—1993 c 492:** See notes following RCW 43.72.005.

**Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492:** See RCW 43.72.910 through 43.72.915.

**Intent—1993 c 386:** See note following RCW 28A.400.391.

**Effective date—1993 c 386 §§ 1, 2, 4-6, 8-10, and 12-16:** See note following RCW 28A.400.391.

**41.05.022 State agent for purchasing health services—Single community-rated risk pool.** (1) The health care authority is hereby designated as the single state agent for purchasing health services.

(2) On and after January 1, 1995, at least the following state-purchased health services programs shall be merged into a single, community-rated risk pool: Health benefits for groups of employees of school districts and educational service districts that voluntarily purchase health benefits as provided in RCW 41.05.011; health benefits for state employees; health benefits for eligible retired or disabled school employees not eligible for parts A and B of medicare; and health benefits for eligible state retirees not eligible for parts A and B of medicare.

(3) At a minimum, and regardless of other legislative enactments, the state health services purchasing agent shall:

(a) Require that a public agency that provides subsidies for a substantial portion of services now covered under the basic health plan use uniform eligibility processes, insofar as may be possible, and ensure that multiple eligibility determinations are not required;

(b) Require that a health care provider or a health care facility that receives funds from a public program provide care to state residents receiving a state subsidy who may wish to receive care from them, and that an insuring entity that receives funds from a public program accept enrollment from state residents receiving a state subsidy who may wish to enroll with them;

(c) Strive to integrate purchasing for all publicly sponsored health services in order to maximize the cost control potential and promote the most efficient methods of financing and coordinating services;

(d) Consult regularly with the governor, the legislature, and state agency directors whose operations are affected by the implementation of this section; and

(e) Ensure the control of benefit costs under managed competition by adopting rules to prevent employers from entering into an agreement with employees or employee organizations when the agreement would result in increased utilization in public employees' benefits board plans or reduce the expected savings of managed competition. [1995 1st sp.s. c 6 § 3; 1994 c 153 § 3; 1993 c 492 § 227.]

**Effective date—1995 1st sp.s. c 6:** See note following RCW 28A.400.410.

**Intent—Effective dates—1994 c 153:** See notes following RCW 41.05.011.

**Findings—Intent—1993 c 492:** See notes following RCW 43.72.005.

**Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492:** See RCW 43.72.910 through 43.72.915.

**41.05.050 Contributions for employees and dependents.** (1) Every department, division, or separate agency of state government, and such county, municipal, school district, educational service district, or other political subdivisions as are covered by this chapter, shall provide contributions to insurance and health care plans for its employees and their dependents, the content of such plans to be determined by the authority. Contributions, paid by the county, the municipality, school district, educational service district, or other political subdivision for their employees, shall include an amount determined by the authority to pay such administrative expenses of the authority as are necessary to administer the plans for employees of those groups. Until October 1, 1995, contributions to be paid by school districts or educational service districts shall be adjusted by the authority to reflect the remittance provided under RCW 28A.400.400.

(2) The contributions of any department, division, or separate agency of the state government, and such county, municipal, or other political subdivisions as are covered by this chapter, shall be set by the authority, subject to the approval of the governor for availability of funds as specifically appropriated by the legislature for that purpose. Insurance and health care contributions for ferry employees shall be governed by RCW 47.64.270.

(3) The authority shall transmit a recommendation for the amount of the employer contribution to the governor and the director of financial management for inclusion in the proposed budgets submitted to the legislature. [1995 1st sp.s. c 6 § 22; 1994 c 309 § 2; 1994 c 153 § 4. Prior: 1993 c 492 § 216; 1993 c 386 § 7; 1988 c 107 § 18; 1987 c 122 § 4; 1984 c 107 § 1; 1983 c 15 § 20; 1983 c 2 § 9; prior: 1982 1st ex.s. c 34 § 2; 1981 c 344 § 6; 1979 c 151 § 55; 1977 ex.s. c 136 § 4; 1975-'76 2nd ex.s. c 106 § 4; 1975 1st ex.s. c 38 § 2; 1973 1st ex.s. c 147 § 3; 1970 ex.s. c 39 § 5.]

**Reviser's note:** This section was amended by 1995 1st sp.s. c 6 § 22 without cognizance of its amendment by 1994 c 153 § 4. All amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Effective date—1995 1st sp.s. c 6:** See note following RCW 28A.400.410.

**Intent—Effective dates—1994 c 153:** See notes following RCW 41.05.011.

**Findings—Intent—1993 c 492:** See notes following RCW 43.72.005.

**Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492:** See RCW 43.72.910 through 43.72.915.

**Effective date—1993 c 386 §§ 3, 7, and 11:** See note following RCW 41.04.205.

**Intent—1993 c 386:** See note following RCW 28A.400.391.

**Severability—1983 c 15:** See RCW 47.64.910.

**Severability—1983 c 2:** See note following RCW 18.71.030.

**Severability—1981 c 344:** See note following RCW 47.60.326.

**Effective date—Conditions prerequisite to implementing sections—1977 ex.s. c 136:** "This 1977 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1977: PROVIDED, That if the state operating budget appropriations act does not contain the funds necessary for the implementation of this 1977 amendatory act in an appropriated amount sufficient to fully fund the employer's contribution to the state employee insurance benefits program which is established by the board in accordance with RCW 41.05.050 (2) and (3) as now or hereafter amended, sections 1, 5, and 6 of this 1977 amendatory act shall be null and void." [1977 ex.s. c 136 § 8.] For codification of 1977 ex.s. c 136, see Codification Tables, Volume 0.

**Effective date—Effect of veto—1973 1st ex.s. c 147:** "This bill shall not take effect until the funds necessary for its implementation have been specifically appropriated by the legislature and such appropriation itself has become law. It is the intention of the legislature that if the governor shall veto this section or any item thereof, none of the provisions of this bill shall take effect." [1973 1st ex.s. c 147 § 10.]

**Savings—1973 1st ex.s. c 147:** "Nothing contained in this 1973 amendatory act shall be deemed to amend, alter or affect the provisions of Chapter 23, Laws of 1972, Extraordinary Session, and RCW 28B.10.840 through 28B.10.844 as now or hereafter amended." [1973 1st ex.s. c 147 § 13.]

**Severability—1973 1st ex.s. c 147:** "If any provision of this 1973 amendatory act, or its application to any person or circumstances is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 1st ex.s. c 147 § 9.]

**Severability—1970 ex.s. c 39:** "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 39 § 14.]

**41.05.055 Public employees' benefits board—Members.** (1) The public employees' benefits board is created within the authority. The function of the board is to design and approve insurance benefit plans for state employees and school district employees.

(2) The board shall be composed of nine members appointed by the governor as follows:

(a) Two representatives of state employees, one of whom shall represent an employee union certified as exclusive representative of at least one bargaining unit of classified employees, and one of whom is retired, is covered by a program under the jurisdiction of the board, and represents an organized group of retired public employees;

(b) Two representatives of school district employees, one of whom shall represent an association of school employees and one of whom is retired, and represents an organized group of retired school employees;

(c) Four members with experience in health benefit management and cost containment; and

(d) The administrator.

(3) The member who represents an association of school employees and one member appointed pursuant to subsection (2)(c) of this section shall be nonvoting members until such time that there are no less than twelve thousand school district employee subscribers enrolled with the authority for health care coverage.

(4) The governor shall appoint the initial members of the board to staggered terms not to exceed four years. Members appointed thereafter shall serve two-year terms. Members of the board shall be compensated in accordance with RCW 43.03.250 and shall be reimbursed for their travel expenses while on official business in accordance with RCW 43.03.050 and 43.03.060. The board shall prescribe rules for the conduct of its business. The administrator shall serve as

chair of the board. Meetings of the board shall be at the call of the chair. [1995 1st sp.s. c 6 § 4; 1994 c 36 § 1; 1993 c 492 § 217; 1989 c 324 § 1; 1988 c 107 § 7.]

**Effective date—1995 1st sp.s. c 6:** See note following RCW 28A.400.410.

**Effective date—1994 c 36:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [March 21, 1994]." [1994 c 36 § 2.]

**Findings—Intent—1993 c 492:** See notes following RCW 43.72.005.

**Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492:** See RCW 43.72.910 through 43.72.915.

#### **41.05.065 Public employees' benefits board—Duties.**

(1) The board shall study all matters connected with the provision of health care coverage, life insurance, liability insurance, accidental death and dismemberment insurance, and disability income insurance or any of, or a combination of, the enumerated types of insurance for employees and their dependents on the best basis possible with relation both to the welfare of the employees and to the state. However, liability insurance shall not be made available to dependents.

(2) The board shall develop employee benefit plans that include comprehensive health care benefits for all employees. In developing these plans, the board shall consider the following elements:

(a) Methods of maximizing cost containment while ensuring access to quality health care;

(b) Development of provider arrangements that encourage cost containment and ensure access to quality care, including but not limited to prepaid delivery systems and prospective payment methods;

(c) Wellness incentives that focus on proven strategies, such as smoking cessation, injury and accident prevention, reduction of alcohol misuse, appropriate weight reduction, exercise, automobile and motorcycle safety, blood cholesterol reduction, and nutrition education;

(d) Utilization review procedures including, but not limited to a cost-efficient method for prior authorization of services, hospital inpatient length of stay review, requirements for use of outpatient surgeries and second opinions for surgeries, review of invoices or claims submitted by service providers, and performance audit of providers;

(e) Effective coordination of benefits;

(f) Minimum standards for insuring entities; and

(g) Minimum scope and content of public employee benefit plans to be offered to enrollees participating in the employee health benefit plans. To maintain the comprehensive nature of employee health care benefits, employee eligibility criteria related to the number of hours worked and the benefits provided to employees shall be substantially equivalent to the state employees' health benefits plan and eligibility criteria in effect on January 1, 1993. Nothing in this subsection (2)(g) shall prohibit changes or increases in employee point-of-service payments or employee premium payments for benefits.

(3) The board shall design benefits and determine the terms and conditions of employee participation and coverage, including establishment of eligibility criteria.

(4) The board may authorize premium contributions for an employee and the employee's dependents in a manner

that encourages the use of cost-efficient managed health care systems.

(5) Employees shall choose participation in one of the health care benefit plans developed by the board and may be permitted to waive coverage under terms and conditions established by the board.

(6) The board shall review plans proposed by insuring entities that desire to offer property insurance and/or accident and casualty insurance to state employees through payroll deduction. The board may approve any such plan for payroll deduction by insuring entities holding a valid certificate of authority in the state of Washington and which the board determines to be in the best interests of employees and the state. The board shall promulgate rules setting forth criteria by which it shall evaluate the plans. [1995 1st sp.s. c 6 § 5; 1994 c 153 § 5. Prior: 1993 c 492 § 218; 1993 c 386 § 9; 1988 c 107 § 8.]

**Effective date—1995 1st sp.s. c 6:** See note following RCW 28A.400.410.

**Intent—Effective dates—1994 c 153:** See notes following RCW 41.05.011.

**Findings—Intent—1993 c 492:** See notes following RCW 43.72.005.

**Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492:** See RCW 43.72.910 through 43.72.915.

**Intent—1993 c 386:** See note following RCW 28A.400.391.

**Effective date—1993 c 386 §§ 1, 2, 4-6, 8-10, and 12-16:** See note following RCW 28A.400.391.

**41.05.200 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**41.05.210 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**41.05.240 Recodified as RCW 43.70.590.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**Reviser's note:** This section was also repealed by 1995 1st sp.s. c 6 § 9 without cognizance of the recodification and amendment thereof. For rule of construction concerning sections amended and repealed in the same legislative session, see RCW 1.12.025.

**41.05.240 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**Reviser's note:** This section was also amended and recodified as RCW 43.70.590 by 1995 c 43 without cognizance of the repeal thereof. For rule of construction concerning sections amended and repealed in the same legislative session, see RCW 1.12.025.

**41.05.300 Benefits contribution plan—Authorized.**

(1) The state of Washington may enter into benefits contribution plans with employees of the state pursuant to the internal revenue code, 26 U.S.C. Sec. 125, for the purpose of making it possible for employees of the state to select on a "before-tax basis" certain taxable and nontaxable benefits pursuant to 26 U.S.C. Sec. 125. The purpose of the benefits contribution plan established in this chapter is to attract and retain individuals in governmental service by permitting them to enter into agreements with the state to provide for benefits pursuant to 26 U.S.C. Sec. 125 and other applicable sections of the internal revenue code.

(2) Nothing in the benefits contribution plan constitutes an employment agreement between the participant and the

state, and nothing contained in the participant's benefits contribution agreement, the plan, this section, or RCW 41.05.310 through 41.05.360 gives a participant any right to be retained in state employment. [1995 1st sp.s. c 6 § 11.]

**Effective date—1995 1st sp.s. c 6:** See note following RCW 28A.400.410.

**41.05.310 Benefits contribution plan—Policies and procedures—Plan document.** The authority shall have responsibility for the formulation and adoption of a plan, policies, and procedures designed to guide, direct, and administer the benefits contribution plan. For the plan year beginning January 1, 1996, the administrator may establish a premium only contribution plan. Expansion of the benefits contribution plan to a medical flexible spending arrangement or cafeteria plan during subsequent plan years shall be subject to approval by the director of the office of financial management.

(1) A plan document describing the benefits contribution plan shall be adopted and administered by the authority. The authority shall represent the state in all matters concerning the administration of the plan. The state, through the authority, may engage the services of a professional consultant or administrator on a contractual basis to serve as an agent to assist the authority or perform the administrative functions necessary in carrying out the purposes of RCW 41.05.300 through 41.05.350.

(2) The authority shall formulate and establish policies and procedures for the administration of the benefits contribution plan that are consistent with existing state law, the internal revenue code, and the regulations adopted by the internal revenue service as they may apply to the benefits offered to participants under the plan.

(3) Every action taken by the authority in administering RCW 41.05.300 through 41.05.350 shall be presumed to be a fair and reasonable exercise of the authority vested in or the duties imposed upon it. The authority shall be presumed to have exercised reasonable care, diligence, and prudence and to have acted impartially as to all persons interested unless the contrary be proved by clear and convincing affirmative evidence. [1995 1st sp.s. c 6 § 12.]

**Effective date—1995 1st sp.s. c 6:** See note following RCW 28A.400.410.

**41.05.320 Benefits contribution plan—Eligibility—Participation, withdrawal.** (1) Elected officials and all permanent employees of the state are eligible to participate in the benefits contribution plan and contribute amount(s) by agreement with the authority. The authority may adopt rules to permit participation in the plan by temporary employees of the state.

(2) Persons eligible under subsection (1) of this section may enter into benefits contribution agreements with the state.

(3)(a) In the initial year of the medical flexible spending arrangement or cafeteria plan, if authorized, an eligible person may become a participant after the adoption of the plan and before its effective date by agreeing to have a portion of his or her gross salary contributed and deposited into a health care and other benefits account to be used for reimbursement of expenses covered by the plan.

(b) After the initial year of the medical flexible spending arrangement or cafeteria plan, if authorized, an eligible person may become a participant for a full plan year, with annual benefit selection for each new plan year made before the beginning of the plan year, as determined by the authority, or upon becoming eligible.

(c) Once an eligible person elects to participate and the amount of gross salary that he or she shall contribute and the benefit for which the funds are to be used during the plan year is determined, the agreement shall be irrevocable and may not be amended during the plan year except as provided in (d) of this subsection. Prior to making an election to participate in the benefit[s] contribution plan, the eligible person shall be informed in writing of all the benefits and contributions that will occur as a result of such election.

(d) The authority shall provide in the benefits contribution plan that a participant may enroll, terminate, or change his or her election after the plan year has begun if there is a significant change in a participant's status, as provided by 26 U.S.C. Sec. 125 and the regulations adopted under that section and defined by the authority.

(4) The authority shall establish as part of the benefits contribution plan the procedures for and effect of withdrawal from the plan by reason of retirement, death, leave of absence, or termination of employment. To the extent possible under federal law, the authority shall protect participants from forfeiture of rights under the plan.

(5) Any contribution under the benefits contribution plan shall continue to be included as reportable compensation for the purpose of computing the state retirement and pension benefits earned by the employee pursuant to chapters 41.26, 41.32, 41.40, and 43.43 RCW. [1995 1st sp.s. c 6 § 13.]

**Effective date—1995 1st sp.s. c 6:** See note following RCW 28A.400.410.

**41.05.330 Benefits contribution plan—Accounts and records.** The authority shall keep or cause to be kept full and adequate accounts and records of the assets, obligations, transactions, and affairs of a benefits contribution plan created under RCW 41.05.300. [1995 1st sp.s. c 6 § 14.]

**Effective date—1995 1st sp.s. c 6:** See note following RCW 28A.400.410.

**41.05.340 Benefits contribution plan—Termination—Amendment.** (1) The state may terminate the benefits contribution plan at the end of the plan year or upon notification of federal action affecting the status of the plan.

(2) The authority may amend the benefits contribution plan at any time if the amendment does not affect the rights of the participants to receive eligible reimbursement from the participants' benefits contribution accounts. [1995 1st sp.s. c 6 § 15.]

**Effective date—1995 1st sp.s. c 6:** See note following RCW 28A.400.410.

**41.05.350 Benefits contribution plan—Rules.** The authority shall adopt rules necessary to implement RCW 41.05.300 through 41.05.340. [1995 1st sp.s. c 6 § 16.]

**Effective date—1995 1st sp.s. c 6:** See note following RCW 28A.400.410.

**41.05.360 Benefits contribution plan—Construction.** RCW 41.05.300 through 41.05.350 shall be construed to effectuate the purposes of 26 U.S.C. Sec. 125 and other applicable sections of the internal revenue code as required. [1995 1st sp.s. c 6 § 17.]

**Effective date—1995 1st sp.s. c 6:** See note following RCW 28A.400.410.

## Chapter 41.06

### STATE CIVIL SERVICE LAW

#### Sections

- 41.06.070 Exemptions—Right of reversion to civil service status—Exception—Expiration of subsection.
- 41.06.072 Department of community, trade, and economic development—Certain personnel exempted from chapter.
- 41.06.089 Decodified.
- 41.06.150 Rules of board—Mandatory subjects—Veterans' preference—Affirmative action.

**41.06.070 Exemptions—Right of reversion to civil service status—Exception—Expiration of subsection.** (1) The provisions of this chapter do not apply to:

(a) The members of the legislature or to any employee of, or position in, the legislative branch of the state government including members, officers, and employees of the legislative council, legislative budget committee, statute law committee, and any interim committee of the legislature;

(b) The justices of the supreme court, judges of the court of appeals, judges of the superior courts or of the inferior courts, or to any employee of, or position in the judicial branch of state government;

(c) Officers, academic personnel, and employees of technical colleges;

(d) The officers of the Washington state patrol;

(e) Elective officers of the state;

(f) The chief executive officer of each agency;

(g) In the departments of employment security and social and health services, the director and the director's confidential secretary; in all other departments, the executive head of which is an individual appointed by the governor, the director, his or her confidential secretary, and his or her statutory assistant directors;

(h) In the case of a multimember board, commission, or committee, whether the members thereof are elected, appointed by the governor or other authority, serve ex officio, or are otherwise chosen:

(i) All members of such boards, commissions, or committees;

(ii) If the members of the board, commission, or committee serve on a part-time basis and there is a statutory executive officer: The secretary of the board, commission, or committee; the chief executive officer of the board, commission, or committee; and the confidential secretary of the chief executive officer of the board, commission, or committee;

(iii) If the members of the board, commission, or committee serve on a full-time basis: The chief executive officer or administrative officer as designated by the board, commission, or committee; and a confidential secretary to the chair of the board, commission, or committee;



(iv) If all members of the board, commission, or committee serve ex officio: The chief executive officer; and the confidential secretary of such chief executive officer;

(i) The confidential secretaries and administrative assistants in the immediate offices of the elective officers of the state;

(j) Assistant attorneys general;

(k) Commissioned and enlisted personnel in the military service of the state;

(l) Inmate, student, part-time, or temporary employees, and part-time professional consultants, as defined by the Washington personnel resources board;

(m) The public printer or to any employees of or positions in the state printing plant;

(n) Officers and employees of the Washington state fruit commission;

(o) Officers and employees of the Washington state apple advertising commission;

(p) Officers and employees of the Washington state dairy products commission;

(q) Officers and employees of the Washington tree fruit research commission;

(r) Officers and employees of the Washington state beef commission;

(s) Officers and employees of any commission formed under chapter 15.66 RCW;

(t) Officers and employees of the state wheat commission formed under chapter 15.63 RCW;

(u) Officers and employees of agricultural commissions formed under chapter 15.65 RCW;

(v) Officers and employees of the nonprofit corporation formed under chapter 67.40 RCW;

(w) Executive assistants for personnel administration and labor relations in all state agencies employing such executive assistants including but not limited to all departments, offices, commissions, committees, boards, or other bodies subject to the provisions of this chapter and this subsection shall prevail over any provision of law inconsistent herewith unless specific exception is made in such law;

(x) In each agency with fifty or more employees: Deputy agency heads, assistant directors or division directors, and not more than three principal policy assistants who report directly to the agency head or deputy agency heads;

(y) All employees of the marine employees' commission;

(z) Up to a total of five senior staff positions of the western library network under chapter 27.26 RCW responsible for formulating policy or for directing program management of a major administrative unit. This subsection (1)(z) shall expire on June 30, 1997.

(2) The following classifications, positions, and employees of institutions of higher education and related boards are hereby exempted from coverage of this chapter:

(a) Members of the governing board of each institution of higher education and related boards, all presidents, vice-presidents and their confidential secretaries, administrative and personal assistants; deans, directors, and chairs; academic personnel; and executive heads of major administrative or academic divisions employed by institutions of higher education; principal assistants to executive heads of major administrative or academic divisions; other managerial or

professional employees in an institution or related board having substantial responsibility for directing or controlling program operations and accountable for allocation of resources and program results, or for the formulation of institutional policy, or for carrying out personnel administration or labor relations functions, legislative relations, public information, development, senior computer systems and network programming, or internal audits and investigations; and any employee of a community college district whose place of work is one which is physically located outside the state of Washington and who is employed pursuant to RCW 28B.50.092 and assigned to an educational program operating outside of the state of Washington;

(b) Student, part-time, or temporary employees, and part-time professional consultants, as defined by the Washington personnel resources board, employed by institutions of higher education and related boards;

(c) The governing board of each institution, and related boards, may also exempt from this chapter classifications involving research activities, counseling of students, extension or continuing education activities, graphic arts or publications activities requiring prescribed academic preparation or special training as determined by the board: PROVIDED, That no nonacademic employee engaged in office, clerical, maintenance, or food and trade services may be exempted by the board under this provision;

(d) Printing craft employees in the department of printing at the University of Washington.

(3) In addition to the exemptions specifically provided by this chapter, the Washington personnel resources board may provide for further exemptions pursuant to the following procedures. The governor or other appropriate elected official may submit requests for exemption to the Washington personnel resources board stating the reasons for requesting such exemptions. The Washington personnel resources board shall hold a public hearing, after proper notice, on requests submitted pursuant to this subsection. If the board determines that the position for which exemption is requested is one involving substantial responsibility for the formulation of basic agency or executive policy or one involving directing and controlling program operations of an agency or a major administrative division thereof, the Washington personnel resources board shall grant the request and such determination shall be final as to any decision made before July 1, 1993. The total number of additional exemptions permitted under this subsection shall not exceed one percent of the number of employees in the classified service not including employees of institutions of higher education and related boards for those agencies not directly under the authority of any elected public official other than the governor, and shall not exceed a total of twenty-five for all agencies under the authority of elected public officials other than the governor. The Washington personnel resources board shall report to each regular session of the legislature during an odd-numbered year all exemptions granted under subsections (1) (w) and (x) and (2) of this section, together with the reasons for such exemptions.

The salary and fringe benefits of all positions presently or hereafter exempted except for the chief executive officer of each agency, full-time members of boards and commissions, administrative assistants and confidential secretaries in

the immediate office of an elected state official, and the personnel listed in subsections (1) (j) through (v) and (2) of this section, shall be determined by the Washington personnel resources board.

Any person holding a classified position subject to the provisions of this chapter shall, when and if such position is subsequently exempted from the application of this chapter, be afforded the following rights: If such person previously held permanent status in another classified position, such person shall have a right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

Any classified employee having civil service status in a classified position who accepts an appointment in an exempt position shall have the right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

A person occupying an exempt position who is terminated from the position for gross misconduct or malfeasance does not have the right of reversion to a classified position as provided for in this section. [1995 c 163 § 1; 1994 c 264 § 13. Prior: 1993 sp.s. c 2 § 15; 1993 c 379 § 306; 1993 c 281 § 21; 1990 c 60 § 101; 1989 c 96 § 8; 1987 c 389 § 2; 1985 c 221 § 1; 1984 c 210 § 2; 1983 c 15 § 21; 1982 1st ex.s. c 53 § 2; 1981 c 225 § 2; 1980 c 87 § 14; 1973 1st ex.s. c 133 § 1; 1972 ex.s. c 11 § 1; prior: 1971 ex.s. c 209 § 1; 1971 ex.s. c 59 § 1; 1971 c 81 § 100; 1969 ex.s. c 36 § 23; 1967 ex.s. c 8 § 47; 1961 c 179 § 1; 1961 c 1 § 7 (Initiative Measure No. 207, approved November 8, 1960).]

**Effective date—1995 c 163:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 1, 1995]." [1995 c 163 § 2.]

**Effective date—1993 sp.s. c 2 §§ 1-6, 8-59, and 61-79:** See RCW 43.300.900.

**Severability—1993 sp.s. c 2:** See RCW 43.300.901.

**Intent—Severability—Effective date—1993 c 379:** See notes following RCW 28B.10.029.

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

**Severability—1990 c 60:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1990 c 60 § 403.]

**Subheadings not law—1990 c 60:** "Subheadings as used in this act do not constitute any part of the law." [1990 c 60 § 401.]

**Findings—1989 c 96:** See note following RCW 27.26.010.

**Severability—1989 c 96:** See RCW 27.26.900.

**Severability—1987 c 389:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1987 c 389 § 8.]

**Effective date—1987 c 389:** "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 30, 1987." [1987 c 389 § 9.]

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

**Severability—1983 c 15:** See RCW 47.64.910.

**Severability—1982 1st ex.s. c 53:** See note following RCW 41.06.020.

**Severability—1967 ex.s. c 8:** See RCW 28B.50.910.

*County road administration board:* RCW 36.78.060.

*State agencies and departments—Certain personnel exempted from chapter basic health plan:* RCW 70.47.040.

*board of health:* RCW 43.20.030.

*center for volunteerism and citizen service:* RCW 43.150.040.

*Columbia River Gorge commission:* RCW 43.97.015.

*commission on judicial conduct:* RCW 2.64.050.

*council for the prevention of child abuse and neglect:* RCW 43.121.040.

*department of*

*agriculture:* RCW 41.06.084.

*corrections:* RCW 41.06.071.

*ecology:* RCW 41.06.073, 43.21A.100.

*general administration, supervisor of motor transport:* RCW 43.19.585.

*health:* RCW 43.70.020.

*information services:* RCW 41.06.094.

*retirement systems:* RCW 41.50.070.

*services for the blind:* RCW 74.18.050.

*social and health services:* RCW 41.06.076, 43.20A.090.

*transportation:* RCW 41.06.079, 47.01.081.

*veterans affairs:* RCW 41.06.077.

*economic and revenue forecast supervisor and staff:* RCW 41.06.087.

*energy office:* RCW 41.06.081, 43.21F.035.

*gambling commission:* RCW 9.46.080.

*law revision commission:* RCW 41.06.083.

*office of*

*administrative hearings:* RCW 34.12.030.

*financial management:* RCW 41.06.075, 43.41.080.

*minority and women's business enterprises:* RCW 39.19.030.

*personnel appeals board:* RCW 41.64.050.

*state actuary:* RCW 44.44.030.

*state convention and trade center:* RCW 67.40.020.

*state internship program:* RCW 41.06.088.

*state investment board:* RCW 43.33A.100.

*state lottery commission:* RCW 67.70.050.

*state school directors' association:* RCW 41.06.086.

*state treasurer:* RCW 43.08.120.

*state veterinarian:* RCW 41.06.084.

*superintendent of public instruction:* RCW 28A.300.020.

*Washington conservation corps:* RCW 43.220.070.

*Washington service corps:* RCW 50.65.110.

*Washington state patrol, drug control assistance unit:* RCW 43.43.640.

*world fair commission:* RCW 41.06.085.

*youth development and conservation corps:* RCW 43.51.550.

**41.06.072 Department of community, trade, and economic development—Certain personnel exempted from chapter.** In addition to the exemptions set forth in this chapter, this chapter shall not apply within the department of community, trade, and economic development to the director, one confidential secretary, the deputy directors, all assistant directors, the state historic preservation officer, and up to two professional staff members within the emergency management program. [1995 c 399 § 59; 1986 c 266 § 8.]

**Severability—1986 c 266:** See note following RCW 38.52.005.

**41.06.089 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**41.06.150 Rules of board—Mandatory subjects—Veterans' preference—Affirmative action.** The board shall adopt rules, consistent with the purposes and provisions of this chapter, as now or hereafter amended, and with the best standards of personnel administration, regarding the basis and procedures to be followed for:

(1) The reduction, dismissal, suspension, or demotion of an employee;

(2) Certification of names for vacancies, including departmental promotions, with the number of names equal to six more names than there are vacancies to be filled, such names representing applicants rated highest on eligibility lists: PROVIDED, That when other applicants have scores

equal to the lowest score among the names certified, their names shall also be certified;

(3) Examinations for all positions in the competitive and noncompetitive service;

(4) Appointments;

(5) Training and career development;

(6) Probationary periods of six to twelve months and rejections of probationary employees, depending on the job requirements of the class, except that entry level state park rangers shall serve a probationary period of twelve months;

(7) Transfers;

(8) Sick leaves and vacations;

(9) Hours of work;

(10) Layoffs when necessary and subsequent reemployment, both according to seniority;

(11) Determination of appropriate bargaining units within any agency: PROVIDED, That in making such determination the board shall consider the duties, skills, and working conditions of the employees, the history of collective bargaining by the employees and their bargaining representatives, the extent of organization among the employees, and the desires of the employees;

(12) Certification and decertification of exclusive bargaining representatives: PROVIDED, That after certification of an exclusive bargaining representative and upon the representative's request, the director shall hold an election among employees in a bargaining unit to determine by a majority whether to require as a condition of employment membership in the certified exclusive bargaining representative on or after the thirtieth day following the beginning of employment or the date of such election, whichever is the later, and the failure of an employee to comply with such a condition of employment constitutes cause for dismissal: PROVIDED FURTHER, That no more often than once in each twelve-month period after expiration of twelve months following the date of the original election in a bargaining unit and upon petition of thirty percent of the members of a bargaining unit the director shall hold an election to determine whether a majority wish to rescind such condition of employment: PROVIDED FURTHER, That for purposes of this clause, membership in the certified exclusive bargaining representative is satisfied by the payment of monthly or other periodic dues and does not require payment of initiation, reinstatement, or any other fees or fines and includes full and complete membership rights: AND PROVIDED FURTHER, That in order to safeguard the right of nonassociation of public employees, based on bona fide religious tenets or teachings of a church or religious body of which such public employee is a member, such public employee shall pay to the union, for purposes within the program of the union as designated by such employee that would be in harmony with his or her individual conscience, an amount of money equivalent to regular union dues minus any included monthly premiums for union-sponsored insurance programs, and such employee shall not be a member of the union but is entitled to all the representation rights of a union member;

(13) Agreements between agencies and certified exclusive bargaining representatives providing for grievance procedures and collective negotiations on all personnel matters over which the appointing authority of the appropri-

ate bargaining unit of such agency may lawfully exercise discretion;

(14) Written agreements may contain provisions for payroll deductions of employee organization dues upon authorization by the employee member and for the cancellation of such payroll deduction by the filing of a proper prior notice by the employee with the appointing authority and the employee organization: PROVIDED, That nothing contained herein permits or grants to any employee the right to strike or refuse to perform his or her official duties;

(15) Adoption and revision of a comprehensive classification plan for all positions in the classified service, based on investigation and analysis of the duties and responsibilities of each such position. The board shall not adopt job classification revisions or class studies unless implementation of the proposed revision or study will result in net cost savings, increased efficiencies, or improved management of personnel or services, and the proposed revision or study has been approved by the director of financial management in accordance with chapter 43.88 RCW. Beginning July 1, 1995, through June 30, 1997:

(a) The board may approve the implementation of salary increases resulting from adjustments to the classification plan during the 1995-97 fiscal biennium only if:

(i) The implementation will not result in additional net costs and the proposed implementation has been approved by the director of financial management in accordance with chapter 43.88 RCW;

(ii) The implementation will take effect on July 1, 1996, and the total net cost of all such actions approved by the board for implementation during the 1995-97 fiscal biennium does not exceed the amounts specified by the legislature specifically for this purpose; or

(iii) The implementation is a result of emergent conditions. Emergent conditions are defined as newly mandated programs for which moneys are not appropriated, establishment of positions necessary for the preservation of the public health, safety, or general welfare, and related issues which do not exceed \$250,000 of the moneys identified in section 718(2), chapter 18, Laws of 1995 2nd sp. sess.

(b) The board may approve the implementation of salary increases resulting from adjustments to the classification plan for implementation in the 1997-99 fiscal biennium only if the implementation will not result in additional net costs or the implementation has been approved by the legislature in the omnibus appropriations act or other legislation.

(c) The board shall approve only those salary increases resulting from adjustments to the classification plan if they are due to documented recruitment and retention difficulties, salary compression or inversion, increased duties and responsibilities, or inequities. For these purposes, inequities are defined as similar work assigned to different job classes with a salary disparity greater than 7.5 percent.

(d) Adjustments made to the higher education hospital special pay plan are exempt from (a) through (c) of this subsection;

(16) Allocation and reallocation of positions within the classification plan;

(17) Adoption and revision of a state salary schedule to reflect the prevailing rates in Washington state private

industries and other governmental units but the rates in the salary schedules or plans shall be increased if necessary to attain comparable worth under an implementation plan under RCW 41.06.155 and that, for institutions of higher education and related boards, shall be competitive for positions of a similar nature in the state or the locality in which an institution of higher education or related board is located, such adoption and revision subject to approval by the director of financial management in accordance with the provisions of chapter 43.88 RCW;

(18) Increment increases within the series of steps for each pay grade based on length of service for all employees whose standards of performance are such as to permit them to retain job status in the classified service;

(19) Providing for veteran's preference as required by existing statutes, with recognition of preference in regard to layoffs and subsequent reemployment for veterans and their surviving spouses by giving such eligible veterans and their surviving spouses additional credit in computing their seniority by adding to their unbroken state service, as defined by the board, the veteran's service in the military not to exceed five years. For the purposes of this section, "veteran" means any person who has one or more years of active military service in any branch of the armed forces of the United States or who has less than one year's service and is discharged with a disability incurred in the line of duty or is discharged at the convenience of the government and who, upon termination of such service has received an honorable discharge, a discharge for physical reasons with an honorable record, or a release from active military service with evidence of service other than that for which an undesirable, bad conduct, or dishonorable discharge shall be given: PROVIDED, HOWEVER, That the surviving spouse of a veteran is entitled to the benefits of this section regardless of the veteran's length of active military service: PROVIDED FURTHER, That for the purposes of this section "veteran" does not include any person who has voluntarily retired with twenty or more years of active military service and whose military retirement pay is in excess of five hundred dollars per month;

(20) Permitting agency heads to delegate the authority to appoint, reduce, dismiss, suspend, or demote employees within their agencies if such agency heads do not have specific statutory authority to so delegate: PROVIDED, That the board may not authorize such delegation to any position lower than the head of a major subdivision of the agency;

(21) Assuring persons who are or have been employed in classified positions before July 1, 1993, will be eligible for employment, reemployment, transfer, and promotion in respect to classified positions covered by this chapter;

(22) Affirmative action in appointment, promotion, transfer, recruitment, training, and career development; development and implementation of affirmative action goals and timetables; and monitoring of progress against those goals and timetables.

The board shall consult with the human rights commission in the development of rules pertaining to affirmative action. The department of personnel shall transmit a report annually to the human rights commission which states the progress each state agency has made in meeting affirmative action goals and timetables. [1995 2nd sp.s. c 18 § 911. Prior: 1993 sp.s. c 24 § 913; 1993 c 281 § 27; 1990 c 60 §

103; prior: 1985 c 461 § 2; 1985 c 365 § 5; 1983 1st ex.s. c 75 § 5; 1982 1st ex.s. c 53 § 4; prior: 1982 c 79 § 1; 1981 c 311 § 18; 1980 c 118 § 3; 1979 c 151 § 57; 1977 ex.s. c 152 § 1; 1973 1st ex.s. c 75 § 1; 1973 c 154 § 1; 1971 ex.s. c 19 § 2; 1967 ex.s. c 108 § 13; 1961 c 1 § 15 (Initiative Measure No. 207, approved November 8, 1960).]

**Severability—Effective date—1995 2nd sp.s. c 18:** See notes following RCW 19.118.110.

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

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

**Severability—Subheadings not law—1990 c 60:** See notes following RCW 41.06.070.

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

**Severability—1982 1st ex.s. c 53:** See note following RCW 41.06.020.

**Severability—1981 c 311:** See RCW 41.64.910.

**Severability—1980 c 118:** See note following RCW 41.06.010.

**Severability—1977 ex.s. c 152:** "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 152 § 14.]

**Effective date—1973 1st ex.s. c 75:** "This 1973 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect midnight June 6, 1973." [1973 1st ex.s. c 75 § 3.]

*Leaves for public employees*

*military: RCW 38.40.060.*

*vacation: RCW 43.01.040.*

*Public employees' collective bargaining: Chapter 41.56 RCW.*

## Chapter 41.24

### VOLUNTEER FIRE FIGHTERS' RELIEF AND PENSIONS

#### Sections

- 41.24.010 Definitions.
- 41.24.030 Volunteer fire fighters' relief and pension principal and administrative funds created—Composition—Investment—Use—Treasurer's report.
- 41.24.040 Fees, when payable—Interest—Effect of nonpayment.
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- 41.24.172 Retirement pensions—Options—Election.
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- 41.24.430 Reserve officers—Eligibility for benefit.
- 41.24.440 Reserve officers—Lump sum payments—Payments to surviving spouse.

#### 41.24.010 Definitions. As used in this chapter:

"Municipal corporation" or "municipality" includes any county, city, town or combination thereof, fire protection district, local law enforcement agency, or any water, irrigation, or other district, authorized by law to afford emergency medical services or protection to life and property within its boundaries.

"Fire department" means any regularly organized fire department or emergency medical service district consisting wholly of volunteer fire fighters, or any part-paid and part-

volunteer fire department duly organized and maintained by any municipality: PROVIDED, That any such municipality wherein a part-paid fire department is maintained may by appropriate legislation permit the full-paid members of its department to come under the provisions of chapter 41.16 RCW.

"Fire fighter" includes any fire fighter or emergency worker who is a member of any fire department of any municipality but shall not include full time, paid fire fighters who are members of the Washington law enforcement officers' and fire fighters' retirement system, with respect to periods of service rendered in such capacity.

"Emergency worker" means any emergency medical service personnel, regulated by chapters 18.71 and 18.73 RCW, who is a member of an emergency medical service district but shall not include full-time, paid emergency medical service personnel who are members of the Washington public employees' retirement system, with respect to periods of service rendered in such capacity.

"Performance of duty" shall be construed to mean and include any work in and about company quarters or any fire station or any other place under the direction or general orders of the chief or other officer having authority to order such member to perform such work; responding to, working at, or returning from an alarm of fire; drill; or any work performed of an emergency nature in accordance with the rules and regulations of the fire department.

"State board" means the state board for volunteer fire fighters and reserve officers created herein.

"Board of trustees" means a board of trustees created under RCW 41.24.060 or, for matters affecting an emergency worker, an emergency medical service district board of trustees created under RCW 41.24.330.

"Appropriate legislation" means an ordinance when an ordinance is the means of legislating by any municipality, and resolution in all other cases.

"Reserve officer" means the same as defined by the Washington state criminal justice training commission under chapter 43.101 RCW.

"Participant" means any fire fighter, emergency worker, or reserve officer who is or may become eligible to receive a benefit of any type under the retirement provisions of this chapter, or whose beneficiary may be eligible to receive any such benefit. [1995 c 11 § 1; 1993 c 331 § 1; 1989 c 91 § 8; 1970 ex.s. c 6 § 18; 1955 c 263 § 1; 1945 c 261 § 1; Rem. Supp. 1945 § 9578-15.]

**Effective date—1989 c 91:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1989." [1989 c 91 § 27.]

**Construction—Saving—1955 c 263:** "Any provisions of chapter 41.24 RCW inconsistent with the provisions of this act are hereby repealed: PROVIDED, That such repeal shall not affect any act or proceeding had or pending, under such provision repealed, but the same shall be construed and prosecuted as though such provision had not been repealed." [1955 c 263 § 12.] This applies to RCW 41.24.010, 41.24.080, 41.24.120, and 41.24.250 through 41.24.310.

**Severability—1945 c 261:** "If any provision of this act, or the application thereof to any person or circumstance, is held invalid, the remainder of the act, and the application of such provision to other persons or circumstances, shall not be affected thereby. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this

act and each section, subsection, clause and phrase thereof irrespective of the fact that any one or more of the other sections, subsections, sentences, clauses and phrases be declared unconstitutional." [1945 c 261 § 26.]

**Construction—Saving—1945 c 261:** "Chapter 121, Laws of 1935 (sections 9578-1 to 9578-11, inclusive, Remington's Revised Statutes, also Pierce's Perpetual Code 773-37 to -57), is hereby repealed: PROVIDED, That such repeal shall not be construed as affecting any act done or right acquired, or obligation incurred, or proceedings had or pending, under said act repealed, but the same shall be continued and prosecuted as though such act had not been repealed." [1945 c 261 § 27.]

The two foregoing annotations apply to RCW 41.24.010 through 41.24.240.

*Fire protection district having full paid fire department: RCW 41.16.240.*

**41.24.030 Volunteer fire fighters' relief and pension principal and administrative funds created—Composition—Investment—Use—Treasurer's report.** (1) There is created in the state treasury a trust fund for the benefit of the participants covered by this chapter, which shall be designated the volunteer fire fighters' relief and pension principal fund and shall consist of:

(a) All bequests, fees, gifts, emoluments, or donations given or paid to the fund.

(b) An annual fee for each member of its fire department to be paid by each municipal corporation for the purpose of affording the members of its fire department with protection from death or disability as provided in this chapter as follows:

(i) Ten dollars for each volunteer or part-paid member of its fire department;

(ii) A sum equal to one and one-half of one percent of the annual salary attached to the rank of each full-paid member of its fire department, prorated for 1970 on the basis of services prior to March 1, 1970.

(c) Where a municipal corporation has elected to make available to the members of its fire department the retirement provisions as provided in this chapter, an annual fee of sixty dollars for each of its fire fighters electing to enroll therein, thirty dollars of which shall be paid by the municipality and thirty dollars of which shall be paid by the fire fighter. However, nothing in this section prohibits any municipality from voluntarily paying the fire fighters' share of the retirement provision.

(d) Where a municipal corporation has elected to make the retirement provisions of this chapter available to reserve officers, for each reserve officer that elects to enroll: An annual fee of thirty dollars shall be paid by the reserve officer and an annual fee determined by the state board based on the latest actuarial valuation shall be paid by the municipal corporation. The fee paid by the municipal corporation may include operating expenses.

(e) Forty percent of all moneys received by the state from taxes on fire insurance premiums shall be paid into the state treasury and credited to the administrative fund created in subsection (2) of this section.

(f) The state investment board, upon request of the state treasurer shall have full power to invest or reinvest such portion of the amounts credited to the principal fund as is not, in the judgment of the treasurer, required to meet current withdrawals. Such investments shall be made in the manner prescribed by RCW 43.84.150 and not otherwise.

(g) All bonds or other obligations purchased according to (f) of this subsection shall be forthwith placed in the

custody of the state treasurer, and he or she shall collect the principal thereof and interest thereon when due.

The state investment board may sell any of the bonds or obligations so acquired and the proceeds thereof shall be paid to the state treasurer.

The interest and proceeds from the sale and redemption of any bonds or other obligations held by the fund and invested by the state investment board shall be credited to and form a part of the principal fund, less the allocation to the state investment board expense account pursuant to RCW 43.33A.160.

All amounts credited to the principal fund shall be available for making the benefit payments required by this chapter.

The state treasurer shall make an annual report showing the condition of the fund.

(2) The volunteer fire fighters' relief and pension administrative fund is hereby created in the state treasury. Moneys in the account, including unanticipated revenues under RCW 43.79.270, may be spent only after appropriation, and may be used only for operating expenses of the volunteer fire fighters' relief and pension principal fund, the operating expenses of the volunteer fire fighters' relief and pension administrative fund, or for transfer from the administrative fund to the principal fund.

(a) The state board shall compute a percentage of the amounts credited to the administrative fund to be paid into the principal fund.

(b) For the purpose of providing amounts to be used to defray the cost of administration of the principal and administrative funds, the state board shall ascertain at the beginning of each biennium and request from the legislature an appropriation from the administrative fund sufficient to cover estimated expenses for the biennium. [1995 c 45 § 1; 1995 c 11 § 3; 1992 c 97 § 1; 1991 sp.s. c 13 § 98. Prior: 1989 c 194 s 1; 1989 c 91 § 1; 1986 c 296 § 4; 1982 1st ex.s. c 35 § 17; 1981 c 3 § 26; 1973 1st ex.s. c 170 § 1; 1970 ex.s. c 6 § 19; 1967 c 160 § 2; 1957 c 116 § 1; 1955 c 223 § 1; 1945 c 261 § 3; Rem. Supp. 1945 § 9578-17; prior: 1935 c 121 § 1; RRS § 9578-1.]

**Reviser's note:** This section was amended by 1995 c 11 § 3 and by 1995 c 45 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Effective date—1992 c 97:** "This act shall take effect July 1, 1992." [1992 c 97 § 3.]

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

**Effective date—1989 c 194 §§ 1, 2, and 3:** "Sections 1, 2, and 3 of this act are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1989." [1989 c 194 § 4.]

**Effective date—1989 c 91:** See note following RCW 41.24.010.

**Severability—Effective date—1986 c 296:** See notes following RCW 48.14.020.

**Severability—Effective dates—1982 1st ex.s. c 35:** See notes following RCW 82.08.020.

**Effective dates—Severability—1981 c 3:** See notes following RCW 43.33A.010.

**Effective date—1973 1st ex.s. c 170:** "This 1973 amendatory act shall take effect on July 1, 1973." [1973 1st ex.s. c 170 § 5.]

*Insurance premium taxes:* RCW 48.14.020.

**41.24.040 Fees, when payable—Interest—Effect of nonpayment.** On or before the first day of March of each year, every municipal corporation shall pay such amount as shall be due from it to said fund, together with the amounts collected from the participants: PROVIDED, That no fire fighter [participant] shall forfeit his or her right to participate in the relief and compensation provisions of this chapter by reason of nonpayment: PROVIDED FURTHER, That no participant shall forfeit his or her right to participate in the retirement provisions of this chapter until after March 1st of such year: AND PROVIDED FURTHER, That where a municipality has failed to pay or remit the annual fees required within the time provided such delinquent payment shall bear interest at the rate of one percent per month from March 1st until paid: AND PROVIDED FURTHER, That where a participant has forfeited his or her right to participate in the retirement provisions of this chapter that participant may be reinstated so as to participate to the same extent as if all fees had been paid by the payment of all back fees with interest at the rate of one percent per month provided he or she has at all times been otherwise eligible. [1995 c 11 § 5; 1989 c 91 § 10; 1945 c 261 § 4; Rem. Supp. 1945 § 9578-18. Prior: 1935 c 121 § 10; RRS § 9578-10.]

**Effective date—1989 c 91:** See note following RCW 41.24.010.

**41.24.170 Retirement pensions.** Except as provided in RCW 41.24.410, whenever any participant has been a member and served honorably for a period of ten years or more as an active member in any capacity, of any regularly organized volunteer fire department or law enforcement agency of any municipality in this state, and which municipality and participant are enrolled under the retirement provisions, and the participant has reached the age of sixty-five years, the board of trustees shall order and direct that he or she be retired and be paid a monthly pension as provided in this section.

Whenever a participant has been a member, and served honorably for a period of twenty-five years or more as an active member in any capacity, of any regularly organized volunteer fire department or law enforcement agency of any municipality in this state, and he or she has reached the age of sixty-five years, and the annual retirement fee has been paid for a period of twenty-five years, the board of trustees shall order and direct that he or she be retired and such participant be paid a monthly pension of two hundred twenty-five dollars from the fund for the balance of that participant's life.

Whenever any participant has been a member, and served honorably for a period of twenty-five years or more as an active member in any capacity, of any regularly organized volunteer fire department or law enforcement agency of any municipality in this state, and the participant has reached the age of sixty-five years, and the annual retirement fee has been paid for a period of less than twenty-five years, the board of trustees shall order and direct that he or she be retired and that such participant shall receive a minimum monthly pension of twenty-five dollars increased by the sum of eight dollars each month for each year the annual fee has been paid, but not to exceed the maximum monthly pension provided in this section, for the balance of the participant's life.

No pension provided in this section may become payable before the sixty-fifth birthday of the participant, nor for any service less than twenty-five years: PROVIDED, HOWEVER, That:

(1) Any participant, upon completion of twenty-five years' service and attainment of age sixty, may irrevocably elect, in lieu of the pension to which that participant would be entitled under this section at age sixty-five, to receive for the balance of his or her life a monthly pension equal to sixty percent of such pension.

(2) Any participant, upon completion of twenty-five years' service and attainment of age sixty-two, may irrevocably elect, in lieu of the pension to which that participant would be entitled under this section at age sixty-five, to receive for the balance of his or her life a monthly pension equal to seventy-five percent of such pension.

(3) Any participant, upon completion of less than twenty-five years of service shall receive the applicable reduced pension provided in this subsection, according to the age at which that participant elects to begin to receive the pension. If receipt of the benefits begins at age sixty-five the participant shall receive one hundred percent of the reduced benefit; at age sixty-two the participant shall receive seventy-five percent of the reduced benefit; and at age sixty the participant shall receive sixty percent of the reduced benefit. The reduced benefit shall be computed as follows:

(a) Upon completion of ten years, but less than fifteen years of service, a monthly pension equal to fifteen percent of such pension as the participant would have been entitled to receive at age sixty-five after twenty-five years of service;

(b) Upon completion of fifteen years, but less than twenty years of service, a monthly pension equal to thirty percent of such pension as the participant would have been entitled to receive at age sixty-five after twenty-five years of service; and

(c) Upon completion of twenty years, but less than twenty-five years of service, a monthly pension equal to sixty percent of such pension as the participant would have been entitled to receive at age sixty-five after twenty-five years of service. [1995 c 11 § 7; 1992 c 97 § 2; 1989 c 91 § 4; 1981 c 21 § 4; 1979 ex.s. c 157 § 1; 1973 1st ex.s. c 170 § 2; 1969 c 118 § 5; 1961 c 57 § 2; 1953 c 253 § 3; 1951 c 103 § 1; 1945 c 261 § 17; Rem. Supp. 1945 § 9578-31.]

**Effective date—1992 c 97:** See note following RCW 41.24.030.

**Effective date—1989 c 91:** See note following RCW 41.24.010.

**Effective date—Severability—1981 c 21:** See notes following RCW 41.24.150.

**Effective date—1973 1st ex.s. c 170:** See note following RCW 41.24.030.

#### **41.24.172 Retirement pensions—Options—Election.**

Before beginning to receive the pension provided for in RCW 41.24.170, the participant shall elect, in a writing filed with the state board, to have the pension paid under either option 1 or 2, with option 2 calculated so as to be actuarially equivalent to option 1.

(1) Option 1. A participant electing this option shall receive a monthly pension payable throughout the participant's life. However, if the participant dies before the total pension paid to the participant equals the amount paid

into the fund, then the balance shall be paid to the participant's surviving spouse, or if there be no surviving spouse, then to the participant's legal representatives.

(2) Option 2. A participant electing this option shall receive a reduced monthly pension, which upon the participant's death shall be continued throughout the life of and paid to the participant's surviving spouse named in the written election filed with the state board. [1995 c 11 § 9; 1989 c 91 § 6.]

**Effective date—1989 c 91:** See note following RCW 41.24.010.

**41.24.190 Proof of service.** The filing of reports of enrollment shall be prima facie evidence of the service of the participants therein listed for the year of such report as to service rendered subsequent to July 6, 1945. Proof of service of fire fighters [participants] prior to that date shall be by documentary evidence, or such other evidence reduced to writing and sworn to under oath, as shall be submitted to the state board and certified by it as sufficient. [1995 c 11 § 11; 1989 c 91 § 16; 1969 c 118 § 6; 1953 c 253 § 4; 1945 c 261 § 19; Rem. Supp. 1945 § 9578-33.]

**Effective date—1989 c 91:** See note following RCW 41.24.010.

**41.24.200 Service need not be continuous nor in a single department or agency.** The aggregate term of service of any participant need not be continuous nor need it be confined to a single fire department or law enforcement agency nor a single municipality in this state to entitle such participant to a pension: PROVIDED, That the participant has been duly enrolled in a fire department or law enforcement agency of a municipality which has elected to make provisions for the retirement of its participants at the time he or she becomes eligible for such pension as in this chapter provided, and has paid all fees prescribed. To be eligible to the full pension a participant must have an aggregate of twenty-five years service, have made twenty-five annual payments into the fund, and be sixty-five years of age at the time the participant commences drawing the pension provided for by this chapter, all of which twenty-five years service must have been in the fire department or law enforcement agency of a municipality or municipalities which have elected to make provisions for the retirement of its participants: PROVIDED, HOWEVER, That nothing herein contained shall require any participant having twenty-five years active service to continue as a fire fighter or reserve officer and no participant who has completed twenty-five years of active service for which annual pension fees have been paid and who continues as a fire fighter or reserve officer shall be required to pay any additional annual pension fees. [1995 c 11 § 12; 1989 c 91 § 17; 1973 1st ex.s. c 170 § 4; 1961 c 57 § 4; 1953 c 253 § 5; 1945 c 261 § 20; Rem. Supp. 1945 § 9578-34.]

**Effective date—1989 c 91:** See note following RCW 41.24.010.

**Effective date—1973 1st ex.s. c 170:** See note following RCW 41.24.030.

**41.24.240 Benefits not transferable or subject to legal process—Exceptions—Chapter not exclusive.** The right of any person to any future payment under the provisions of this chapter shall not be transferable or assignable at law or in equity, and none of the moneys paid or payable

or the rights existing under this chapter, shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law. This section shall not be applicable to any child support collection action taken under chapter 26.18, 26.23, or 74.20A RCW. Benefits under this chapter shall be payable to a spouse or ex-spouse to the extent expressly provided for in any court decree of dissolution or legal separation or in any court order or court-approved property settlement agreement incident to any court decree of dissolution or legal separation.

Nothing in this chapter shall be construed to deprive any participant, eligible to receive a pension hereunder, from receiving a pension under any other act to which that participant may become eligible by reason of services other than or in addition to his or her services under this chapter. [1995 c 11 § 13. Prior: 1989 c 360 § 26; 1989 c 91 § 21; 1979 ex.s. c 205 § 3; 1957 c 159 § 6; 1945 c 261 § 24; Rem. Supp. 1945 § 9578-38.]

Effective date—1989 c 91: See note following RCW 41.24.010.

**41.24.400 Reserve officers—Enrollment—Limitations.** (1) Except as provided in subsection (2) of this section, any municipality may make provision by appropriate legislation and payment of fees required by RCW 41.24.030(1)(d) solely for the purpose of enabling any reserve officer to enroll under the retirement provisions of this chapter.

(2) A reserve officer is not eligible to receive a benefit under the retirement provisions of this chapter for service under chapter 41.26, 41.32, or 41.40 RCW.

(3) Every municipality shall make provisions for the collection and payment of the fees required under this chapter, and shall continue to make provisions for all reserve officers who come under this chapter as long as they continue to be employed as reserve officers.

(4) A reserve officer is not eligible to receive a benefit under the relief and compensation provisions of this chapter. [1995 c 11 § 2.]

**41.24.410 Reserve officers—Credit for service.** Credit for service as a reserve officer shall not be counted for purposes of RCW 41.24.170 except as stated in this section: Within one year of an election to cover reserve officers under the retirement provisions of this chapter, the municipality must elect, on a one-time basis, one of the following:

(1)(a) To count credit for service only after July 23, 1995;

(b) To pay annual fees only for service after July 23, 1995; or

(2)(a) To count credit for all service as a reserve officer, but only if the actuarial cost, as determined by the state board, is paid by the municipality. The municipality may charge reserve officers for any portion of the cost; and

(b) To pay annual fees only for service after July 23, 1995; or

(3)(a) To count credit for all service as a reserve officer, but only if the actuarial cost, as determined by the state board, is paid by the municipality. The municipality may charge reserve officers for any portion of the cost; and

(b) To pay annual fees for service prior to July 23, 1995, if:

(i) The reserve officer elects, within one year of the municipality's election under this section, to pay the annual fee plus one percent per month interest for each year of past service counted; and

(ii) The municipality pays the actuarial cost, as determined by the state board, of the benefit provided in (b) of this subsection. The municipality may charge reserve officers for any portion of the cost.

Payments under this section may be made in a lump sum or in a manner prescribed by the state board. [1995 c 11 § 4.]

**41.24.420 Reserve officers—Enrollment—Procedure.** The head of a local law enforcement agency is authorized to enroll its reserve officers and to certify reserve officer service under the retirement provisions of this chapter. The head of that agency shall sign, certify, and send to the state board a voucher for each person entitled to payment from the fund, stating the amount of the payment. The state board, after review and approval shall cause a warrant to be issued on the fund for the amount specified and approved on each voucher. However, after the applicant's eligibility for pension is verified, the state board shall authorize the regular issuance of monthly warrants in payment thereof without further action of the head of the law enforcement agency. [1995 c 11 § 6.]

**41.24.430 Reserve officers—Eligibility for benefit.** A reserve officer shall not receive a retirement benefit under this chapter unless he or she completes at least three years of service after July 23, 1995. [1995 c 11 § 8.]

**41.24.440 Reserve officers—Lump sum payments—Payments to surviving spouse.** The state board shall direct payment from the fund in the following cases:

(1) To any reserve officer, upon his or her request, upon attaining the age of sixty-five years, who, for any reason, is not qualified to receive the monthly retirement pension under this chapter and who was enrolled in the fund and on whose behalf annual fees for retirement pension were paid, a lump sum amount equal to the amount paid into the fund by the reserve officer.

(2) If any reserve officer who has not completed at least ten years of service dies without having requested a lump sum payment under subsection (1) or (3) of this section, there shall be paid to the reserve officer's surviving spouse, or if there is no surviving spouse, then to such reserve officer's legal representatives, a lump sum amount equal to the amount paid into the fund by the reserve officer. If any reserve officer who has completed at least ten years of service dies without having requested a lump sum payment under subsection (1) or (3) of this section and before beginning to receive the monthly pension provided for in this chapter, the reserve officer's surviving spouse shall elect to receive either:

(a) A monthly pension computed as provided for in RCW 41.24.170 actuarially adjusted to reflect option 2 of RCW 41.24.172 and further actuarially reduced to reflect the



difference in the number of years between the reserve officer's age at death and age sixty-five; or

(b) A lump sum amount equal to the amount paid into the fund by the reserve officer and the municipality or municipalities in whose department he or she has served.

If there is no surviving spouse, then there shall be paid to the reserve officer's legal representatives a lump sum amount equal to the amount paid into the fund by the reserve officer.

(3) If any reserve officer retires from service before attaining the age of sixty-five years, the reserve officer may make application for the return in a lump sum of the amount paid into the fund by himself or herself. [1995 c 11 § 10.]

**Chapter 41.26**

**LAW ENFORCEMENT OFFICERS' AND FIRE FIGHTERS' RETIREMENT SYSTEM**

Sections

- 41.26.057 Benefit calculation—Limitation.
- 41.26.460 Options for payment of retirement allowances.
- 41.26.470 Earned disability allowance—Cancellation of allowance—Reentry—Receipt of service credit while disabled—Conditions—Disposition upon death of recipient.
- 41.26.510 Death benefits.
- 41.26.540 Refund of contributions on termination.

**41.26.057 Benefit calculation—Limitation.** (1) The annual compensation taken into account in calculating retiree benefits under this system shall not exceed the limits imposed by section 401(a)(17) of the federal internal revenue code for qualified trusts.

(2) The department shall adopt rules as necessary to implement this section. [1995 c 145 § 1.]

**41.26.460 Options for payment of retirement allowances.** (1) Upon retirement for service as prescribed in RCW 41.26.430 or disability retirement under RCW 41.26.470, a member shall elect to have the retirement allowance paid pursuant to the following options, calculated so as to be actuarially equivalent to each other.

(a) Standard allowance. A member electing this option shall receive a retirement allowance payable throughout such member's life. However, if the retiree dies before the total of the retirement allowance paid to such retiree equals the amount of such retiree's accumulated contributions at the time of retirement, then the balance shall be paid to the member's estate, or such person or persons, trust, or organization as the retiree shall have nominated by written designation duly executed and filed with the department; or if there be no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or if there be neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the member a reduced retirement allowance and upon death, such portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid to a designated person. Such person

shall be nominated by the member by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and a joint and fifty percent survivor option.

(2) A member, if married, must provide the written consent of his or her spouse to the option selected under this section. If a member is married and both the member and member's spouse do not give written consent to an option under this section, the department will pay the member a joint and fifty percent survivor benefit and record the member's spouse as the beneficiary. Such benefit shall be calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section. [1995 c 144 § 17; 1990 c 249 § 3; 1977 ex.s. c 294 § 7.]

**Findings—1990 c 249:** See note following RCW 2.10.146.

**Legislative direction and placement—Section headings—1977 ex.s. c 294:** See notes following RCW 41.26.410.

**41.26.470 Earned disability allowance—Cancellation of allowance—Reentry—Receipt of service credit while disabled—Conditions—Disposition upon death of recipient.** (1) A member of the retirement system who becomes totally incapacitated for continued employment by an employer as determined by the director shall be eligible to receive an allowance under the provisions of RCW 41.26.410 through 41.26.550. Such member shall receive a monthly disability allowance computed as provided for in RCW 41.26.420 and shall have such allowance actuarially reduced to reflect the difference in the number of years between age at disability and the attainment of age fifty-five.

(2) Any member who receives an allowance under the provisions of this section shall be subject to such comprehensive medical examinations as required by the department. If such medical examinations reveal that such a member has recovered from the incapacitating disability and the member is no longer entitled to benefits under Title 51 RCW, the retirement allowance shall be canceled and the member shall be restored to duty in the same civil service rank, if any, held by the member at the time of retirement or, if unable to perform the duties of the rank, then, at the member's request, in such other like or lesser rank as may be or become open and available, the duties of which the member is then able to perform. In no event shall a member previously drawing a disability allowance be returned or be restored to duty at a salary or rate of pay less than the current salary attached to the rank or position held by the member at the date of the retirement for disability. If the department determines that the member is able to return to service, the member is entitled to notice and a hearing. Both the notice and the hearing shall comply with the requirements of chapter 34.05 RCW, the Administrative Procedure Act.

(3) Those members subject to this chapter who became disabled in the line of duty on or after July 23, 1989, and who receive benefits under RCW 41.04.500 through 41.04.530 or similar benefits under RCW 41.04.535 shall receive or continue to receive service credit subject to the following:

(a) No member may receive more than one month's service credit in a calendar month.

(b) No service credit under this section may be allowed after a member separates or is separated without leave of absence.

(c) Employer contributions shall be paid by the employer at the rate in effect for the period of the service credited.

(d) Employee contributions shall be collected by the employer and paid to the department at the rate in effect for the period of service credited.

(e) State contributions shall be as provided in RCW 41.26.450.

(f) Contributions shall be based on the regular compensation which the member would have received had the disability not occurred.

(g) The service and compensation credit under this section shall be granted for a period not to exceed six consecutive months.

(h) Should the legislature revoke the service credit authorized under this section or repeal this section, no affected employee is entitled to receive the credit as a matter of contractual right.

(4)(a) If the recipient of a monthly retirement allowance under this section dies before the total of the retirement allowance paid to the recipient equals the amount of the accumulated contributions at the date of retirement, then the balance shall be paid to the member's estate, or such person or persons, trust, or organization as the recipient has nominated by written designation duly executed and filed with the director, or, if there is no such designated person or persons still living at the time of the recipient's death, then to the surviving spouse, or, if there is neither such designated person or persons still living at the time of his or her death nor a surviving spouse, then to his or her legal representative.

(b) If a recipient of a monthly retirement allowance under this section died before April 27, 1989, and before the total of the retirement allowance paid to the recipient equaled the amount of his or her accumulated contributions at the date of retirement, then the department shall pay the balance of the accumulated contributions to the member's surviving spouse or, if there is no surviving spouse, then in equal shares to the member's children. If there is no surviving spouse or children, the department shall retain the contributions. [1995 c 144 § 18; 1993 c 517 § 4; 1990 c 249 § 19. Prior: 1989 c 191 § 1; 1989 c 88 § 1; 1982 c 12 § 2; 1981 c 294 § 9; 1977 ex.s. c 294 § 8.]

**Purpose—1993 c 517:** See note following RCW 41.26.420.

**Findings—1990 c 249:** See note following RCW 2.10.146.

**Severability—1981 c 294:** See note following RCW 41.26.115.

**Legislative direction and placement—Section headings—1977 ex.s. c 294:** See notes following RCW 41.26.410.

*Disability leave supplement for law enforcement officers and fire fighters: RCW 41.04.500 through 41.04.550.*

**41.26.510 Death benefits.** (1) Except as provided in RCW 11.07.010, if a member or a vested member who has not completed at least ten years of service dies, the amount of the accumulated contributions standing to such member's credit in the retirement system at the time of such member's death, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a

court order filed under RCW 41.50.670, shall be paid to the member's estate, or such person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's accumulated contributions standing to such member's credit in the retirement system, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's surviving spouse as if in fact such spouse had been nominated by written designation, or if there be no such surviving spouse, then to such member's legal representatives.

(2) If a member who is eligible for retirement or a member who has completed at least ten years of service dies, the surviving spouse or eligible child or children shall elect to receive either:

(a) A retirement allowance computed as provided for in RCW 41.26.430(1), actuarially reduced by the amount of any lump sum benefit identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670 and actuarially adjusted to reflect a joint and one hundred percent survivor option under RCW 41.26.460 and if the member was not eligible for normal retirement at the date of death a further reduction as described in RCW 41.26.430(2); if a surviving spouse who is receiving a retirement allowance dies leaving a child or children of the member under the age of majority, then such child or children shall continue to receive an allowance in an amount equal to that which was being received by the surviving spouse, share and share alike, until such child or children reach the age of majority; if there is no surviving spouse eligible to receive an allowance at the time of the member's death, such member's child or children under the age of majority shall receive an allowance share and share alike calculated as herein provided making the assumption that the ages of the spouse and member were equal at the time of the member's death; or

(b)(i) The member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670; or

(ii) If the member dies on or after July 25, 1993, one hundred fifty percent of the member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670. Any accumulated contributions attributable to restorations made under RCW 41.50.165(2) shall be refunded at one hundred percent.

(3) If a member who is eligible for retirement or a member who has completed at least ten years of service dies after October 1, 1977, and is not survived by a spouse or an eligible child, then the accumulated contributions standing to the member's credit, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid:

(a) To an estate, a person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department; or

(b) If there is no such designated person or persons still living at the time of the member's death, then to the member's legal representatives. [1995 c 245 § 1; 1995 c 144 § 19; 1993 c 236 § 3; 1991 c 365 § 31; 1990 c 249 § 14; 1977 ex.s. c 294 § 12.]

**Reviser's note:** This section was amended by 1995 c 144 § 19 and by 1995 c 245 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Effective date—1995 c 245:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 5, 1995]." [1995 c 245 § 3.]

**Severability—1991 c 365:** See note following RCW 41.50.500.

**Findings—1990 c 249:** See note following RCW 2.10.146.

**Legislative direction and placement—Section headings—1977 ex.s. c 294:** See notes following RCW 41.26.410.

#### 41.26.540 Refund of contributions on termination.

(1)(a) A member who has completed less than ten years of service, who ceases to be an employee of an employer except by service or disability retirement, may request a refund of the member's accumulated contributions.

(b) A member who has completed ten or more years of service, who ceases to be an employee of an employer except by service or disability retirement, may request a refund of one hundred fifty percent of the member's accumulated contributions. Any accumulated contributions attributable to restorations made under RCW 41.50.165(2) shall be refunded at one hundred percent.

(2) The refund shall be made within ninety days following the receipt of the request and notification of termination through the contribution reporting system by the employer; except that in the case of death, an initial payment shall be made within thirty days of receipt of request for such payment and notification of termination through the contribution reporting system by the employer. A member who files a request for refund and subsequently enters into employment with another employer prior to the refund being made shall not be eligible for a refund. The refund of accumulated contributions shall terminate all rights to benefits under RCW 41.26.410 through 41.26.550. [1995 c 245 § 2; 1993 c 517 § 6; 1982 1st ex.s. c 52 § 5; 1977 ex.s. c 294 § 15.]

**Effective date—1995 c 245:** See note following RCW 41.26.510.

**Purpose—1993 c 517:** See note following RCW 41.26.420.

**Effective dates—1982 1st ex.s. c 52:** See note following RCW 41.32.401.

**Legislative direction and placement—Section headings—1977 ex.s. c 294:** See notes following RCW 41.26.410.

### Chapter 41.32

#### TEACHERS' RETIREMENT

##### Sections

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41.32.010	Definitions. (Effective July 1, 1996.)
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41.32.818	Public employees' retirement system members who previously declined membership in the teachers' retirement system—Transfer to plan III—Irrevocable option. (Effective July 1, 1996.)
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41.32.831	Provisions applicable to plan III—Plan III elements. (Effective July 1, 1996.)
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41.32.865	Service credit for paid leave of absence, officers of labor organizations, unpaid leave of absence, military service. (Effective July 1, 1996.)
41.32.870	Lump sum payments—Reentry. (Effective July 1, 1996.)
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41.32.885	Vested membership. (Effective July 1, 1996.)
41.32.890	Reentry. (Effective July 1, 1996.)
41.32.895	Death benefits. (Effective July 1, 1996.)

**41.32.005 Provisions applicable to "plan I," "plan II," and "plan III." (Effective July 1, 1996.)** RCW 41.32.010 through 41.32.067 shall apply to members of plan I, plan II, and plan III. [1995 c 239 § 101; 1992 c 72 § 4; 1991 c 35 § 30; 1990 c 274 § 16. Prior: 1989 c 273 § 15; 1989 c 272 § 4; 1977 ex.s. c 293 § 19.]

**Effective date—1995 c 239:** "This act shall take effect July 1, 1996." [1995 c 239 § 327.]

**Part and subchapter headings not law—1995 c 239:** "Part headings and subchapter headings as used in this act constitute no part of the law." [1995 c 239 § 328.]

**Intent—Purpose—1995 c 239:** See note following RCW 41.32.831.

**Intent—1991 c 35:** See note following RCW 41.26.005.

**Findings—Construction—1990 c 274:** See notes following RCW 41.32.010.

**Severability—Effective dates—1989 c 273:** See RCW 41.45.900 and 41.45.901.

**Purpose—1989 c 272:** See note following RCW 41.40.325.

**Effective date—Severability—1977 ex.s. c 293:** See notes following RCW 41.32.755.

*Benefits not contractual right until July 1, 1996: RCW 41.34.100.*

**41.32.010 Definitions. (Effective until July 1, 1996.)**

As used in this chapter, unless a different meaning is plainly required by the context:

(1)(a) "Accumulated contributions" for plan I members, means the sum of all regular annuity contributions and, except for the purpose of withdrawal at the time of retirement, any amount paid under RCW 41.50.165(2) with regular interest thereon.

(b) "Accumulated contributions" for plan II members, means the sum of all contributions standing to the credit of a member in the member's individual account, including any amount paid under RCW 41.50.165(2), together with the regular interest thereon.

(2) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality tables and regulations as shall be adopted by the director and regular interest.

(3) "Annuity" means the moneys payable per year during life by reason of accumulated contributions of a member.

(4) "Member reserve" means the fund in which all of the accumulated contributions of members are held.

(5)(a) "Beneficiary" for plan I members, means any person in receipt of a retirement allowance or other benefit provided by this chapter.

(b) "Beneficiary" for plan II members, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(6) "Contract" means any agreement for service and compensation between a member and an employer.

(7) "Creditable service" means membership service plus prior service for which credit is allowable. This subsection shall apply only to plan I members.

(8) "Dependent" means receiving one-half or more of support from a member.

(9) "Disability allowance" means monthly payments during disability. This subsection shall apply only to plan I members.

(10)(a) "Earnable compensation" for plan I members, means:

(i) All salaries and wages paid by an employer to an employee member of the retirement system for personal services rendered during a fiscal year. In all cases where compensation includes maintenance the employer shall fix the value of that part of the compensation not paid in money.

(ii) "Earnable compensation" for plan I members also includes the following actual or imputed payments, which are not paid for personal services:

(A) Retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wages which the individual would have earned during a payroll period shall be considered

earnable compensation and the individual shall receive the equivalent service credit.

(B) If a leave of absence, without pay, is taken by a member for the purpose of serving as a member of the state legislature, and such member has served in the legislature five or more years, the salary which would have been received for the position from which the leave of absence was taken shall be considered as compensation earnable if the employee's contribution thereon is paid by the employee. In addition, where a member has been a member of the state legislature for five or more years, earnable compensation for the member's two highest compensated consecutive years of service shall include a sum not to exceed thirty-six hundred dollars for each of such two consecutive years, regardless of whether or not legislative service was rendered during those two years.

(iii) For members employed less than full time under written contract with a school district, or community college district, in an instructional position, for which the member receives service credit of less than one year in all of the years used to determine the earnable compensation used for computing benefits due under RCW 41.32.497, 41.32.498, and 41.32.520, the member may elect to have earnable compensation defined as provided in RCW 41.32.345. For the purposes of this subsection, the term "instructional position" means a position in which more than seventy-five percent of the member's time is spent as a classroom instructor (including office hours), a librarian, or a counselor. Earnable compensation shall be so defined only for the purpose of the calculation of retirement benefits and only as necessary to insure that members who receive fractional service credit under RCW 41.32.270 receive benefits proportional to those received by members who have received full-time service credit.

(iv) "Earnable compensation" does not include:

(A) Remuneration for unused sick leave authorized under RCW 41.04.340, 28A.400.210, or 28A.310.490;

(B) Remuneration for unused annual leave in excess of thirty days as authorized by RCW 43.01.044 and 43.01.041.

(b) "Earnable compensation" for plan II members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States Internal Revenue Code, but shall exclude lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay.

"Earnable compensation" for plan II members also includes the following actual or imputed payments which, except in the case of (b)(ii)(B) of this subsection, are not paid for personal services:

(i) Retroactive payments to an individual by an employer on reinstatement of the employee in a position or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wages which the individual would have earned during a payroll period shall be considered earnable compensation, to the extent provided above, and the individual shall receive the equivalent service credit.

(ii) In any year in which a member serves in the legislature the member shall have the option of having such member's earnable compensation be the greater of:

(A) The earnable compensation the member would have received had such member not served in the legislature; or

(B) Such member's actual earnable compensation received for teaching and legislative service combined. Any additional contributions to the retirement system required because compensation earnable under (b)(ii)(A) of this subsection is greater than compensation earnable under (b)(ii)(B) of this subsection shall be paid by the member for both member and employer contributions.

(11) "Employer" means the state of Washington, the school district, or any agency of the state of Washington by which the member is paid.

(12) "Fiscal year" means a year which begins July 1st and ends June 30th of the following year.

(13) "Former state fund" means the state retirement fund in operation for teachers under chapter 187, Laws of 1923, as amended.

(14) "Local fund" means any of the local retirement funds for teachers operated in any school district in accordance with the provisions of chapter 163, Laws of 1917 as amended.

(15) "Member" means any teacher included in the membership of the retirement system. Also, any other employee of the public schools who, on July 1, 1947, had not elected to be exempt from membership and who, prior to that date, had by an authorized payroll deduction, contributed to the member reserve.

(16) "Membership service" means service rendered subsequent to the first day of eligibility of a person to membership in the retirement system: PROVIDED, That where a member is employed by two or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service is rendered. The provisions of this subsection shall apply only to plan I members.

(17) "Pension" means the moneys payable per year during life from the pension reserve.

(18) "Pension reserve" is a fund in which shall be accumulated an actuarial reserve adequate to meet present and future pension liabilities of the system and from which all pension obligations are to be paid.

(19) "Prior service" means service rendered prior to the first date of eligibility to membership in the retirement system for which credit is allowable. The provisions of this subsection shall apply only to plan I members.

(20) "Prior service contributions" means contributions made by a member to secure credit for prior service. The provisions of this subsection shall apply only to plan I members.

(21) "Public school" means any institution or activity operated by the state of Washington or any instrumentality or political subdivision thereof employing teachers, except the University of Washington and Washington State University.

(22) "Regular contributions" means the amounts required to be deducted from the compensation of a member and credited to the member's individual account in the member reserve. This subsection shall apply only to plan I members.

(23) "Regular interest" means such rate as the director may determine.

(24)(a) "Retirement allowance" for plan I members, means monthly payments based on the sum of annuity and pension, or any optional benefits payable in lieu thereof.

(b) "Retirement allowance" for plan II members, means monthly payments to a retiree or beneficiary as provided in this chapter.

(25) "Retirement system" means the Washington state teachers' retirement system.

(26)(a) "Service" for plan I members means the time during which a member has been employed by an employer for compensation.

(i) If a member is employed by two or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service is rendered.

(ii) As authorized by RCW 28A.400.300, up to forty-five days of sick leave may be creditable as service solely for the purpose of determining eligibility to retire under RCW 41.32.470.

(iii) As authorized in RCW 41.32.065, service earned in an out-of-state retirement system that covers teachers in public schools may be applied solely for the purpose of determining eligibility to retire under RCW 41.32.470.

(b) "Service" for plan II members, means periods of employment by a member for one or more employers for which earnable compensation is earned subject to the following conditions:

(i) A member employed in an eligible position or as a substitute shall receive one service credit month for each month of September through August of the following year if he or she earns earnable compensation for eight hundred ten or more hours during that period and is employed during nine of those months, except that a member may not receive credit for any period prior to the member's employment in an eligible position except as provided in RCW 41.32.812 and 41.50.132;

(ii) If a member is employed either in an eligible position or as a substitute teacher for nine months of the twelve month period between September through August of the following year but earns earnable compensation for less than eight hundred ten hours but for at least six hundred thirty hours, he or she will receive one-half of a service credit month for each month of the twelve month period;

(iii) All other members in an eligible position or as a substitute teacher shall receive service credit as follows:

(A) A service credit month is earned in those calendar months where earnable compensation is earned for ninety or more hours;

(B) A half-service credit month is earned in those calendar months where earnable compensation is earned for at least seventy hours but less than ninety hours; and

(C) A quarter-service credit month is earned in those calendar months where earnable compensation is earned for less than seventy hours.

(iv) Any person who is a member of the teachers' retirement system and who is elected or appointed to a state elective position may continue to be a member of the retirement system and continue to receive a service credit

month for each of the months in a state elective position by making the required member contributions.

(v) When an individual is employed by two or more employers the individual shall only receive one month's service credit during any calendar month in which multiple service for ninety or more hours is rendered.

(vi) As authorized by RCW 28A.400.300, up to forty-five days of sick leave may be creditable as service solely for the purpose of determining eligibility to retire under RCW 41.32.470. For purposes of plan II "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than forty-five days of sick leave is creditable as allowed under this subsection as follows:

(A) Less than eleven days equals one-quarter service credit month;

(B) Eleven or more days but less than twenty-two days equals one-half service credit month;

(C) Twenty-two days equals one service credit month;

(D) More than twenty-two days but less than thirty-three days equals one and one-quarter service credit month;

(E) Thirty-three or more days but less than forty-five days equals one and one-half service credit month.

(vii) As authorized in RCW 41.32.065, service earned in an out-of-state retirement system that covers teachers in public schools may be applied solely for the purpose of determining eligibility to retire under RCW 41.32.470.

(viii) The department shall adopt rules implementing this subsection.

(27) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(28) "Service credit month" means a full service credit month or an accumulation of partial service credit months that are equal to one.

(29) "Teacher" means any person qualified to teach who is engaged by a public school in an instructional, administrative, or supervisory capacity. The term includes state, educational service district, and school district superintendents and their assistants and all employees certificated by the superintendent of public instruction; and in addition thereto any full time school doctor who is employed by a public school and renders service of an instructional or educational nature.

(30) "Average final compensation" for plan II members, means the member's average earnable compensation of the highest consecutive sixty service credit months prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation except under RCW 41.32.810(2).

(31) "Retiree" means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer while a member. A person is in receipt of a retirement allowance as defined in subsection (24) of this section or other benefit as provided by this chapter when the department mails, causes to be mailed, or otherwise transmits the retirement allowance warrant.

(32) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(33) "Director" means the director of the department.

(34) "State elective position" means any position held by any person elected or appointed to state-wide office or elected or appointed as a member of the legislature.

(35) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(36) "Substitute teacher" means:

(a) A teacher who is hired by an employer to work as a temporary teacher, except for teachers who are annual contract employees of an employer and are guaranteed a minimum number of hours; or

(b) Teachers who either (i) work in ineligible positions for more than one employer or (ii) work in an ineligible position or positions together with an eligible position.

(37)(a) "Eligible position" for plan II members from June 7, 1990, through September 1, 1991, means a position which normally requires two or more uninterrupted months of creditable service during September through August of the following year.

(b) "Eligible position" for plan II on and after September 1, 1991, means a position that, as defined by the employer, normally requires five or more months of at least seventy hours of earnable compensation during September through August of the following year.

(c) For purposes of this chapter an employer shall not define "position" in such a manner that an employee's monthly work for that employer is divided into more than one position.

(d) The elected position of the superintendent of public instruction is an eligible position.

(38) "Plan I" means the teachers' retirement system, plan I providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.

(39) "Plan II" means the teachers' retirement system, plan II providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977.

(40) "Index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items compiled by the bureau of labor statistics, United States department of labor.

(41) "Index A" means the index for the year prior to the determination of a postretirement adjustment.

(42) "Index B" means the index for the year prior to index A.

(43) "Index year" means the earliest calendar year in which the index is more than sixty percent of index A.

(44) "Adjustment ratio" means the value of index A divided by index B.

(45) "Annual increase" means, initially, fifty-nine cents per month per year of service which amount shall be increased each July 1st by three percent, rounded to the nearest cent. [1995 c 345 § 9. Prior: 1994 c 298 § 3; 1994 c 247 § 2; 1994 c 197 § 12; 1993 c 95 § 7; prior: 1992 c 212 § 1; 1992 c 3 § 3; prior: 1991 c 343 § 3; 1991 c 35 § 31; 1990 c 274 § 2; 1987 c 265 § 1; 1985 c 13 § 6; prior: 1984 c 256 § 1; 1984 c 5 § 1; 1983 c 5 § 1; 1982 1st ex.s. c 52 § 6; 1981 c 256 § 5; 1979 ex.s. c 249 § 5; 1977 ex.s. c 293 § 18; 1975 1st ex.s. c 275 § 149; 1974 ex.s. c 199 § 1; 1969 ex.s. c 176 § 95; 1967 c 50 § 11; 1965 ex.s. c 81 § 1; 1963 ex.s. c 14 § 1; 1955 c 274 § 1; 1947 c 80 § 1; Rem.

Supp. 1947 § 4995-20; prior: 1941 c 97 § 1; 1939 c 86 § 1; 1937 c 221 § 1; 1931 c 115 § 1; 1923 c 187 § 1; 1917 c 163 § 1; Rem. Supp. 1941 § 4995-1.]

**Intent—Effective date—1995 c 345:** See notes following RCW 41.32.489.

**Intent—1994 c 298:** See note following RCW 41.40.010.

**Effective date—1994 c 247:** See note following RCW 41.32.4991.

**Intent—Severability—Effective date—1994 c 197:** See notes following RCW 41.50.165.

**Retroactive application—Effective date—1993 c 95:** See notes following RCW 41.40.175.

**Findings—Effective dates—1991 c 343:** See notes following RCW 41.50.005.

**Intent—1991 c 35:** See note following RCW 41.26.005.

**Findings—1990 c 274:** "(1) The current system for calculating service credit for school district employees is difficult and costly to administer. By changing from the current hours per month calculation to an hours per year calculation, the accumulation of service credit by school district employees will be easier to understand and to administer.

(2) The current system for granting service credit for substitute teachers is difficult and costly to administer. By notifying substitute teachers of their eligibility for service credit and allowing the substitute teacher to apply for service credit, the accumulation of service credit by substitute teachers will be easier to understand and to administer.

(3) Currently, temporary employees in eligible positions in the public employees' retirement system are exempted from membership in the system for up to six months. If the position lasts for longer than six months the employee is made a member retroactively. This conditional exemption causes tracking problems for the department of retirement systems and places a heavy financial burden for back contributions on a temporary employee who crosses the six-month barrier. Under the provisions of this act all persons, other than retirees, who are hired in an eligible position will become members immediately, thereby alleviating the problems described in this section.

(4) The legislature finds that retirees from the plan II systems of the law enforcement officers' and fire fighters' retirement system, the teachers' retirement system, and the public employees' retirement system, may not work for a nonfederal public employer without suffering a suspension of their retirement benefits. This fails to recognize the current and projected demographics indicating the decreasing work force and that the expertise possessed by retired workers can provide a substantial benefit to the state. At the same time, the legislature recognizes that a person who is working full time should have his or her pension delayed until he or she enters full or partial retirement. By allowing plan II retirees to work in ineligible positions, the competing concerns listed above are both properly addressed." [1990 c 274 § 1.]

**Intent—Reservation—1990 c 274 §§ 2 and 4:** "(1) The 1990 amendments to RCW 41.32.010(27)(b) and 41.40.450 are intended by the legislature to effect administrative, rather than substantive, changes to the affected retirement plan. The legislature therefore reserves the right to revoke or amend the 1990 amendments to RCW 41.32.010(27)(b) and 41.40.450. No member is entitled to have his or her service credit calculated under the 1990 amendments to RCW 41.32.010(27)(b) and 41.40.450 as a matter of contractual right.

(2) The department's retroactive application of the changes made in RCW 41.32.010(27)(b) to all service rendered between October 1, 1977, and August 31, 1990, is consistent with the legislative intent of the 1990 changes to RCW 41.32.010(27)(b)." [1994 c 177 § 10; 1990 c 274 § 18.]

**Effective date—1990 c 274:** "Sections 1 through 8 of this act shall take effect September 1, 1990." [1990 c 274 § 21.]

**Construction—1990 c 274:** "This act shall not be construed as affecting any existing right acquired or liability or obligation incurred under the sections amended or repealed in this act or under any rule or order adopted under those sections, nor as affecting any proceeding instituted under those sections." [1990 c 274 § 17.]

**Purpose—Application—Retrospective application—1985 c 13:** See notes following RCW 41.04.445.

**Effective dates—1982 1st ex.s. c 52:** See note following RCW 2.10.180.

**Purpose—Severability—1981 c 256:** See notes following RCW 41.04.250.

**Effective date—Severability—1977 ex.s. c 293:** See notes following RCW 41.32.755.

**Emergency—1974 ex.s. c 199:** "This 1974 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect immediately." [1974 ex.s. c 199 § 7.]

**Severability—1974 ex.s. c 199:** "If any provision of this 1974 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1974 ex.s. c 199 § 8.]

**Construction—1974 ex.s. c 199:** "(1) Subsection (3) of section 4 of this 1974 amendatory act relating to elected and appointed officials shall be retroactive to January 1, 1973.

(2) Amendatory language contained in subsection (11) of section 1 relating to members as members of the legislature and in provisos (2) and (3) of section 2 of this 1974 amendatory act shall only apply to those members who are serving as a state senator, state representative or state superintendent of public instruction on or after the effective date of this 1974 amendatory act.

(3) Notwithstanding any other provision of this 1974 amendatory act, RCW 41.32.497 as last amended by section 2, chapter 189, Laws of 1973 1st ex. sess. shall be applicable to any member serving as a state senator, state representative or superintendent of public instruction on the effective date of this 1974 amendatory act." [1974 ex.s. c 199 § 5.]

**Reviser's note:** (1) "Subsection (3) of section 4 of this 1974 amendatory act" is codified as RCW 41.32.498(3).

(2) Sections 1 and 2 of 1974 ex.s. c 199 consist of amendments to RCW 41.32.010 and 41.32.260. For amendatory language, a portion of which was vetoed, see the 1973-1974 session laws.

(3) "this 1974 amendatory act" [1974 ex.s. c 199] is codified in RCW 41.32.010, 41.32.260, 41.32.497, 41.32.498, and 41.32.4945. The effective date of 1974 ex.s. c 199 is May 6, 1974.

**Effective date—1969 ex.s. c 176:** The effective date of the amendments to this section and RCW 41.32.420 is April 25, 1969.

**Effective date—1967 c 50:** "This 1967 amendatory act shall take effect on July 1, 1967." [1967 c 50 § 12.]

**Severability—1967 c 50:** "If any provision of this 1967 amendatory act, or its application to any person or circumstance is held invalid, the remainder of this 1967 amendatory act, or the application of the provision to other persons or circumstances is not affected." [1967 c 50 § 13.]

**Severability—1965 ex.s. c 81:** "If any provision of this act is held to be invalid the remainder of this act shall not be affected." [1965 ex.s. c 81 § 9.]

**Effective date—1965 ex.s. c 81:** "The effective date of this act is July 1, 1965." [1965 ex.s. c 81 § 10.]

**Savings—1963 ex.s. c 14:** "The amendment of any section by this 1963 act shall not be construed as impairing any existing right acquired or any liability incurred by any member under the provisions of the section amended; nor shall it affect any vested right of any former member who reenters public school employment or becomes reinstated as a member subsequent to the effective date of such act." [1963 ex.s. c 14 § 23.]

**Severability—1963 ex.s. c 14:** "If any provision of this act is held to be invalid the remainder of the act shall not be affected." [1963 ex.s. c 14 § 24.]

**Effective date—1963 ex.s. c 14:** "The effective date of this act is July 1, 1964." [1963 ex.s. c 14 § 26.]

**41.32.010 Definitions. (Effective July 1, 1996.)** As used in this chapter, unless a different meaning is plainly required by the context:

(1)(a) "Accumulated contributions" for plan I members, means the sum of all regular annuity contributions and, except for the purpose of withdrawal at the time of retirement, any amount paid under RCW 41.50.165(2) with regular interest thereon.

(b) "Accumulated contributions" for plan II members, means the sum of all contributions standing to the credit of a member in the member's individual account, including any

amount paid under RCW 41.50.165(2), together with the regular interest thereon.

(2) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality tables and regulations as shall be adopted by the director and regular interest.

(3) "Annuity" means the moneys payable per year during life by reason of accumulated contributions of a member.

(4) "Member reserve" means the fund in which all of the accumulated contributions of members are held.

(5)(a) "Beneficiary" for plan I members, means any person in receipt of a retirement allowance or other benefit provided by this chapter.

(b) "Beneficiary" for plan II and plan III members, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(6) "Contract" means any agreement for service and compensation between a member and an employer.

(7) "Creditable service" means membership service plus prior service for which credit is allowable. This subsection shall apply only to plan I members.

(8) "Dependent" means receiving one-half or more of support from a member.

(9) "Disability allowance" means monthly payments during disability. This subsection shall apply only to plan I members.

(10)(a) "Earnable compensation" for plan I members, means:

(i) All salaries and wages paid by an employer to an employee member of the retirement system for personal services rendered during a fiscal year. In all cases where compensation includes maintenance the employer shall fix the value of that part of the compensation not paid in money.

(ii) "Earnable compensation" for plan I members also includes the following actual or imputed payments, which are not paid for personal services:

(A) Retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wages which the individual would have earned during a payroll period shall be considered earnable compensation and the individual shall receive the equivalent service credit.

(B) If a leave of absence, without pay, is taken by a member for the purpose of serving as a member of the state legislature, and such member has served in the legislature five or more years, the salary which would have been received for the position from which the leave of absence was taken shall be considered as compensation earnable if the employee's contribution thereon is paid by the employee. In addition, where a member has been a member of the state legislature for five or more years, earnable compensation for the member's two highest compensated consecutive years of service shall include a sum not to exceed thirty-six hundred dollars for each of such two consecutive years, regardless of whether or not legislative service was rendered during those two years.

(iii) For members employed less than full time under written contract with a school district, or community college

district, in an instructional position, for which the member receives service credit of less than one year in all of the years used to determine the earnable compensation used for computing benefits due under RCW 41.32.497, 41.32.498, and 41.32.520, the member may elect to have earnable compensation defined as provided in RCW 41.32.345. For the purposes of this subsection, the term "instructional position" means a position in which more than seventy-five percent of the member's time is spent as a classroom instructor (including office hours), a librarian, or a counselor. Earnable compensation shall be so defined only for the purpose of the calculation of retirement benefits and only as necessary to insure that members who receive fractional service credit under RCW 41.32.270 receive benefits proportional to those received by members who have received full-time service credit.

(iv) "Earnable compensation" does not include:

(A) Remuneration for unused sick leave authorized under RCW 41.04.340, 28A.400.210, or 28A.310.490;

(B) Remuneration for unused annual leave in excess of thirty days as authorized by RCW 43.01.044 and 43.01.041.

(b) "Earnable compensation" for plan II and plan III members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States Internal Revenue Code, but shall exclude lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay.

"Earnable compensation" for plan II and plan III members also includes the following actual or imputed payments which, except in the case of (b)(ii)(B) of this subsection, are not paid for personal services:

(i) Retroactive payments to an individual by an employer on reinstatement of the employee in a position or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wages which the individual would have earned during a payroll period shall be considered earnable compensation, to the extent provided above, and the individual shall receive the equivalent service credit.

(ii) In any year in which a member serves in the legislature the member shall have the option of having such member's earnable compensation be the greater of:

(A) The earnable compensation the member would have received had such member not served in the legislature; or

(B) Such member's actual earnable compensation received for teaching and legislative service combined. Any additional contributions to the retirement system required because compensation earnable under (b)(ii)(A) of this subsection is greater than compensation earnable under (b)(ii)(B) of this subsection shall be paid by the member for both member and employer contributions.

(11) "Employer" means the state of Washington, the school district, or any agency of the state of Washington by which the member is paid.

(12) "Fiscal year" means a year which begins July 1st and ends June 30th of the following year.



(13) "Former state fund" means the state retirement fund in operation for teachers under chapter 187, Laws of 1923, as amended.

(14) "Local fund" means any of the local retirement funds for teachers operated in any school district in accordance with the provisions of chapter 163, Laws of 1917 as amended.

(15) "Member" means any teacher included in the membership of the retirement system. Also, any other employee of the public schools who, on July 1, 1947, had not elected to be exempt from membership and who, prior to that date, had by an authorized payroll deduction, contributed to the member reserve.

(16) "Membership service" means service rendered subsequent to the first day of eligibility of a person to membership in the retirement system: PROVIDED, That where a member is employed by two or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service is rendered. The provisions of this subsection shall apply only to plan I members.

(17) "Pension" means the moneys payable per year during life from the pension reserve.

(18) "Pension reserve" is a fund in which shall be accumulated an actuarial reserve adequate to meet present and future pension liabilities of the system and from which all pension obligations are to be paid.

(19) "Prior service" means service rendered prior to the first date of eligibility to membership in the retirement system for which credit is allowable. The provisions of this subsection shall apply only to plan I members.

(20) "Prior service contributions" means contributions made by a member to secure credit for prior service. The provisions of this subsection shall apply only to plan I members.

(21) "Public school" means any institution or activity operated by the state of Washington or any instrumentality or political subdivision thereof employing teachers, except the University of Washington and Washington State University.

(22) "Regular contributions" means the amounts required to be deducted from the compensation of a member and credited to the member's individual account in the member reserve. This subsection shall apply only to plan I members.

(23) "Regular interest" means such rate as the director may determine.

(24)(a) "Retirement allowance" for plan I members, means monthly payments based on the sum of annuity and pension, or any optional benefits payable in lieu thereof.

(b) "Retirement allowance" for plan II and plan III members, means monthly payments to a retiree or beneficiary as provided in this chapter.

(25) "Retirement system" means the Washington state teachers' retirement system.

(26)(a) "Service" for plan I members means the time during which a member has been employed by an employer for compensation.

(i) If a member is employed by two or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service is rendered.

(ii) As authorized by RCW 28A.400.300, up to forty-five days of sick leave may be creditable as service solely for the purpose of determining eligibility to retire under RCW 41.32.470.

(iii) As authorized in RCW 41.32.065, service earned in an out-of-state retirement system that covers teachers in public schools may be applied solely for the purpose of determining eligibility to retire under RCW 41.32.470.

(b) "Service" for plan II and plan III members, means periods of employment by a member for one or more employers for which earnable compensation is earned subject to the following conditions:

(i) A member employed in an eligible position or as a substitute shall receive one service credit month for each month of September through August of the following year if he or she earns earnable compensation for eight hundred ten or more hours during that period and is employed during nine of those months, except that a member may not receive credit for any period prior to the member's employment in an eligible position except as provided in RCW 41.32.812 and 41.50.132;

(ii) If a member is employed either in an eligible position or as a substitute teacher for nine months of the twelve month period between September through August of the following year but earns earnable compensation for less than eight hundred ten hours but for at least six hundred thirty hours, he or she will receive one-half of a service credit month for each month of the twelve month period;

(iii) All other members in an eligible position or as a substitute teacher shall receive service credit as follows:

(A) A service credit month is earned in those calendar months where earnable compensation is earned for ninety or more hours;

(B) A half-service credit month is earned in those calendar months where earnable compensation is earned for at least seventy hours but less than ninety hours; and

(C) A quarter-service credit month is earned in those calendar months where earnable compensation is earned for less than seventy hours.

(iv) Any person who is a member of the teachers' retirement system and who is elected or appointed to a state elective position may continue to be a member of the retirement system and continue to receive a service credit month for each of the months in a state elective position by making the required member contributions.

(v) When an individual is employed by two or more employers the individual shall only receive one month's service credit during any calendar month in which multiple service for ninety or more hours is rendered.

(vi) As authorized by RCW 28A.400.300, up to forty-five days of sick leave may be creditable as service solely for the purpose of determining eligibility to retire under RCW 41.32.470. For purposes of plan II "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than forty-five days of sick leave is creditable as allowed under this subsection as follows:

(A) Less than eleven days equals one-quarter service credit month;

(B) Eleven or more days but less than twenty-two days equals one-half service credit month;

(C) Twenty-two days equals one service credit month;

(D) More than twenty-two days but less than thirty-three days equals one and one-quarter service credit month;

(E) Thirty-three or more days but less than forty-five days equals one and one-half service credit month.

(vii) As authorized in RCW 41.32.065, service earned in an out-of-state retirement system that covers teachers in public schools may be applied solely for the purpose of determining eligibility to retire under RCW 41.32.470.

(viii) The department shall adopt rules implementing this subsection.

(27) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(28) "Service credit month" means a full service credit month or an accumulation of partial service credit months that are equal to one.

(29) "Teacher" means any person qualified to teach who is engaged by a public school in an instructional, administrative, or supervisory capacity. The term includes state, educational service district, and school district superintendents and their assistants and all employees certificated by the superintendent of public instruction; and in addition thereto any full time school doctor who is employed by a public school and renders service of an instructional or educational nature.

(30) "Average final compensation" for plan II and plan III members, means the member's average earnable compensation of the highest consecutive sixty service credit months prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation except under RCW 41.32.810(2).

(31) "Retiree" means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer while a member. A person is in receipt of a retirement allowance as defined in subsection (24) of this section or other benefit as provided by this chapter when the department mails, causes to be mailed, or otherwise transmits the retirement allowance warrant.

(32) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(33) "Director" means the director of the department.

(34) "State elective position" means any position held by any person elected or appointed to state-wide office or elected or appointed as a member of the legislature.

(35) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(36) "Substitute teacher" means:

(a) A teacher who is hired by an employer to work as a temporary teacher, except for teachers who are annual contract employees of an employer and are guaranteed a minimum number of hours; or

(b) Teachers who either (i) work in ineligible positions for more than one employer or (ii) work in an ineligible position or positions together with an eligible position.

(37)(a) "Eligible position" for plan II members from June 7, 1990, through September 1, 1991, means a position which normally requires two or more uninterrupted months of creditable service during September through August of the following year.

(b) "Eligible position" for plan II and plan III on and after September 1, 1991, means a position that, as defined by the employer, normally requires five or more months of at least seventy hours of earnable compensation during September through August of the following year.

(c) For purposes of this chapter an employer shall not define "position" in such a manner that an employee's monthly work for that employer is divided into more than one position.

(d) The elected position of the superintendent of public instruction is an eligible position.

(38) "Plan I" means the teachers' retirement system, plan I providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.

(39) "Plan II" means the teachers' retirement system, plan II providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977, and prior to July 1, 1996.

(40) "Plan III" means the teachers' retirement system, plan III providing the benefits and funding provisions covering persons who first become members of the system on and after July 1, 1996, or who transfer under RCW 41.32.817.

(41) "Education association" means an association organized to carry out collective bargaining activities, the majority of whose members are employees covered by chapter 41.59 RCW or academic employees covered by chapter 28B.52 RCW.

(42) "Index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items compiled by the bureau of labor statistics, United States department of labor.

(43) "Index A" means the index for the year prior to the determination of a postretirement adjustment.

(44) "Index B" means the index for the year prior to index A.

(45) "Index year" means the earliest calendar year in which the index is more than sixty percent of index A.

(46) "Adjustment ratio" means the value of index A divided by index B.

(47) "Annual increase" means, initially, fifty-nine cents per month per year of service which amount shall be increased each July 1st by three percent, rounded to the nearest cent. [1995 c 345 § 9; 1995 c 239 § 102. Prior: 1994 c 298 § 3; 1994 c 247 § 2; 1994 c 197 § 12; 1993 c 95 § 7; prior: 1992 c 212 § 1; 1992 c 3 § 3; prior: 1991 c 343 § 3; 1991 c 35 § 31; 1990 c 274 § 2; 1987 c 265 § 1; 1985 c 13 § 6; prior: 1984 c 256 § 1; 1984 c 5 § 1; 1983 c 5 § 1; 1982 1st ex.s. c 52 § 6; 1981 c 256 § 5; 1979 ex.s. c 249 § 5; 1977 ex.s. c 293 § 18; 1975 1st ex.s. c 275 § 149; 1974 ex.s. c 199 § 1; 1969 ex.s. c 176 § 95; 1967 c 50 § 11; 1965 ex.s. c 81 § 1; 1963 ex.s. c 14 § 1; 1955 c 274 § 1; 1947 c 80 § 1; Rem. Supp. 1947 § 4995-20; prior: 1941 c 97 § 1; 1939 c 86 § 1; 1937 c 221 § 1; 1931 c 115 § 1; 1923 c 187 § 1; 1917 c 163 § 1; Rem. Supp. 1941 § 4995-1.]

**Reviser's note:** This section was amended by 1995 c 239 § 102 and by 1995 c 345 § 9, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Intent—Effective date—1995 c 345:** See notes following RCW 41.32.489.

**Intent—Purpose—1995 c 239:** See note following RCW 41.32.831.

**Effective date—Part and subchapter headings not law—1995 c 239:** See notes following RCW 41.32.005.

**Intent—1994 c 298:** See note following RCW 41.40.010.

**Effective date—1994 c 247:** See note following RCW 41.32.4991.

**Intent—Severability—Effective date—1994 c 197:** See notes following RCW 41.50.165.

**Retroactive application—Effective date—1993 c 95:** See notes following RCW 41.40.175.

**Findings—Effective dates—1991 c 343:** See notes following RCW 41.50.005.

**Intent—1991 c 35:** See note following RCW 41.26.005.

**Findings—1990 c 274:** "(1) The current system for calculating service credit for school district employees is difficult and costly to administer. By changing from the current hours per month calculation to an hours per year calculation, the accumulation of service credit by school district employees will be easier to understand and to administer.

(2) The current system for granting service credit for substitute teachers is difficult and costly to administer. By notifying substitute teachers of their eligibility for service credit and allowing the substitute teacher to apply for service credit, the accumulation of service credit by substitute teachers will be easier to understand and to administer.

(3) Currently, temporary employees in eligible positions in the public employees' retirement system are exempted from membership in the system for up to six months. If the position lasts for longer than six months the employee is made a member retroactively. This conditional exemption causes tracking problems for the department of retirement systems and places a heavy financial burden for back contributions on a temporary employee who crosses the six-month barrier. Under the provisions of this act all persons, other than retirees, who are hired in an eligible position will become members immediately, thereby alleviating the problems described in this section.

(4) The legislature finds that retirees from the plan II systems of the law enforcement officers' and fire fighters' retirement system, the teachers' retirement system, and the public employees' retirement system, may not work for a nonfederal public employer without suffering a suspension of their retirement benefits. This fails to recognize the current and projected demographics indicating the decreasing work force and that the expertise possessed by retired workers can provide a substantial benefit to the state. At the same time, the legislature recognizes that a person who is working full time should have his or her pension delayed until he or she enters full or partial retirement. By allowing plan II retirees to work in ineligible positions, the competing concerns listed above are both properly addressed." [1990 c 274 § 1.]

**Intent—Reservation—1990 c 274 §§ 2 and 4:** "(1) The 1990 amendments to RCW 41.32.010(27)(b) and 41.40.450 are intended by the legislature to effect administrative, rather than substantive, changes to the affected retirement plan. The legislature therefore reserves the right to revoke or amend the 1990 amendments to RCW 41.32.010(27)(b) and 41.40.450. No member is entitled to have his or her service credit calculated under the 1990 amendments to RCW 41.32.010(27)(b) and 41.40.450 as a matter of contractual right.

(2) The department's retroactive application of the changes made in RCW 41.32.010(27)(b) to all service rendered between October 1, 1977, and August 31, 1990, is consistent with the legislative intent of the 1990 changes to RCW 41.32.010(27)(b)." [1994 c 177 § 10; 1990 c 274 § 18.]

**Effective date—1990 c 274:** "Sections 1 through 8 of this act shall take effect September 1, 1990." [1990 c 274 § 21.]

**Construction—1990 c 274:** "This act shall not be construed as affecting any existing right acquired or liability or obligation incurred under the sections amended or repealed in this act or under any rule or order adopted under those sections, nor as affecting any proceeding instituted under those sections." [1990 c 274 § 17.]

**Purpose—Application—Retrospective application—1985 c 13:** See notes following RCW 41.04.445.

**Effective dates—1982 1st ex.s. c 52:** See note following RCW 2.10.180.

**Purpose—Severability—1981 c 256:** See notes following RCW 41.04.250.

**Effective date—Severability—1977 ex.s. c 293:** See notes following RCW 41.32.755.

**Emergency—1974 ex.s. c 199:** "This 1974 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect immediately." [1974 ex.s. c 199 § 7.]

**Severability—1974 ex.s. c 199:** "If any provision of this 1974 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1974 ex.s. c 199 § 8.]

**Construction—1974 ex.s. c 199:** "(1) Subsection (3) of section 4 of this 1974 amendatory act relating to elected and appointed officials shall be retroactive to January 1, 1973.

(2) Amendatory language contained in subsection (11) of section 1 relating to members as members of the legislature and in provisos (2) and (3) of section 2 of this 1974 amendatory act shall only apply to those members who are serving as a state senator, state representative or state superintendent of public instruction on or after the effective date of this 1974 amendatory act.

(3) Notwithstanding any other provision of this 1974 amendatory act, RCW 41.32.497 as last amended by section 2, chapter 189, Laws of 1973 1st ex. sess. shall be applicable to any member serving as a state senator, state representative or superintendent of public instruction on the effective date of this 1974 amendatory act." [1974 ex.s. c 199 § 5.]

**Reviser's note:** (1) "Subsection (3) of section 4 of this 1974 amendatory act" is codified as RCW 41.32.498(3).

(2) Sections 1 and 2 of 1974 ex.s. c 199 consist of amendments to RCW 41.32.010 and 41.32.260. For amendatory language, a portion of which was vetoed, see the 1973-1974 session laws.

(3) "This 1974 amendatory act" [1974 ex.s. c 199] is codified in RCW 41.32.010, 41.32.260, 41.32.497, 41.32.498, and 41.32.4945. The effective date of 1974 ex.s. c 199 is May 6, 1974.

**Effective date—1969 ex.s. c 176:** The effective date of the amendments to this section and RCW 41.32.420 is April 25, 1969.

**Effective date—1967 c 50:** "This 1967 amendatory act shall take effect on July 1, 1967." [1967 c 50 § 12.]

**Severability—1967 c 50:** "If any provision of this 1967 amendatory act, or its application to any person or circumstance is held invalid, the remainder of this 1967 amendatory act, or the application of the provision to other persons or circumstances is not affected." [1967 c 50 § 13.]

**Severability—1965 ex.s. c 81:** "If any provision of this act is held to be invalid the remainder of this act shall not be affected." [1965 ex.s. c 81 § 9.]

**Effective date—1965 ex.s. c 81:** "The effective date of this act is July 1, 1965." [1965 ex.s. c 81 § 10.]

**Savings—1963 ex.s. c 14:** "The amendment of any section by this 1963 act shall not be construed as impairing any existing right acquired or any liability incurred by any member under the provisions of the section amended; nor shall it affect any vested right of any former member who reenters public school employment or becomes reinstated as a member subsequent to the effective date of such act." [1963 ex.s. c 14 § 23.]

**Severability—1963 ex.s. c 14:** "If any provision of this act is held to be invalid the remainder of the act shall not be affected." [1963 ex.s. c 14 § 24.]

**Effective date—1963 ex.s. c 14:** "The effective date of this act is July 1, 1964." [1963 ex.s. c 14 § 26.]

*Benefits not contractual right until July 1, 1996: RCW 41.34.100.*

**41.32.032 Membership in system—Service credit of educational staff associates. (Effective July 1, 1996.)** (1) Any teacher, as defined under RCW 41.32.010, who is first employed by a public school on or after June 7, 1984, shall become a member of the retirement system if otherwise eligible.

(2) Any person who before June 7, 1984, has established service credit under chapter 41.40 RCW while employed in an educational staff associate position and who is employed in such a position on or after June 7, 1984, has the following options:

(a) To remain a member of the public employees' retirement system notwithstanding the provisions of RCW 41.32.240 or 41.32.780; or

(b) To irrevocably elect to join the retirement system under this chapter and to receive service credit for previous periods of employment in any position included under RCW 41.32.010. This service credit and corresponding employee contribution shall be computed as though the person had then been a member of the retirement system under this chapter. All employee contributions credited to a member under chapter 41.40 RCW for service now to be credited to the retirement system under this chapter shall be transferred to the system and the member shall not receive any credit nor enjoy any rights under chapter 41.40 RCW for those periods of service. The member shall pay any difference between the employee contributions made under chapter 41.40 RCW and transferred under this subsection and what would have been required under this chapter, including interest as set by the director. The member shall be given until July 1, 1989, to make the irrevocable election permitted under this section. The election shall be made by submitting written notification as required by the department requesting credit under this section and by remitting any necessary proof of service or payments within the time set by the department.

Any person, not employed as an educational staff associate on June 7, 1984, may, before June 30 of the fifth school year after that person's return to employment as a teacher, request and establish membership and credit under this subsection. [1995 c 239 § 103; 1992 c 212 § 17; 1991 c 35 § 39; 1984 c 256 § 2. Formerly RCW 41.32.242.]

**Intent—Purpose—1995 c 239:** See note following RCW 41.32.831.

**Effective date—Part and subchapter headings not law—1995 c 239:** See notes following RCW 41.32.005.

**Intent—1991 c 35:** See note following RCW 41.26.005.

*Benefits not contractual right until July 1, 1996: RCW 41.34.100.*

**41.32.063 Benefit calculation—Limitation.** (1) The annual compensation taken into account in calculating retiree benefits under this system shall not exceed the limits imposed by section 401(a)(17) of the federal internal revenue code for qualified trusts.

(2) The department shall adopt rules as necessary to implement this section. [1995 c 145 § 2.]

**41.32.4851 Minimum retirement allowance—Annual adjustment—Persons who become beneficiaries after June 30, 1995.** (1) No one who becomes a beneficiary after June 30, 1995, shall receive a monthly retirement allowance of less than twenty-four dollars and twenty-two cents times the number of years of service creditable to the person whose service is the basis of such retirement allowance.

(2) If the retirement allowance payable was adjusted at the time benefit payments to the beneficiary commenced, the minimum allowance provided in this section shall be adjusted in a manner consistent with that adjustment.

(3) Beginning July 1, 1996, the minimum benefit set forth in subsection (1) of this section shall be adjusted annually by the annual increase.

(4) Those receiving a temporary disability benefit under RCW 41.32.540 shall not be eligible for the benefit provided by this section. [1995 c 345 § 3.]

**Intent—Effective date—1995 c 345:** See notes following RCW 41.32.489.

**41.32.487 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**41.32.4871 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**41.32.4872 Permanent increase for specified beneficiaries age seventy or over.** (1) The amount of the July 1, 1993, increase to the retirement allowance of beneficiaries under this chapter as a result of the temporary adjustment authorized by section 2, chapter 519, Laws of 1993, shall be made a permanent adjustment on July 1, 1995.

(2) Beneficiaries receiving a benefit under RCW 41.32.485 who are at least age seventy-nine shall receive on July 1, 1995, a permanent adjustment of one dollar and eighteen cents per month per year of service.

(3) Beneficiaries under this chapter who are not subject to subsection (1) of this section and not receiving a benefit under RCW 41.32.485 shall receive the following permanent adjustment to their retirement allowance on July 1, 1995:

(a) Those who are age seventy, thirty-nine cents per month per year of service;

(b) Those who are age seventy-one, seventy-nine cents per month per year of service; and

(c) Those who are at least age seventy-two, one dollar and eighteen cents per month per year of service. [1995 c 345 § 4.]

**Intent—Effective date—1995 c 345:** See notes following RCW 41.32.489.

**41.32.488 Decodified.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**41.32.489 Retirement allowance—Annual increases—Eligibility.** (1) Beginning July 1, 1995, and annually thereafter, the retirement allowance of a person meeting the requirements of this section shall be increased by the annual increase amount.

(2) The following persons shall be eligible for the benefit provided in subsection (1) of this section:

(a) A beneficiary who has received a retirement allowance for at least one year and has attained at least age sixty-six by July 1st in the calendar year in which the annual increase is given; or

(b) A beneficiary whose retirement allowance is lower than the minimum benefit provided under RCW 41.32.4851.

(3) The following persons shall also be eligible for the benefit provided in subsection (1) of this section:

(a) A beneficiary receiving the minimum benefit on June 30, 1995, under RCW 41.32.485; or

(b) A recipient of a survivor benefit on June 30, 1995, which has been increased by \*RCW 41.32.575.

(4) If otherwise eligible, those receiving an annual adjustment under RCW 41.32.530(1)(d) shall be eligible for

the annual increase adjustment in addition to the benefit that would have been received absent this section.

(5) Those receiving a temporary disability benefit under RCW 41.32.540 shall not be eligible for the benefit provided by this section.

(6) The legislature reserves the right to amend or repeal this section in the future and no member or beneficiary has a contractual right to receive this postretirement adjustment not granted prior to that time. [1995 c 345 § 2.]

**\*Reviser's note:** RCW 41.32.575 was repealed by 1995 c 345 § 11.

**Intent—1995 c 345:** "The intent of this act is to:

(1) Simplify the calculation of postretirement adjustments so that they can be more easily communicated to plan I active and retired members;

(2) Provide postretirement adjustments based on years of service rather than size of benefit;

(3) Provide postretirement adjustments at an earlier age;

(4) Provide postretirement adjustments to a larger segment of plan I retirees; and

(5) Simplify administration by reducing the number of plan I postretirement adjustments to one." [1995 c 345 § 1.]

**Effective date—1995 c 345:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 12, 1995]." [1995 c 345 § 14.]

**41.32.499 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**41.32.500 Termination of membership.** Membership in the retirement system is terminated when a member retires for service or disability, dies, or withdraws his or her accumulated contributions.

The prior service certificate becomes void when a member dies or withdraws the accumulated contributions, and any prior administrative interpretation of the board of trustees, consistent with this section, is hereby ratified, affirmed and approved. [1995 c 134 § 13. Prior: 1994 c 197 § 17; 1994 c 177 § 5; 1991 c 35 § 57; 1986 c 317 § 2; 1983 c 233 § 1; 1974 ex.s. c 193 § 3; 1969 ex.s. c 150 § 16; 1967 c 50 § 6; 1965 ex.s. c 81 § 5; 1955 c 274 § 23; 1947 c 80 § 50; Rem. Supp. 1947 § 4995-69.]

**Intent—Severability—Effective date—1994 c 197:** See notes following RCW 41.50.165.

**Findings—1994 c 177:** See note following RCW 41.50.125.

**Intent—1991 c 35:** See note following RCW 41.26.005.

**Legislative findings—Intent—Severability—1986 c 317:** See notes following RCW 41.40.150.

**Severability—1983 c 233:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1983 c 233 § 4.]

**Emergency—Severability—1974 ex.s. c 193:** See notes following RCW 41.32.310.

**Effective date—1969 ex.s. c 150:** See note following RCW 41.50.200.

**Effective date—Severability—1967 c 50:** See notes following RCW 41.32.010.

**Effective date—Severability—1965 ex.s. c 81:** See notes following RCW 41.32.010.

**41.32.520 Payment on death before retirement.** (1) Except as specified in subsection (3) of this section, upon receipt of proper proofs of death of any member before retirement or before the first installment of his or her

retirement allowance shall become due his or her accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, and/or other benefits payable upon his or her death shall be paid to his or her estate or to such persons, trust, or organization as he or she shall have nominated by written designation duly executed and filed with the department. If a member fails to file a new beneficiary designation subsequent to marriage, divorce, or reestablishment of membership following termination by withdrawal, lapsation, or retirement, payment of his or her accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, and/or other benefits upon death before retirement shall be made to the surviving spouse, if any; otherwise, to his or her estate. If a member had established ten or more years of Washington membership service credit or was eligible for retirement, the beneficiary or the surviving spouse if otherwise eligible may elect, in lieu of a cash refund of the member's accumulated contributions, the following survivor benefit plan actuarially reduced by the amount of any lump sum benefit identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670:

(a) A widow or widower, without a child or children under eighteen years of age, may elect a monthly payment of fifty dollars to become effective at age fifty, provided the member had fifteen or more years of Washington membership service credit. A benefit paid under this subsection (1)(a) shall terminate at the marriage of the beneficiary.

(b) The beneficiary, if a surviving spouse or a dependent (as that term is used in computing the dependent exemption for federal internal revenue purposes) may elect to receive a joint and one hundred percent retirement allowance under RCW 41.32.530.

(i) In the case of a dependent child the allowance shall continue until attainment of majority or so long as the department judges that the circumstances which created his or her dependent status continue to exist. In any case, if at the time dependent status ceases, an amount equal to the amount of accumulated contributions of the deceased member has not been paid to the beneficiary, the remainder shall then be paid in a lump sum to the beneficiary.

(ii) If at the time of death, the member was not then qualified for a service retirement allowance, the benefit shall be based upon the actuarial equivalent of the sum necessary to pay the accrued regular retirement allowance commencing when the deceased member would have first qualified for a service retirement allowance.

(2) If no qualified beneficiary survives a member, at his or her death his or her accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to his or her estate, or his or her dependents may qualify for survivor benefits under benefit plan (1)(b) in lieu of a cash refund of the members accumulated contributions in the following order: Widow or widower, guardian of a dependent child or children under age eighteen, or dependent parent or parents.

(3) If a member who has received a determination of disability as specified in RCW 41.32.550 and selected a retirement option under RCW 41.32.530(1)(b) dies before the first retirement allowance installment becomes due, he or she shall receive the benefit provided under the selected retirement option. [1995 c 144 § 9; 1993 c 16 § 1; 1992 c 212 § 7. Prior: 1991 c 365 § 29; 1991 c 35 § 58; 1990 c 249 § 15; 1974 ex.s. c 193 § 5; 1973 2nd ex.s. c 32 § 4; 1973 1st ex.s. c 154 § 76; 1967 c 50 § 7; 1965 ex.s. c 81 § 6; 1957 c 183 § 3; 1955 c 274 § 25; 1947 c 80 § 52; Rem. Supp. 1947 § 4995-71; prior: 1941 c 97 § 6; 1939 c 86 § 6; 1937 c 221 § 7; 1923 c 187 § 22; 1917 c 163 § 21; Rem. Supp. 1941 § 4995-7.]

**Application—1993 c 16 § 1:** "The provisions of section 1(3) of this act shall apply to all determinations of disability made after June 30, 1992." [1993 c 16 § 2.]

**Effective date—1993 c 16:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [April 12, 1993]." [1993 c 16 § 3.]

**Severability—1991 c 365:** See note following RCW 41.50.500.

**Intent—1991 c 35:** See note following RCW 41.26.005.

**Findings—1990 c 249:** See note following RCW 2.10.146.

**Emergency—Severability—1974 ex.s. c 193:** See notes following RCW 41.32.310.

**Emergency—Severability—1973 2nd ex.s. c 32:** See notes following RCW 41.32.310.

**Severability—1973 1st ex.s. c 154:** See note following RCW 2.12.030.

**Effective date—Severability—1967 c 50:** See notes following RCW 41.32.010.

**Effective date—Severability—1965 ex.s. c 81:** See notes following RCW 41.32.010.

**Severability—1957 c 183:** See RCW 41.33.900.

**41.32.522 Death benefits.** (1) The department shall pay a death benefit of six hundred dollars to a member's estate or to the persons, trust, or organization the member nominates by written designation duly executed and filed with the department or to the persons as may otherwise qualify as the beneficiary pursuant to RCW 41.32.520 upon receipt of proper proof of death of the member if he or she:

(a) Was employed on a full time basis during the fiscal year in which his or her death occurs;

(b) Was under contract for full time employment in a Washington public school;

(c) Submits an application for a retirement allowance to be approved by the department immediately following termination of his or her full-time Washington public school service and who dies before the first installment of his or her retirement allowance becomes due;

(d) Is receiving or is entitled to receive temporary disability payments; or

(e) Upon becoming eligible for a disability retirement allowance submits an application for an allowance to be approved by the department immediately following the date of his or her eligibility for a disability retirement allowance and dies before the first installment of such allowance becomes due.

(2) In order to receive a death benefit under this section a deceased member:

(a) Must have established at least one year of credit with the retirement system for full time Washington membership service;

(b) Who was not employed full time in Washington public school service during the fiscal year immediately preceding the year of his or her death must have been employed full time in Washington public school service for at least fifty consecutive days during the fiscal year of his or her death. [1995 c 144 § 10; 1992 c 212 § 4; 1991 c 35 § 59; 1974 ex.s. c 193 § 4; 1969 ex.s. c 150 § 18; 1967 c 50 § 8; 1963 ex.s. c 14 § 20.]

**Intent—1991 c 35:** See note following RCW 41.26.005.

**Emergency—Severability—1974 ex.s. c 193:** See notes following RCW 41.32.310.

**Effective date—1969 ex.s. c 150:** See note following RCW 41.50.200.

**Effective date—Severability—1967 c 50:** See notes following RCW 41.32.010.

**Savings—Effective date—Severability—1963 ex.s. c 14:** See notes following RCW 41.32.010.

**41.32.523 Death benefits—Members not qualified for benefits under RCW 41.32.522 and retired former members.** Upon receipt of proper proof of death of a member who does not qualify for the death benefit of six hundred dollars under RCW 41.32.522, or a former member who was retired for age, service, or disability, a death benefit of four hundred dollars shall be paid to the member's estate or to the persons, trust, or organization as he or she shall have nominated by written designation duly executed and filed with the department or to the persons as may otherwise qualify as the beneficiary pursuant to RCW 41.32.520: PROVIDED, That the member or the retired former member had established not less than ten years of credit with the retirement system for full time Washington membership service. [1995 c 144 § 11; 1992 c 212 § 5; 1991 c 35 § 60; 1974 ex.s. c 193 § 6; 1969 ex.s. c 150 § 19; 1967 c 50 § 9; 1965 ex.s. c 81 § 7; 1963 ex.s. c 14 § 21.]

**Intent—1991 c 35:** See note following RCW 41.26.005.

**Emergency—Severability—1974 ex.s. c 193:** See notes following RCW 41.32.310.

**Effective date—1969 ex.s. c 150:** See note following RCW 41.50.200.

**Effective date—Severability—1967 c 50:** See notes following RCW 41.32.010.

**Savings—Effective date—Severability—1963 ex.s. c 14:** See notes following RCW 41.32.010.

**41.32.530 Options available.** (1) Upon an application for retirement for service under RCW 41.32.480 or retirement for disability under RCW 41.32.550, approved by the department, every member shall receive the maximum retirement allowance available to him or her throughout life unless prior to the time the first installment thereof becomes due he or she has elected, by executing the proper application therefor, to receive the actuarial equivalent of his or her retirement allowance in reduced payments throughout his or her life with the following options:

(a) Standard allowance. If he or she dies before he or she has received the present value of his or her accumulated contributions at the time of his or her retirement in annuity payments, the unpaid balance shall be paid to his or her

estate or to such person, trust, or organization as he or she shall have nominated by written designation executed and filed with the department.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the member a reduced retirement allowance and upon death, such portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid to a person who has an insurable interest in the member's life. Such person shall be nominated by the member by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and a joint and fifty percent survivor option.

(c) Such other benefits shall be paid to a member receiving a retirement allowance under RCW 41.32.497 as the member may designate for himself, herself, or others equal to the actuarial value of his or her retirement annuity at the time of his retirement: PROVIDED, That the board of trustees shall limit withdrawals of accumulated contributions to such sums as will not reduce the member's retirement allowance below one hundred and twenty dollars per month.

(d) A member whose retirement allowance is calculated under RCW 41.32.498 may also elect to receive a retirement allowance based on options available under this subsection that includes the benefit provided under RCW 41.32.770. This retirement allowance option shall also be calculated so as to be actuarially equivalent to the maximum retirement allowance and to the options available under this subsection.

(2) A member, if married, must provide the written consent of his or her spouse to the option selected under this section. If a member is married and both the member and the member's spouse do not give written consent to an option under this section, the department will pay the member a joint and fifty percent survivor benefit and record the member's spouse as the beneficiary. Such benefit shall be calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section. [1995 c 144 § 12; 1990 c 249 § 5; 1955 c 274 § 26; 1947 c 80 § 53; Rem. Supp. 1947 § 4995-72. Prior: 1941 c 97 § 7, part; 1939 c 86 § 7, part; 1937 c 221 § 8, part; Rem. Supp. 1941 § 4995-8, part.]

**Findings—1990 c 249:** See note following RCW 2.10.146.

**41.32.550 Options and allowances on report that disability will be permanent—Reexamination.** (1) Should the director determine from the report of the medical director that a member employed under an annual contract with an employer has become permanently disabled for the performance of his or her duties or at any time while a member is receiving temporary disability benefits that a member's disability will be permanent, a member shall have the option of then receiving (a) all of the accumulated contributions in a lump sum payment and canceling his or her membership, or (b) of accepting a retirement allowance based on service or age, if eligible under RCW 41.32.480, or (c) if the member had five or more years of Washington membership service credit established with the retirement system, a retirement allowance because of disability.

(2) Any member applying for a retirement allowance who is eligible for benefits on the basis of service or age shall receive a retirement allowance based on the provision of law governing retirement for service or age. If the member qualifies to receive a retirement allowance because of disability he or she shall be paid the maximum annuity which shall be the actuarial equivalent of the accumulated contributions at his or her age of retirement and a pension equal to the service pension to which he or she would be entitled under RCW 41.32.497. If the member dies before he or she has received in annuity payments the present value of the accumulated contributions at the time of retirement, the unpaid balance shall be paid to the estate or to the persons, trust, or organization nominated by written designation executed and filed with the department.

(3) A member retired for disability may be required at any time to submit to reexamination. If medical findings reveal that the individual is no longer disabled for the performance of public school service, the retirement allowance granted because of disability may be terminated by action of the director or upon written request of the member. In case of termination, the individual shall be restored to full membership in the retirement system. [1995 c 144 § 13; 1991 sp.s. c 11 § 6. Prior: 1991 c 365 § 33; 1991 c 35 § 62; 1970 ex.s. c 35 § 4; 1969 ex.s. c 150 § 20; 1967 c 50 § 10; 1963 ex.s. c 14 § 19; 1961 c 132 § 4; 1959 c 37 § 2; 1955 c 274 § 28; 1947 c 80 § 55; Rem. Supp. 1947 § 4995-74; prior: 1941 c 97 § 7, part; 1939 c 86 § 7, part; 1937 c 221 § 8, part; 1931 c 115 § 8; 1923 c 187 § 18; 1917 c 163 § 17, part; Rem. Supp. 1941 § 4995-8, part.]

**Purpose—Effective dates—1991 sp.s. c 11:** See notes following RCW 41.26.090.

**Severability—1991 c 365:** See note following RCW 41.50.500.

**Intent—1991 c 35:** See note following RCW 41.26.005.

**Effective date—Severability—1970 ex.s. c 35:** See notes following RCW 41.32.480.

**Effective date—1969 ex.s. c 150:** See note following RCW 41.50.200.

**Effective date—Severability—1967 c 50:** See notes following RCW 41.32.010.

**Savings—Severability—Effective date—1963 ex.s. c 14:** See notes following RCW 41.32.010.

**41.32.570 Suspension of pension payments—Service as substitute teacher.** (1) Any retired teacher or retired administrator who enters service in any public educational institution in Washington state shall cease to receive pension payments while engaged in such service: PROVIDED, That service may be rendered up to seventy-five days per school year without reduction of pension.

(2) In addition to the seventy-five days of service permitted under subsection (1) of this section, a retired teacher or retired administrator may also serve only as a substitute teacher for up to an additional fifteen days per school year without reduction of pension if:

(a) A school district, which is not a member of a multidistrict substitute cooperative, determines that it has exhausted or can reasonably anticipate that it will exhaust its list of qualified and available substitutes and the school board of the district adopts a resolution to make its substitute teachers who are retired teachers or retired administrators eligible for the additional fifteen days of extended service

once the list of qualified and available substitutes has been exhausted. The resolution by the school district shall state that the services of retired teachers and retired administrators are necessary to address the shortage of qualified and available substitutes. The resolution shall be valid only for the school year in which it is adopted. The district shall forward a copy of the resolution with a list of retired teachers and retired administrators who have been employed as substitute teachers to the department and may notify the retired teachers and retired administrators included on the list of their right to take advantage of the provisions of this subsection; or

(b) A multidistrict substitute cooperative determines that the school districts have exhausted or can reasonably anticipate that they will exhaust their list of qualified and available substitutes and each of the school boards adopts a resolution to make their substitute teachers \*or retired administrators who are retired teachers [or retired administrators] eligible for the extended service once the list of qualified and available substitutes has been exhausted. The resolutions by each of the school districts shall state that the services of retired teachers and retired administrators are necessary to address the shortage of qualified and available substitutes. The resolutions shall be valid only for the school year in which they are adopted. The cooperative shall forward a copy of the resolutions with a list of retired teachers and retired administrators who have been employed as substitute teachers to the department and may notify the retired teachers and retired administrators included on the list of their right to take advantage of the provisions of this subsection.

(3) In addition to the seventy-five days of service permitted under subsection (1) of this section, a retired administrator or retired teacher may also serve as a substitute administrator up to an additional fifteen days per school year without reduction of pension if a school district board of directors adopts a resolution declaring that the services of a retired administrator or retired teacher are necessary because it cannot find a replacement administrator to fill a vacancy. The resolution shall be valid only for the school year in which it is adopted. The district shall forward a copy of the resolution with the name of the retired administrator or retired teacher who has been employed as a substitute administrator to the department. However, a retired administrator or retired teacher may not serve more than a total of fifteen additional days per school year pursuant to subsections (2) and (3) of this section.

(4) Subsection (1) of this section shall apply to all persons governed by the provisions of plan I, regardless of the date of their retirement, but shall apply only to benefits payable after June 11, 1986.

(5) Subsection (2) of this section shall apply to all persons governed by the provisions of plan I, regardless of the date of their retirement, but shall only apply to benefits payable after September 1, 1994. [1995 c 264 § 1; 1994 c 69 § 2; 1989 c 273 § 29; 1986 c 237 § 1; 1967 c 151 § 5; 1959 c 37 § 3; 1955 c 274 § 30; 1947 c 80 § 57; Rem. Supp. 1947 § 4995-76.]

\*Reviser's note: The reference to "retired administrators" is apparently misplaced, and should have been placed after the reference to retired teachers that follows it.

**Effective date—1995 c 264:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 5, 1995]." [1995 c 264 § 2.]

**Findings—1994 c 69:** "The legislature finds that there is a shortage of certificated substitute teachers in many regions of the state, and that this shortage will likely increase in the coming years. The legislature further finds that one method of reducing this shortage of substitute teachers is to encourage retired teachers to serve as substitutes by increasing the number of days they can work without affecting their retirement payments." [1994 c 69 § 1.]

**Severability—Effective dates—1989 c 273:** See RCW 41.45.900 and 41.45.901.

**Effective date—Severability—1967 c 151:** See notes following RCW 41.32.480.

**41.32.575 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**41.32.775 Repealed.** (*Effective July 1, 1996.*) See Supplementary Table of Disposition of Former RCW Sections, this volume.

**41.32.785 Options for payment of retirement allowances.** (1) Upon retirement for service as prescribed in RCW 41.32.765 or retirement for disability under RCW 41.32.790, a member shall elect to have the retirement allowance paid pursuant to the following options, calculated so as to be actuarially equivalent to each other.

(a) Standard allowance. A member electing this option shall receive a retirement allowance payable throughout such member's life. However, if the retiree dies before the total of the retirement allowance paid to such retiree equals the amount of such retiree's accumulated contributions at the time of retirement, then the balance shall be paid to the member's estate, or such person or persons, trust, or organization as the retiree shall have nominated by written designation duly executed and filed with the department; or if there be no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or if there be neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the member a reduced retirement allowance and upon death, such portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid to a designated person. Such person shall be nominated by the member by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and a joint and fifty percent survivor option.

(2) A member, if married, must provide the written consent of his or her spouse to the option selected under this section. If a member is married and both the member and member's spouse do not give written consent to an option under this section, the department will pay the member a joint and fifty percent survivor benefit and record the member's spouse as the beneficiary. Such benefit shall be calculated to be actuarially equivalent to the benefit options



available under subsection (1) of this section. [1995 c 144 § 14; 1990 c 249 § 6; 1977 ex.s. c 293 § 8.]

**Findings—1990 c 249:** See note following RCW 2.10.146.

**Effective date—Severability—Legislative direction and placement—Section headings—1977 ex.s. c 293:** See notes following RCW 41.32.755.

**41.32.790 Earned disability allowance—Eligibility—Disposition upon death of recipient.** (1) A member of the retirement system who becomes totally incapacitated for continued employment by an employer as determined by the department upon recommendation of the department shall be eligible to receive an allowance under the provisions of RCW 41.32.755 through 41.32.825. The member shall receive a monthly disability allowance computed as provided for in RCW 41.32.760 and shall have the allowance actuarially reduced to reflect the difference in the number of years between age at disability and the attainment of age sixty-five.

Any member who receives an allowance under the provisions of this section shall be subject to comprehensive medical examinations as required by the department. If medical examinations reveal that a member has recovered from the incapacitating disability and the member is offered reemployment by an employer at a comparable compensation, the member shall cease to be eligible for the allowance.

(2)(a) If the recipient of a monthly retirement allowance under this section dies before the total of the retirement allowance paid to the recipient equals the amount of the accumulated contributions at the date of retirement, then the balance shall be paid to the member's estate, or the person or persons, trust, or organization as the recipient has nominated by written designation duly executed and filed with the director, or, if there is no designated person or persons still living at the time of the recipient's death, then to the surviving spouse, or, if there is neither a designated person or persons still living at the time of his or her death nor a surviving spouse, then to his or her legal representative.

(b) If a recipient of a monthly retirement allowance under this section died before April 27, 1989, and before the total of the retirement allowance paid to the recipient equaled the amount of his or her accumulated contributions at the date of retirement, then the department shall pay the balance of the accumulated contributions to the member's surviving spouse or, if there is no surviving spouse, then in equal shares to the member's children. If there is no surviving spouse or children, the department shall retain the contributions. [1995 c 144 § 15; 1991 c 35 § 68; 1990 c 249 § 20; 1989 c 191 § 2; 1977 ex.s. c 293 § 9.]

**Intent—1991 c 35:** See note following RCW 41.26.005.

**Findings—1990 c 249:** See note following RCW 2.10.146.

**Effective date—Severability—Legislative direction and placement—Section headings—1977 ex.s. c 293:** See notes following RCW 41.32.755.

**41.32.805 Death benefits.** (1) Except as provided in RCW 11.07.010, if a member or a vested member who has not completed at least ten years of service dies, the amount of the accumulated contributions standing to such member's credit in the retirement system, less any amount identified as owing to an obligee upon withdrawal of accumulated

contributions pursuant to a court order filed under RCW 41.50.670, at the time of such member's death shall be paid to the member's estate, or such person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's accumulated contributions standing to such member's credit in the retirement system, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's surviving spouse as if in fact such spouse had been nominated by written designation, or if there be no such surviving spouse, then to such member's legal representatives.

(2) If a member who is eligible for retirement or a member who has completed at least ten years of service dies, the surviving spouse or eligible children shall elect to receive either:

(a) A retirement allowance computed as provided for in RCW 41.32.765(1), actuarially reduced by the amount of any lump sum benefit identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670 and actuarially adjusted to reflect a joint and one hundred percent survivor option under RCW 41.32.785 and if the member was not eligible for normal retirement at the date of death a further reduction as described in RCW 41.32.765(2); if a surviving spouse who is receiving a retirement allowance dies leaving a child or children of the member under the age of majority, then such child or children shall continue to receive an allowance in an amount equal to that which was being received by the surviving spouse, share and share alike, until such child or children reach the age of majority; if there is no surviving spouse eligible to receive an allowance at the time of the member's death, such member's child or children under the age of majority shall receive an allowance share and share alike calculated as herein provided making the assumption that the ages of the spouse and member were equal at the time of the member's death; or

(b) The member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670.

(3) If a member who is eligible for retirement or a member who has completed at least ten years of service dies after October 1, 1977, and is not survived by a spouse or an eligible child, then the accumulated contributions standing to the member's credit, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid:

(a) To an estate, a person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department; or

(b) If there is no such designated person or persons still living at the time of the member's death, then to the member's legal representatives. [1995 c 144 § 16; 1993 c 236 § 4; 1991 c 365 § 30; 1990 c 249 § 16; 1977 ex.s. c 293 § 12.]

**Severability—1991 c 365:** See note following RCW 41.50.500.

**Findings—1990 c 249:** See note following RCW 2.10.146.

**Effective date—Severability—Legislative direction and placement—Section headings—1977 ex.s. c 293:** See notes following RCW 41.32.755.

**41.32.817 Transfer to plan III—Irrevocable option. (Effective July 1, 1996.)** (1) Every plan II member employed by an employer in an eligible position may make an irrevocable option to transfer to plan III. For those who elect to transfer:

(a) All service credit in plan II shall be transferred to the defined benefit portion of plan III.

(b) The accumulated contributions in plan II shall be transferred to the member's account in the defined contribution portion established in chapter 41.34 RCW, pursuant to procedures developed by the department and subject to RCW 41.34.090.

(c) A member vested on July 1, 1996, under plan II shall be automatically vested in plan III upon transfer.

(d) Members employed by an employer in an eligible position on January 1, 1998, who request to transfer to plan III by January 1, 1998, shall have their account in the defined contribution portion of plan III, other than those accumulated contributions attributable to restorations made under RCW 41.50.165(2), increased by twenty percent of their plan II accumulated contributions as of January 1, 1996. If the member who requests to transfer dies before January 1, 1998, the additional payment provided by this subsection shall be paid to the member's estate, or such person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department.

(e) The legislature reserves the right to discontinue the right to transfer under this section.

(2) This subsection shall also apply to dual members as provided in RCW 41.54.035.

(3) Any member who elects to transfer to plan III and has eligible unrestored withdrawn contributions in plan II, may subsequently restore such contributions under the provisions of RCW 41.32.825. The restored plan II service credit will be automatically transferred to plan III. Contributions restored will be transferred to the member's account in plan III.

(4) Anyone previously retired from plan II is prohibited from transferring to plan III. [1995 c 239 § 303.]

**Intent—Purpose—1995 c 239:** See note following RCW 41.32.831.

**Effective date—Part and subchapter headings not law—1995 c 239:** See notes following RCW 41.32.005.

*Benefits not contractual right until July 1, 1996: RCW 41.34.100.*

**41.32.818 Public employees' retirement system members who previously declined membership in the teachers' retirement system—Transfer to plan III—Irrevocable option. (Effective July 1, 1996.)** Any person who elected pursuant to RCW 41.32.032(2)(a) to remain a member of the public employees' retirement system under chapter 41.40 RCW may make an irrevocable option to transfer to plan III pursuant to RCW 41.32.817, PROVIDED THAT:

(1) Only service credit for previous periods of employment in a position covered by RCW 41.32.010 is transferred to plan III;

(2) Equivalent accumulated employee and employer contributions attributable to service covered by subsection (1) of this section are transferred to plan III;

(3) Employer contributions transferred under this section shall be paid into the teachers' retirement system combined plan II and III fund.

Any person, not employed as an educational staff associate on July 1, 1996, may choose, within one year of the person's return to employment as a teacher, to transfer to plan III under this section. [1995 c 239 § 304.]

**Intent—Purpose—1995 c 239:** See note following RCW 41.32.831.

**Effective date—Part and subchapter headings not law—1995 c 239:** See notes following RCW 41.32.005.

*Benefits not contractual right until July 1, 1996: RCW 41.34.100.*

#### "PROVISIONS APPLICABLE TO PLAN III"

**41.32.831 Provisions applicable to plan III—Plan III elements. (Effective July 1, 1996.)** (1) RCW 41.32.831 through 41.32.895 shall apply only to plan III members.

(2) Plan III shall consist of two separate elements: (a) A defined benefit portion covered under this subchapter; and (b) a defined contribution portion covered under chapter 41.34 RCW. All contributions on behalf of the employer paid by an employee shall be made to the defined benefit portion of plan III and shall be nonrefundable when paid to the fund described in RCW 41.50.075(3).

(3) Unless otherwise specified, all references to "plan III" in this subchapter refer to the defined benefit portion of plan III. [1995 c 239 § 104.]

**Intent—Purpose—1995 c 239:** "The legislature recognizes that teachers, principals, and district administrators need the ability to make transitions to other public or private sector careers, and that the retirement system should not be a barrier to exercise of employee choice. The legislature also recognizes that teachers, principals, and district administrators need a secure and viable retirement benefit, not only for their own financial protection, but also that public funds are spent prudently for their intended purpose.

It is the legislative intent to create a new public retirement system that balances flexibility with stability, provides both increased employee control of investments and responsible protection of the public's investment in employee benefits, and encourages the pursuit of public sector careers without preventing employees from transitioning into other public or private sector employment.

Therefore, the purpose of chapter 239, Laws of 1995 is to continue to provide teachers, principals, and district administrators with a guaranteed pension at retirement age based on years of public service with an element of inflation protection. It is further the purpose of chapter 239, Laws of 1995 to create a parallel retirement plan where employees have options regarding the investment of their retirement contributions and have the opportunity, along with the accompanying risk, to receive a full rate of return on their investments and where employees who leave public employment prior to retirement receive a fair and reasonable value from the retirement system." [1995 c 239 § 1.]

**Effective date—Part and subchapter headings not law—1995 c 239:** See notes following RCW 41.32.005.

*Benefits not contractual right until July 1, 1996: RCW 41.34.100.*

**41.32.835 Membership in plan III. (Effective July 1, 1996.)** All teachers who first become employed by an employer in an eligible position on or after July 1, 1996, shall be members of plan III. [1995 c 239 § 105.]

**Intent—Purpose—1995 c 239:** See note following RCW 41.32.831.

**Effective date—Part and subchapter headings not law—1995 c 239:** See notes following RCW 41.32.005.

*Benefits not contractual right until July 1, 1996: RCW 41.34.100.*

**41.32.840 Computation of the retirement allowance.** (*Effective July 1, 1996.*) A member of the retirement system shall receive a retirement allowance equal to one percent of such member's average final compensation for each service credit year. [1995 c 239 § 106.]

**Intent—Purpose—1995 c 239:** See note following RCW 41.32.831.

**Effective date—Part and subchapter headings not law—1995 c 239:** See notes following RCW 41.32.005.

*Benefits not contractual right until July 1, 1996: RCW 41.34.100.*

**41.32.845 Postretirement cost-of-living allowance.** (*Effective July 1, 1996.*) Retirement allowances paid under the defined benefit portion of plan III shall have a postretirement cost-of-living allowance calculated and paid as provided in RCW 41.32.770. [1995 c 239 § 107.]

**Intent—Purpose—1995 c 239:** See note following RCW 41.32.831.

**Effective date—Part and subchapter headings not law—1995 c 239:** See notes following RCW 41.32.005.

*Benefits not contractual right until July 1, 1996: RCW 41.34.100.*

**41.32.851 Options for payment of retirement allowances.** (*Effective July 1, 1996.*) (1) Upon retirement for service as prescribed in RCW 41.32.875 or retirement for disability under RCW 41.32.880, a member shall elect to have the retirement allowance paid pursuant to one of the following options, calculated so as to be actuarially equivalent to each other.

(a) Standard allowance. A member electing this option shall receive a retirement allowance payable throughout such member's life. Upon the death of the retired member, all benefits shall cease.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the member a reduced retirement allowance and upon death, such portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid to such person or persons as the retiree shall have nominated by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and joint and fifty percent survivor option.

(2) A member, if married, must provide the written consent of his or her spouse to the option selected under this section. If a member is married and both the member and the member's spouse do not give written consent to an option under this section, the department shall pay a joint and fifty percent survivor benefit calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section. [1995 c 239 § 108.]

**Intent—Purpose—1995 c 239:** See note following RCW 41.32.831.

**Effective date—Part and subchapter headings not law—1995 c 239:** See notes following RCW 41.32.005.

*Benefits not contractual right until July 1, 1996: RCW 41.34.100.*

**41.32.855 Application for and effective date of retirement allowances.** (*Effective July 1, 1996.*) Any member or beneficiary eligible to receive a retirement allowance under the provisions of RCW 41.32.875,

41.32.880, or 41.32.895 shall be eligible to commence receiving a retirement allowance after having filed written application with the department.

(1) Retirement allowances paid to members shall accrue from the first day of the calendar month immediately following such member's separation from employment.

(2) Retirement allowances paid to vested members no longer in service, but qualifying for such an allowance pursuant to RCW 41.32.870 shall accrue from the first day of the calendar month immediately following such qualification.

(3) Disability allowances paid to disabled members shall accrue from the first day of the calendar month immediately following such member's separation from employment for disability.

(4) Retirement allowances paid as death benefits shall accrue from the first day of the calendar month immediately following the member's death. [1995 c 239 § 109.]

**Intent—Purpose—1995 c 239:** See note following RCW 41.32.831.

**Effective date—Part and subchapter headings not law—1995 c 239:** See notes following RCW 41.32.005.

*Benefits not contractual right until July 1, 1996: RCW 41.34.100.*

**41.32.860 Suspension of retirement allowance upon reemployment—Reinstatement.** (*Effective July 1, 1996.*)

(1) No retiree shall be eligible to receive such retiree's monthly retirement allowance if he or she is employed in an eligible position as defined in RCW 41.40.010 or 41.32.010, or as a law enforcement officer or fire fighter as defined in RCW 41.26.030, except that a plan III retiree may work in eligible positions on a temporary basis for up to five months per calendar year.

(2) If a retiree's benefits have been suspended under this section, his or her benefits shall be reinstated when the retiree terminates the employment that caused the suspension of benefits. Upon reinstatement, the retiree's benefits shall be actuarially recomputed pursuant to the rules adopted by the department. [1995 c 239 § 110.]

**Intent—Purpose—1995 c 239:** See note following RCW 41.32.831.

**Effective date—Part and subchapter headings not law—1995 c 239:** See notes following RCW 41.32.005.

*Benefits not contractual right until July 1, 1996: RCW 41.34.100.*

**41.32.865 Service credit for paid leave of absence, officers of labor organizations, unpaid leave of absence, military service.** (*Effective July 1, 1996.*) (1) A member who is on a paid leave of absence authorized by a member's employer shall continue to receive service credit.

(2) A member who receives compensation from an employer while on an authorized leave of absence to serve as an elected official of a labor organization, and whose employer is reimbursed by the labor organization for the compensation paid to the member during the period of absence, may also be considered to be on a paid leave of absence. This subsection shall only apply if the member's leave of absence is authorized by a collective bargaining agreement that provides that the member retains seniority rights with the employer during the period of leave. The earnable compensation reported for a member who establishes service credit under this subsection may not be greater

than the salary paid to the highest paid job class covered by the collective bargaining agreement.

(3) Except as specified in subsection (4) of this section, a member shall be eligible to receive a maximum of two years service credit during a member's entire working career for those periods when a member is on an unpaid leave of absence authorized by an employer. Such credit may be obtained only if:

(a) The member makes the contribution on behalf of the employer, plus interest, as determined by the department; and

(b) The member makes the employee contribution, plus interest, as determined by the department, to the defined contribution portion.

The contributions required shall be based on the average of the member's earnable compensation at both the time the authorized leave of absence was granted and the time the member resumed employment.

(4) A member who leaves the employ of an employer to enter the armed forces of the United States shall be entitled to retirement system service credit for up to four years of military service if within ninety days of the member's honorable discharge from the United States armed forces, the member applies for reemployment with the employer who employed the member immediately prior to the member entering the United States armed forces.

The department shall bill the employer for its contribution required under chapter 239, Laws of 1995 for the period of military service, plus interest as determined by the department. Service credit under this subsection may be obtained only if the member makes the employee contribution plus interest to the defined contribution portion as determined by the department.

The contributions required shall be based on the average of the member's earnable compensation at both the time the member left the employ of the employer to enter the armed forces and the time the member resumed employment. [1995 c 239 § 111.]

**Intent—Purpose—1995 c 239:** See note following RCW 41.32.831.

**Effective date—Part and subchapter headings not law—1995 c 239:** See notes following RCW 41.32.005.

*Benefits not contractual right until July 1, 1996: RCW 41.34.100.*

**41.32.870 Lump sum payments—Reentry. (Effective July 1, 1996.)** (1) The director may pay a member eligible to receive a retirement allowance or the member's beneficiary a lump sum payment in lieu of a monthly benefit if the initial monthly benefit would be less than one hundred dollars. The one hundred dollar limit shall be increased by three percent compounded annually on January 1. The lump sum payment shall be the actuarial equivalent of the monthly benefit.

(2) Persons covered under the provisions of subsection (1) of this section may upon returning to member status reinstate all previous service by depositing the lump sum payment received, with interest as computed by the director, within two years of returning to service or prior to retiring again, whichever comes first. In computing the amount due, the director shall exclude the accumulated value of the normal payments the member would have received while in beneficiary status if the lump sum payment had not occurred.

(3) Any member who receives a settlement under this section shall be deemed to be retired from this system. [1995 c 239 § 112.]

**Intent—Purpose—1995 c 239:** See note following RCW 41.32.831.

**Effective date—Part and subchapter headings not law—1995 c 239:** See notes following RCW 41.32.005.

*Benefits not contractual right until July 1, 1996: RCW 41.34.100.*

**41.32.875 Retirement eligibility. (Effective July 1, 1996.)** (1) **NORMAL RETIREMENT.** Any member who has vested and attained at least age sixty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.840.

(2) **EARLY RETIREMENT.** Any member who has attained at least age fifty-five and has completed at least ten years of service shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.840, except that a member retiring pursuant to this subsection shall have the retirement allowance actuarially reduced to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five. [1995 c 239 § 113.]

**Intent—Purpose—1995 c 239:** See note following RCW 41.32.831.

**Effective date—Part and subchapter headings not law—1995 c 239:** See notes following RCW 41.32.005.

*Benefits not contractual right until July 1, 1996: RCW 41.34.100.*

**41.32.880 Earned disability allowance—Eligibility—Disposition upon death of recipient. (Effective July 1, 1996.)** (1) A member of the retirement system who becomes totally incapacitated for continued employment by an employer as determined by the department shall be eligible to receive an allowance under the provisions of plan III. The member shall receive a monthly disability allowance computed as provided for in RCW 41.32.840 and shall have this allowance actuarially reduced to reflect the difference in the number of years between age at disability and the attainment of age sixty-five.

Any member who receives an allowance under the provisions of this section shall be subject to comprehensive medical examinations as required by the department. If these medical examinations reveal that a member has recovered from the incapacitating disability and the member is offered reemployment by an employer at a comparable compensation, the member shall cease to be eligible for the allowance.

(2) If the recipient of a monthly retirement allowance under this section dies, any further benefit payments shall be conditioned by the payment option selected by the retiree as provided in RCW 41.32.851. [1995 c 239 § 114.]

**Intent—Purpose—1995 c 239:** See note following RCW 41.32.831.

**Effective date—Part and subchapter headings not law—1995 c 239:** See notes following RCW 41.32.005.

*Benefits not contractual right until July 1, 1996: RCW 41.34.100.*

**41.32.885 Vested membership. (Effective July 1, 1996.)** (1) An active member shall become vested in the right to a benefit upon completing ten years of service or upon completing five years of service and attaining age fifty-five.

(2) A vested member who separates or has separated may remain a member during the period of such member's absence from service for the exclusive purpose only of receiving a retirement allowance under the provisions of RCW 41.32.875.

(3) The retirement allowance payable under RCW 41.32.875 to a member who separates after having completed at least twenty years of service shall be increased by twenty-five one-hundredths of one percent, compounded for each month from the date of separation to the date that the retirement allowance commences. [1995 c 239 § 115.]

**Intent—Purpose—1995 c 239:** See note following RCW 41.32.831.

**Effective date—Part and subchapter headings not law—1995 c 239:** See notes following RCW 41.32.005.

*Benefits not contractual right until July 1, 1996: RCW 41.34.100.*

**41.32.890 Reentry. (Effective July 1, 1996.)** A nonvested member who leaves service and then reenters membership must earn an additional twelve service credit months to restore past service credit in the defined benefit portion of plan III. [1995 c 239 § 116.]

**Intent—Purpose—1995 c 239:** See note following RCW 41.32.831.

**Effective date—Part and subchapter headings not law—1995 c 239:** See notes following RCW 41.32.005.

*Benefits not contractual right until July 1, 1996: RCW 41.34.100.*

**41.32.895 Death benefits. (Effective July 1, 1996.)** If a member who is vested dies prior to retirement, the surviving spouse or eligible child or children shall receive a retirement allowance computed as provided in RCW 41.32.851 actuarially reduced to reflect a joint and one hundred percent survivor option and if the member was not eligible for normal retirement at the date of death a further reduction as described in RCW 41.32.875(2).

If the surviving spouse who is receiving the retirement allowance dies leaving a child or children under the age of majority, then such child or children shall continue to receive an allowance in an amount equal to that which was being received by the surviving spouse, share and share alike, until such child or children reach the age of majority.

If there is no surviving spouse eligible to receive an allowance at the time of the member's death, such member's child or children under the age of majority shall receive an allowance, share and share alike. The allowance shall be calculated with the assumption that the age of the spouse and member were equal at the time of the member's death. [1995 c 239 § 117.]

**Intent—Purpose—1995 c 239:** See note following RCW 41.32.831.

**Effective date—Part and subchapter headings not law—1995 c 239:** See notes following RCW 41.32.005.

*Benefits not contractual right until July 1, 1996: RCW 41.34.100.*

## Chapter 41.34

### CONTRIBUTIONS UNDER TEACHERS' RETIREMENT SYSTEM PLAN III

#### Sections

- 41.34.010 Purpose. (Effective July 1, 1996.)  
 41.34.020 Definitions. (Effective July 1, 1996.)  
 41.34.030 Application of chapter—Plan III elements. (Effective July 1, 1996.)

- 41.34.040 Contributions—Rate structures. (Effective July 1, 1996.)  
 41.34.050 Legislature may contribute to members' accounts. (Effective July 1, 1996.)  
 41.34.060 Members' accounts—Investment—Election. (Effective July 1, 1996.)  
 41.34.070 Distribution options. (Effective July 1, 1996.)  
 41.34.080 Benefits exempt from taxation, garnishment, other processes of law—Exceptions. (Effective July 1, 1996.)  
 41.34.090 Administration of chapter—Construction—Severability. (Effective July 1, 1996.)  
 41.34.100 Benefits not contractual right until July 1, 1996. (Effective July 1, 1996.)

**41.34.010 Purpose. (Effective July 1, 1996.)** The purpose of chapter 239, Laws of 1995 is to:

(1) Provide a fair and reasonable value from the retirement system for those who leave public employment before retirement;

(2) Increase flexibility for such employees to make transitions into other public or private sector employment;

(3) Increase employee options for addressing retirement needs, personal financial planning, and career transitions; and

(4) Continue the legislature's established policy of having employees contribute toward their retirement benefits. [1995 c 239 § 201.]

**Intent—Purpose—1995 c 239:** See note following RCW 41.32.831.

**Effective date—Part and subchapter headings not law—1995 c 239:** See notes following RCW 41.32.005.

**41.34.020 Definitions. (Effective July 1, 1996.)** As used in this chapter, the following terms have the meanings indicated:

(1) "Actuary" means the state actuary or the office of the state actuary.

(2) "Board" means the employee retirement benefits board authorized in chapter 41.50 RCW.

(3) "Department" means the department of retirement systems.

(4) "Compensation" for purposes of this chapter is the same as "earnable compensation" for plan III in chapter 41.32 RCW.

(5) "Member" means any employee included in the membership of a retirement system as provided for plan III in chapter 41.32 RCW.

(6) "Member account" means the sum of the contributions and earnings on behalf of the member.

(7) "Retiree" means any member in receipt of an allowance or other benefit provided by this chapter resulting from service rendered to an employer by such member. [1995 c 239 § 202.]

**Intent—Purpose—1995 c 239:** See note following RCW 41.32.831.

**Effective date—Part and subchapter headings not law—1995 c 239:** See notes following RCW 41.32.005.

**41.34.030 Application of chapter—Plan III elements. (Effective July 1, 1996.)** (1) This chapter applies only to members of plan III retirement systems created under chapter 41.32 RCW.

(2) Plan III consists of two separate elements: (a) A defined benefit portion covered under sections 101 through 117, chapter 239, Laws of 1995; and (b) a defined contribution portion covered under this chapter. Unless specified otherwise, all references to "plan III" in this chapter refer to

the defined contribution portion of plan III. [1995 c 239 § 203.]

**Intent—Purpose—1995 c 239:** See note following RCW 41.32.831.

**Effective date—Part and subchapter headings not law—1995 c 239:** See notes following RCW 41.32.005.

**41.34.040 Contributions—Rate structures. (Effective July 1, 1996.)** (1) A member shall contribute from his or her compensation according to one of the following rate structures:

<u>Option A</u>	<u>Contribution Rate</u>
All Ages	5.0% fixed
<u>Option B</u>	
Up to Age 35	5.0%
Age 35 to 44	6.0%
Age 45 and above	7.5%
<u>Option C</u>	
Up to Age 35	6.0%
Age 35 to 44	7.5%
Age 45 and above	8.5%

(2) The board shall have the right to offer contribution rate options in addition to those listed in subsection (1) of this section, provided that no significant additional administrative costs are created. All options offered by the board shall conform to the requirements stated in subsections (3) and (4) of this section.

(3) Within ninety days of the date that an employee becomes a member of plan III, he or she has an irrevocable option to choose one of the above contribution rate structures. If the member does not select an option within this ninety-day period, he or she shall be assigned option A. Such assignment shall be irrevocable.

(4) Contributions shall begin the first day of the month immediately following the earlier of the selection of an option or the end of the ninety-day period. [1995 c 239 § 204.]

**Intent—Purpose—1995 c 239:** See note following RCW 41.32.831.

**Effective date—Part and subchapter headings not law—1995 c 239:** See notes following RCW 41.32.005.

**41.34.050 Legislature may contribute to members' accounts. (Effective July 1, 1996.)** The legislature may authorize contributions to the members' accounts for a biennium through budget appropriation. [1995 c 239 § 205.]

**Intent—Purpose—1995 c 239:** See note following RCW 41.32.831.

**Effective date—Part and subchapter headings not law—1995 c 239:** See notes following RCW 41.32.005.

**41.34.060 Members' accounts—Investment—Election. (Effective July 1, 1996.)** The member's account shall be invested by the state investment board unless the member elects to self direct investments as authorized by the board. Members who make this election shall pay the expenses for self-directed investment. [1995 c 239 § 206.]

**Intent—Purpose—1995 c 239:** See note following RCW 41.32.831.

**Effective date—Part and subchapter headings not law—1995 c 239:** See notes following RCW 41.32.005.

**41.34.070 Distribution options. (Effective July 1, 1996.)** (1) If the member retires, becomes disabled, or

otherwise terminates employment, the balance in the member's account may be distributed in accordance with an option selected by the member either as a lump sum or pursuant to other options authorized by the board.

(2) If the member dies while in service, the balance of the member's account may be distributed in accordance with an option selected by the member either as a lump sum or pursuant to other options authorized by the board. The distribution shall be made to such person or persons as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, the balance of the member's account in the retirement system, less any amount identified as owing to an obligee upon withdrawal of such account balance pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's surviving spouse as if in fact such spouse had been nominated by written designation, or if there is no surviving spouse, then to such person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department.

(3) The distribution under subsections (1) or (2) of this section shall be less any amount identified as owing to an obligee upon withdrawal pursuant to a court order filed under RCW 41.50.670. [1995 c 239 § 207.]

**Intent—Purpose—1995 c 239:** See note following RCW 41.32.831.

**Effective date—Part and subchapter headings not law—1995 c 239:** See notes following RCW 41.32.005.

**41.34.080 Benefits exempt from taxation, garnishment, other processes of law—Exceptions. (Effective July 1, 1996.)** (1) Subject to subsections (2) and (3) of this section, the right of a person to a pension, an annuity, a retirement allowance, any optional benefit, any other right accrued or accruing to any person under the provisions of this chapter, and the various funds created by chapter 239, Laws of 1995 and all moneys and investments and income thereof, is hereby exempt from any state, county, municipal, or other local tax, and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or other process of law whatsoever, and shall be unassignable.

(2) This section shall not be deemed to prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of premiums due on any group insurance policy or plan issued for the benefit of a group comprised of public employees of the state of Washington or its political subdivisions and that has been approved for deduction in accordance with rules that may be adopted by the state health care authority and/or the department. This section shall not be deemed to prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of dues and other membership fees to any retirement association or organization the membership of which is composed of retired public employees, if a total of three hundred or more of such retired employees have authorized such deduction for payment to the same retirement association or organization.

(3) Subsection (1) of this section shall not prohibit the department from complying with (a) a wage assignment order for child support issued pursuant to chapter 26.18

RCW, (b) an order to withhold and deliver issued pursuant to chapter 74.20A RCW, (c) a notice of payroll deduction issued pursuant to RCW 26.23.060, (d) a mandatory benefits assignment order issued by the department, (e) a court order directing the department to pay benefits directly to an obligee under a dissolution order as defined in RCW 41.50.500(3) which fully complies with RCW 41.50.670 and 41.50.700, or (f) any administrative or court order expressly authorized by federal law. [1995 c 239 § 208.]

**Intent—Purpose—1995 c 239:** See note following RCW 41.32.831.

**Effective date—Part and subchapter headings not law—1995 c 239:** See notes following RCW 41.32.005.

**41.34.090 Administration of chapter—Construction—Severability. (Effective July 1, 1996.)** (1) The retirement plan created by this chapter shall be administered so as to comply with the federal Internal Revenue Code, Title 26 U.S.C., and specifically with plan qualification requirements imposed on governmental plans by section 401(a) of the Internal Revenue Code.

(2) Any section or provision of this chapter which may be susceptible to more than one construction shall be interpreted in favor of the construction most likely to satisfy requirements imposed by section 401(a) of the Internal Revenue Code.

(3) If any section or provision of this chapter is found to be in conflict with the plan qualification requirements for governmental plans in section 401(a) of the Internal Revenue Code, the conflicting part of this chapter is hereby inoperative solely to the extent of the conflict, and such finding shall not affect the operation of the remainder of this chapter. [1995 c 239 § 209.]

**Intent—Purpose—1995 c 239:** See note following RCW 41.32.831.

**Effective date—Part and subchapter headings not law—1995 c 239:** See notes following RCW 41.32.005.

**41.34.100 Benefits not contractual right until July 1, 1996. (Effective July 1, 1996.)** The benefits provided pursuant to chapter 239, Laws of 1995 are not provided to employees as a matter of contractual right prior to July 1, 1996. The legislature retains the right to alter or abolish these benefits at any time prior to July 1, 1996. [1995 c 239 § 325.]

**Intent—Purpose—1995 c 239:** See note following RCW 41.32.831.

**Effective date—Part and subchapter headings not law—1995 c 239:** See notes following RCW 41.32.005.

## Chapter 41.40

### WASHINGTON PUBLIC EMPLOYEES' RETIREMENT SYSTEM

#### Sections

41.40.010	Definitions.
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41.40.056	Establishment of service credit—Former employees—Employers admitted before July 23, 1995.
41.40.057	Establishment of service credit—Current and former employees—Employers admitted after July 23, 1995.
41.40.062	Optional entry of system by political subdivisions or associations of political subdivisions—Procedure—School districts declared employers and eligible employees members of system.

41.40.103	Benefit calculation—Limitation.
41.40.160	Creditable service.
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41.40.195	Repealed.
41.40.197	Retirement allowance—Annual increases—Eligibility.
41.40.1971	Definition—"Beneficiary."
41.40.198	Repealed.
41.40.1981	Repealed.
41.40.1983	Repealed.
41.40.1984	Minimum retirement allowance—Annual adjustment—Persons who become beneficiaries after June 30, 1995.
41.40.1986	Permanent increase for specified beneficiaries age seventy or over.
41.40.220	Allowance on retirement for duty disability—Before sixty.
41.40.235	Nonduty disability retirement allowance—Amount—Maximum—Death benefit.
41.40.250	Allowance on retirement for nonduty disability—Election.
41.40.270	Death before retirement—Payment of contributions to nominee, surviving spouse, or legal representative—Waiver of payment, effect—Benefits.
41.40.325	Repealed.
41.40.660	Options for payment of retirement allowances.
41.40.670	Earned disability allowance—Applicability to certain judges—Disposition upon death of recipient.
41.40.700	Death benefits.

**41.40.010 Definitions.** As used in this chapter, unless a different meaning is plainly required by the context:

(1) "Retirement system" means the public employees' retirement system provided for in this chapter.

(2) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(3) "State treasurer" means the treasurer of the state of Washington.

(4)(a) "Employer" for plan I members, means every branch, department, agency, commission, board, and office of the state, any political subdivision or association of political subdivisions of the state admitted into the retirement system, and legal entities authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW; and the term shall also include any labor guild, association, or organization the membership of a local lodge or division of which is comprised of at least forty percent employees of an employer (other than such labor guild, association, or organization) within this chapter. The term may also include any city of the first class that has its own retirement system.

(b) "Employer" for plan II members, means every branch, department, agency, commission, board, and office of the state, and any political subdivision and municipal corporation of the state admitted into the retirement system, including public agencies created pursuant to RCW 35.63.070, 36.70.060, and 39.34.030.

(5) "Member" means any employee included in the membership of the retirement system, as provided for in RCW 41.40.023. RCW 41.26.045 does not prohibit a person otherwise eligible for membership in the retirement system from establishing such membership effective when he or she first entered an eligible position.

(6) "Original member" of this retirement system means:

(a) Any person who became a member of the system prior to April 1, 1949;

(b) Any person who becomes a member through the admission of an employer into the retirement system on and after April 1, 1949, and prior to April 1, 1951;

(c) Any person who first becomes a member by securing employment with an employer prior to April 1, 1951,

provided the member has rendered at least one or more years of service to any employer prior to October 1, 1947;

(d) Any person who first becomes a member through the admission of an employer into the retirement system on or after April 1, 1951, provided, such person has been in the regular employ of the employer for at least six months of the twelve-month period preceding the said admission date;

(e) Any member who has restored all contributions that may have been withdrawn as provided by RCW 41.40.150 and who on the effective date of the individual's retirement becomes entitled to be credited with ten years or more of membership service except that the provisions relating to the minimum amount of retirement allowance for the member upon retirement at age seventy as found in RCW 41.40.190(4) shall not apply to the member;

(f) Any member who has been a contributor under the system for two or more years and who has restored all contributions that may have been withdrawn as provided by RCW 41.40.150 and who on the effective date of the individual's retirement has rendered five or more years of service for the state or any political subdivision prior to the time of the admission of the employer into the system; except that the provisions relating to the minimum amount of retirement allowance for the member upon retirement at age seventy as found in RCW 41.40.190(4) shall not apply to the member.

(7) "New member" means a person who becomes a member on or after April 1, 1949, except as otherwise provided in this section.

(8)(a) "Compensation earnable" for plan I members, means salaries or wages earned during a payroll period for personal services and where the compensation is not all paid in money, maintenance compensation shall be included upon the basis of the schedules established by the member's employer.

(i) "Compensation earnable" for plan I members also includes the following actual or imputed payments, which are not paid for personal services:

(A) Retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wage which the individual would have earned during a payroll period shall be considered compensation earnable and the individual shall receive the equivalent service credit;

(B) If a leave of absence is taken by an individual for the purpose of serving in the state legislature, the salary which would have been received for the position from which the leave of absence was taken, shall be considered as compensation earnable if the employee's contribution is paid by the employee and the employer's contribution is paid by the employer or employee;

(C) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and 72.09.240;

(D) Compensation that a member would have received but for a disability occurring in the line of duty only as authorized by RCW 41.40.038;

(E) Compensation that a member receives due to participation in the leave sharing program only as authorized by RCW 41.04.650 through 41.04.670; and

(F) Compensation that a member receives for being in standby status. For the purposes of this section, a member is in standby status when not being paid for time actually worked and the employer requires the member to be prepared to report immediately for work, if the need arises, although the need may not arise. Standby compensation is regular salary for the purposes of RCW 41.50.150(2).

(ii) "Compensation earnable" does not include:

(A) Remuneration for unused sick leave authorized under RCW 41.04.340, 28A.400.210, or 28A.310.490;

(B) Remuneration for unused annual leave in excess of thirty days as authorized by RCW 43.01.044 and 43.01.041.

(b) "Compensation earnable" for plan II members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States Internal Revenue Code, but shall exclude nonmoney maintenance compensation and lump sum or other payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay.

"Compensation earnable" for plan II members also includes the following actual or imputed payments, which are not paid for personal services:

(i) Retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wage which the individual would have earned during a payroll period shall be considered compensation earnable to the extent provided above, and the individual shall receive the equivalent service credit;

(ii) In any year in which a member serves in the legislature, the member shall have the option of having such member's compensation earnable be the greater of:

(A) The compensation earnable the member would have received had such member not served in the legislature; or

(B) Such member's actual compensation earnable received for nonlegislative public employment and legislative service combined. Any additional contributions to the retirement system required because compensation earnable under \*(b)(ii)(B) of this subsection is greater than compensation earnable under \*(b)(ii)(A) of this subsection shall be paid by the member for both member and employer contributions;

(iii) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and 72.09.240;

(iv) Compensation that a member would have received but for a disability occurring in the line of duty only as authorized by RCW 41.40.038;

(v) Compensation that a member receives due to participation in the leave sharing program only as authorized by RCW 41.04.650 through 41.04.670; and

(vi) Compensation that a member receives for being in standby status. For the purposes of this section, a member is in standby status when not being paid for time actually worked and the employer requires the member to be prepared to report immediately for work, if the need arises, although the need may not arise. Standby compensation is regular salary for the purposes of RCW 41.50.150(2).



(9)(a) "Service" for plan I members, except as provided in RCW 41.40.088, means periods of employment in an eligible position or positions for one or more employers rendered to any employer for which compensation is paid, and includes time spent in office as an elected or appointed official of an employer. Compensation earnable earned in full time work for seventy hours or more in any given calendar month shall constitute one service credit month except as provided in RCW 41.40.088. Compensation earnable earned for less than seventy hours in any calendar month shall constitute one-quarter service credit month of service except as provided in RCW 41.40.088. Only service credit months and one-quarter service credit months shall be counted in the computation of any retirement allowance or other benefit provided for in this chapter. Any fraction of a year of service shall be taken into account in the computation of such retirement allowance or benefits. Time spent in standby status, whether compensated or not, is not service.

(i) Service by a state employee officially assigned by the state on a temporary basis to assist another public agency, shall be considered as service as a state employee: PROVIDED, That service to any other public agency shall not be considered service as a state employee if such service has been used to establish benefits in any other public retirement system.

(ii) An individual shall receive no more than a total of twelve service credit months of service during any calendar year. If an individual is employed in an eligible position by one or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service for seventy or more hours is rendered.

(iii) A school district employee may count up to forty-five days of sick leave as creditable service solely for the purpose of determining eligibility to retire under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of plan I "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than forty-five days of sick leave is creditable as allowed under this subsection as follows:

(A) Less than twenty-two days equals one-quarter service credit month;

(B) Twenty-two days equals one service credit month;

(C) More than twenty-two days but less than forty-five days equals one and one-quarter service credit month.

(b) "Service" for plan II members, means periods of employment by a member in an eligible position or positions for one or more employers for which compensation earnable is paid. Compensation earnable earned for ninety or more hours in any calendar month shall constitute one service credit month except as provided in RCW 41.40.088. Compensation earnable earned for at least seventy hours but less than ninety hours in any calendar month shall constitute one-half service credit month of service. Compensation earnable earned for less than seventy hours in any calendar month shall constitute one-quarter service credit month of service. Time spent in standby status, whether compensated or not, is not service.

Any fraction of a year of service shall be taken into account in the computation of such retirement allowance or benefits.

(i) Service in any state elective position shall be deemed to be full time service, except that persons serving in state elective positions who are members of the teachers' retirement system or law enforcement officers' and fire fighters' retirement system at the time of election or appointment to such position may elect to continue membership in the teachers' retirement system or law enforcement officers' and fire fighters' retirement system.

(ii) A member shall receive a total of not more than twelve service credit months of service for such calendar year. If an individual is employed in an eligible position by one or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service for ninety or more hours is rendered.

(iii) Up to forty-five days of sick leave may be creditable as service solely for the purpose of determining eligibility to retire under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of plan II "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than forty-five days of sick leave is creditable as allowed under this subsection as follows:

(A) Less than eleven days equals one-quarter service credit month;

(B) Eleven or more days but less than twenty-two days equals one-half service credit month;

(C) Twenty-two days equals one service credit month;

(D) More than twenty-two days but less than thirty-three days equals one and one-quarter service credit month;

(E) Thirty-three or more days but less than forty-five days equals one and one-half service credit month.

(10) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(11) "Service credit month" means a month or an accumulation of months of service credit which is equal to one.

(12) "Prior service" means all service of an original member rendered to any employer prior to October 1, 1947.

(13) "Membership service" means:

(a) All service rendered, as a member, after October 1, 1947;

(b) All service after October 1, 1947, to any employer prior to the time of its admission into the retirement system for which member and employer contributions, plus interest as required by RCW 41.50.125, have been paid under RCW 41.40.056 or 41.40.057;

(c) Service not to exceed six consecutive months of probationary service rendered after April 1, 1949, and prior to becoming a member, in the case of any member, upon payment in full by such member of the total amount of the employer's contribution to the retirement fund which would have been required under the law in effect when such probationary service was rendered if the member had been a member during such period, except that the amount of the employer's contribution shall be calculated by the director based on the first month's compensation earnable as a member;

(d) Service not to exceed six consecutive months of probationary service, rendered after October 1, 1947, and before April 1, 1949, and prior to becoming a member, in the case of any member, upon payment in full by such

member of five percent of such member's salary during said period of probationary service, except that the amount of the employer's contribution shall be calculated by the director based on the first month's compensation earnable as a member.

(14)(a) "Beneficiary" for plan I members, means any person in receipt of a retirement allowance, pension or other benefit provided by this chapter.

(b) "Beneficiary" for plan II members, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(15) "Regular interest" means such rate as the director may determine.

(16) "Accumulated contributions" means the sum of all contributions standing to the credit of a member in the member's individual account, including any amount paid under RCW 41.50.165(2), together with the regular interest thereon.

(17)(a) "Average final compensation" for plan I members, means the annual average of the greatest compensation earnable by a member during any consecutive two year period of service credit months for which service credit is allowed; or if the member has less than two years of service credit months then the annual average compensation earnable during the total years of service for which service credit is allowed.

(b) "Average final compensation" for plan II members, means the member's average compensation earnable of the highest consecutive sixty months of service credit months prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation except under RCW 41.40.710(2).

(18) "Final compensation" means the annual rate of compensation earnable by a member at the time of termination of employment.

(19) "Annuity" means payments for life derived from accumulated contributions of a member. All annuities shall be paid in monthly installments.

(20) "Pension" means payments for life derived from contributions made by the employer. All pensions shall be paid in monthly installments.

(21) "Retirement allowance" means the sum of the annuity and the pension.

(22) "Employee" means any person who may become eligible for membership under this chapter, as set forth in RCW 41.40.023.

(23) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality and other tables as may be adopted by the director.

(24) "Retirement" means withdrawal from active service with a retirement allowance as provided by this chapter.

(25) "Eligible position" means:

(a) Any position that, as defined by the employer, normally requires five or more months of service a year for which regular compensation for at least seventy hours is earned by the occupant thereof. For purposes of this chapter an employer shall not define "position" in such a manner that an employee's monthly work for that employer is divided into more than one position;

(b) Any position occupied by an elected official or person appointed directly by the governor for which compensation is paid.

(26) "Ineligible position" means any position which does not conform with the requirements set forth in subsection (25) of this section.

(27) "Leave of absence" means the period of time a member is authorized by the employer to be absent from service without being separated from membership.

(28) "Totally incapacitated for duty" means total inability to perform the duties of a member's employment or office or any other work for which the member is qualified by training or experience.

(29) "Retiree" means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer while a member. A person is in receipt of a retirement allowance as defined in subsection (21) of this section or other benefit as provided by this chapter when the department mails, causes to be mailed, or otherwise transmits the retirement allowance warrant.

(30) "Director" means the director of the department.

(31) "State elective position" means any position held by any person elected or appointed to state-wide office or elected or appointed as a member of the legislature.

(32) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(33) "Plan I" means the public employees' retirement system, plan I providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.

(34) "Plan II" means the public employees' retirement system, plan II providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977.

(35) "Index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor.

(36) "Index A" means the index for the year prior to the determination of a postretirement adjustment.

(37) "Index B" means the index for the year prior to index A.

(38) "Index year" means the earliest calendar year in which the index is more than sixty percent of index A.

(39) "Adjustment ratio" means the value of index A divided by index B.

(40) "Annual increase" means, initially, fifty-nine cents per month per year of service which amount shall be increased each July 1st by three percent, rounded to the nearest cent. [1995 c 345 § 10; 1995 c 286 § 1; 1995 c 244 § 3. Prior: 1994 c 298 § 2; 1994 c 247 § 5; 1994 c 197 § 23; 1994 c 177 § 8; 1993 c 95 § 8; prior: 1991 c 343 § 6; 1991 c 35 § 70; 1990 c 274 § 3; prior: 1989 c 309 § 1; 1989 c 289 § 1; 1985 c 13 § 7; 1983 c 69 § 1; 1981 c 256 § 6; 1979 ex.s. c 249 § 7; 1977 ex.s. c 295 § 16; 1973 1st ex.s. c 190 § 2; 1972 ex.s. c 151 § 1; 1971 ex.s. c 271 § 2; 1969 c 128 § 1; 1965 c 155 § 1; 1963 c 225 § 1; 1963 c 174 § 1; 1961 c 291 § 1; 1957 c 231 § 1; 1955 c 277 § 1; 1953 c 200 § 1; 1951 c 50 § 1; 1949 c 240 § 1; 1947 c 274 § 1; Rem. Supp. 1949 § 11072-1.]

**Reviser's note:** \*(1) This reference is apparently in error. The reference to (b)(ii)(B) should be (b)(ii)(A). The reference to (b)(ii)(A) should be (b)(ii)(B).

(2) This section was amended by 1995 c 244 § 3, 1995 c 286 § 1, and by 1995 c 345 § 10, each without reference to the other. All amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Intent—Effective date—1995 c 345:** See notes following RCW 41.32.489.

**Intent—1994 c 298:** "(1) This act provides cross-references to existing statutes that affect calculation of pensions under the retirement systems authorized by chapters 41.40 and 41.32 RCW to the relevant definition sections of those chapters. Except as provided in subsection (2) of this section, this act is technical in nature and neither enhances nor diminishes existing pension rights. Except for the amendment to RCW 41.40.010(5), it is not the intent of the legislature to change the substance or effect of any statute previously enacted. Rather, this act provides cross-references to applicable statutes in order to aid with the administration of benefits authorized in chapters 41.40 and 41.32 RCW.

(2) The amendments to RCW 41.40.010 (5) and (29) contained in section 2, chapter 298, Laws of 1994, and to RCW 41.32.010(31) contained in section 3, chapter 298, Laws of 1994, clarify the status of certain persons as either members or retirees. RCW 41.04.275 and section 7, chapter 298, Laws of 1994, create the pension funding account in the state treasury and direct the transfer of moneys deposited in the budget stabilization account by the 1993-95 operating appropriations act, section 919, chapter 24, Laws of 1993 sp. sess., for the continuing costs of state retirement system benefits in effect on July 1, 1993, consistent with section 919, chapter 24, Laws of 1993 sp. sess. to the pension funding account." [1994 c 298 § 1.]

**Effective date—1994 c 247:** See note following RCW 41.32.4991.

**Intent—Severability—Effective date—1994 c 197:** See notes following RCW 41.50.165.

**Findings—1994 c 177:** See note following RCW 41.50.125.

**Retroactive application—Effective date—1993 c 95:** See notes following RCW 41.40.175.

**Findings—Effective dates—1991 c 343:** See notes following RCW 41.50.005.

**Intent—1991 c 35:** See note following RCW 41.26.005.

**Findings—Effective date—Construction—1990 c 274:** See notes following RCW 41.32.010.

**Purpose—Application—Retrospective application—1985 c 13:** See notes following RCW 41.04.445.

**Applicability—1983 c 69:** "Section 1 of this 1983 act applies only to service credit accruing after July 24, 1983." [1983 c 69 § 3.]

**Purpose—Severability—1981 c 256:** See notes following RCW 41.04.250.

**Severability—1973 1st ex.s. c 190:** "If any provision of this 1973 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 1st ex.s. c 190 § 16.]

**Severability—1971 ex.s. c 271:** See note following RCW 41.32.260.

**Severability—1969 c 128:** "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1969 c 128 § 19.]

**Severability—1965 c 155:** "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1965 c 155 § 10.]

**Severability—1963 c 174:** "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." [1963 c 174 § 19.]

**Severability—1961 c 291:** "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1961 c 291 § 18.]

**41.40.045 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**41.40.056 Establishment of service credit—Former employees—Employers admitted before July 23, 1995.** Except as qualified by RCW 41.40.023, for employers that were admitted into the retirement system before July 23, 1995, membership service may be established for the employer's former employees who are active members of the system if the member or member's former employer pays an amount equal to the employer and member contributions which would have been paid to the retirement system on account of such service to the retirement system. Payment shall be made prior to the retirement of such member.

Payments submitted by the member under this section shall be placed in the member's individual account in the members' savings fund and be treated as any other contribution made by the member, with the exception that the contributions submitted by the member in payment of the employer's obligation, together with the interest the director may apply to the employer's contribution, shall be excluded from the calculation of the member's annuity in the event the member selects a benefit with an annuity option. [1995 c 286 § 2.]

**41.40.057 Establishment of service credit—Current and former employees—Employers admitted after July 23, 1995.** (1) This section applies to the establishment of membership service with employers admitted to the retirement system after July 23, 1995.

(2) For current employees, membership service may be established for periods of employment with an employer prior to the employer's admission into the retirement system by making the payments required by this section.

The employer must select one of the options in this subsection and apply it uniformly, except as provided in subsection (3) of this section. The required payment shall include the total member and employer contributions that would have been required from the date of each current member's hire.

(a) Option A: The employer makes all the required payments within fifteen years from the date of the employer's admission.

(b) Option B: The employer makes a portion of the required payments and the member pays the balance. The employer shall not be required to make its payments until the member has made his or her payments. Each member shall have the option to purchase the membership service.

(c) Option C: The member makes all of the required payments. Each member shall have the option to purchase the membership service.

All payments under options B and C of this subsection must be completed within five years from the date of the employer's admission, or prior to the retirement of the member, whichever occurs sooner. A member may not receive membership service credit under option B or C of this subsection until all required payments have been made.

(3) An employer shall not be required to purchase membership service under option A or B for periods of employment for which the employer made contributions to a qualified retirement plan as defined by 26 U.S.C. Sec.

401(a), if the contributions plus interest accrued cannot be transferred to the retirement system. If the employer does not purchase the membership credit under this subsection, the member may purchase the membership service under subsection (2)(c) of this section.

(4) A former employee who is an active member of the system and is not covered by subsection (2) of this section may establish membership service by making the required payments under subsection (2)(c) of this section prior to the retirement of the member.

(5) All payments made by the member under this section shall be placed in the member's individual account in the members' savings fund. [1995 c 286 § 3.]

**41.40.062 Optional entry of system by political subdivisions or associations of political subdivisions—Procedure—School districts declared employers and eligible employees members of system.** (1) The members and appointive and elective officials of any political subdivision or association of political subdivisions of the state may become members of the retirement system by the approval of the local legislative authority.

(2) On and after September 1, 1965, every school district of the state of Washington shall be an employer under this chapter. Every member of each school district who is eligible for membership under RCW 41.40.023 shall be a member of the retirement system and participate on the same basis as a person who first becomes a member through the admission of any employer into the retirement system on and after April 1, 1949. [1995 c 286 § 4; 1991 c 35 § 93; 1971 ex.s. c 271 § 12; 1969 c 128 § 13; 1965 c 84 § 1; 1963 c 174 § 16; 1961 c 291 § 13; 1953 c 200 § 19; 1951 c 50 § 13; 1949 c 240 § 27; 1947 c 274 § 43; Rem. Supp. 1949 § 11072-42. Formerly RCW 41.40.410.]

**Intent—1991 c 35:** See note following RCW 41.26.005.

**Severability—1971 ex.s. c 271:** See note following RCW 41.32.260.

**Severability—1969 c 128:** See note following RCW 41.40.010.

**41.40.103 Benefit calculation—Limitation.** (1) The annual compensation taken into account in calculating retiree benefits under this system shall not exceed the limits imposed by section 401(a)(17) of the federal internal revenue code for qualified trusts.

(2) The department shall adopt rules as necessary to implement this section. [1995 c 145 § 3.]

**41.40.160 Creditable service.** (1) Subject to the provisions of RCW 41.40.150, at retirement the total service credited to a member shall consist of all membership service and, if he or she is an original member, all of the certified prior service.

(2) Employees of a public utility or other private enterprise all or any portion of which has been heretofore or may be hereafter acquired by a public agency as a matter of public convenience and necessity, where it is in the public interest to retain the trained personnel of such enterprise, all service to that enterprise shall, upon the acquiring public agency becoming an employer as defined in RCW 41.40.010(4) be credited on the same basis as if rendered to the said employer: PROVIDED, That this shall apply only to those employees who were in the service of the enterprise

at or prior to the time of acquisition by the public agency and who remain in the service of the acquiring agency until they attain membership in the state employees' retirement system; and to those employees who were in the service of the enterprise at the time of acquisition by the public agency and subsequently attain membership through employment with any participating agency: PROVIDED FURTHER, In the event that the acquiring agency is an employer at the time of the acquisition, employer's contributions in connection with members achieving service credit hereunder shall be made on the same basis as set forth in RCW \*41.40.045 and 41.40.048 for an employer admitted after April 1, 1949, and before July 23, 1995, and on the same basis as set forth in RCW 41.40.057 for an employer admitted after July 23, 1995. [1995 c 286 § 5; 1991 c 35 § 77; 1989 c 273 § 27; 1965 c 155 § 4; 1963 c 174 § 9; 1953 c 200 § 8; 1951 c 50 § 4; 1949 c 240 § 11; 1947 c 274 § 17; Rem. Supp. 1949 § 11072-17.]

**\*Reviser's note:** RCW 41.40.045 was repealed by 1995 c 286 § 6.

**Intent—1991 c 35:** See note following RCW 41.26.005.

**Severability—Effective dates—1989 c 273:** See RCW 41.45.900 and 41.45.901.

**41.40.188 Retirement allowance—Options.** (1) Upon retirement for service as prescribed in RCW 41.40.180 or retirement for disability under RCW 41.40.210 or 41.40.230, a member shall elect to have the retirement allowance paid pursuant to one of the following options calculated so as to be actuarially equivalent to each other.

(a) Standard allowance. A member electing this option shall receive a retirement allowance payable throughout such member's life. However, if the retiree dies before the total of the retirement allowance paid to such retiree equals the amount of such retiree's accumulated contributions at the time of retirement, then the balance shall be paid to the member's estate, or such person or persons, trust, or organization as the retiree shall have nominated by written designation duly executed and filed with the department; or if there be no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or if there be neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the member a reduced retirement allowance and upon death, such portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid to a person nominated by the member by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and a joint and fifty percent survivor option.

(c) A member may elect to include the benefit provided under RCW 41.40.640 along with the retirement options available under this section. This retirement allowance option shall be calculated so as to be actuarially equivalent to the options offered under this subsection.

(2) A member, if married, must provide the written consent of his or her spouse to the option selected under this

section. If a member is married and both the member and the member's spouse do not give written consent to an option under this section, the department shall pay a joint and fifty percent survivor benefit calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section. [1995 c 144 § 1; 1990 c 249 § 9.]

**Findings—1990 c 249:** See note following RCW 2.10.146.

**41.40.195 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**41.40.197 Retirement allowance—Annual increases—Eligibility.** (1) Beginning July 1, 1995, and annually thereafter, the retirement allowance of a person meeting the requirements of this section shall be increased by the annual increase amount.

(2) The following persons shall be eligible for the benefit provided in subsection (1) of this section:

(a) A beneficiary who has received a retirement allowance for at least one year and has attained at least age sixty-six by July 1st in the calendar year in which the annual increase is given; or

(b) A beneficiary whose retirement allowance is lower than the minimum benefit provided under RCW 41.40.1984.

(3) The following persons shall also be eligible for the benefit provided in subsection (1) of this section:

(a) A beneficiary receiving the minimum benefit on June 30, 1995, under \*RCW 41.40.198; or

(b) A recipient of a survivor benefit on June 30, 1995, which has been increased by \*\*RCW 41.40.325.

(4) If otherwise eligible, those receiving an annual adjustment under RCW 41.40.188(1)(c) shall be eligible for the annual increase adjustment in addition to the benefit that would have been received absent this section.

(5) Those receiving a benefit under RCW 41.40.220(1), or a survivor of a disabled member under RCW 41.44.170(5) shall be eligible for the benefit provided by this section.

(6) The legislature reserves the right to amend or repeal this section in the future and no member or beneficiary has a contractual right to receive this postretirement adjustment not granted prior to that time. [1995 c 345 § 5.]

**Reviser's note:** \*(1) RCW 41.40.198 was repealed by 1995 c 345 § 11.

\*\*\*(2) RCW 41.40.325 was repealed by 1995 c 345 § 11.

**Intent—Effective date—1995 c 345:** See notes following RCW 41.32.489.

**41.40.1971 Definition—"Beneficiary."** For the purposes of RCW 41.40.197, 41.40.1984, and 41.40.1986, "beneficiary" means a beneficiary under RCW 41.40.010 or 41.44.030, or both RCW 41.40.010 and 41.44.030. [1995 c 345 § 6.]

**Intent—Effective date—1995 c 345:** See notes following RCW 41.32.489.

**41.40.198 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**41.40.1981 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**41.40.1983 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**41.40.1984 Minimum retirement allowance—Annual adjustment—Persons who become beneficiaries after June 30, 1995.** (1) Except as provided in subsections (4) and (5) of this section, no one who becomes a beneficiary after June 30, 1995, shall receive a monthly retirement allowance of less than twenty-four dollars and twenty-two cents times the number of years of service creditable to the person whose service is the basis of such retirement allowance.

(2) Where the retirement allowance payable was adjusted at the time benefit payments to the beneficiary commenced, the minimum allowance provided in this section shall be adjusted in a manner consistent with that adjustment.

(3) Beginning July 1, 1996, the minimum benefit set forth in subsection (1) of this section shall be adjusted annually by the annual increase.

(4) Those receiving a benefit under RCW 41.40.220(1) or under RCW 41.44.170 (3) and (5) shall not be eligible for the benefit provided by this section.

(5) For persons who served as elected officials and whose accumulated employee contributions and credited interest was less than seven hundred fifty dollars at the time of retirement, the minimum benefit under subsection (1) of this section shall be ten dollars per month per each year of creditable service. [1995 c 345 § 7.]

**Intent—Effective date—1995 c 345:** See notes following RCW 41.32.489.

**41.40.1986 Permanent increase for specified beneficiaries age seventy or over.** (1) The amount of the July 1, 1993, increase to the retirement allowance of beneficiaries under this chapter as a result of the temporary adjustment authorized by section 3, chapter 519, Laws of 1993, shall be made a permanent adjustment on July 1, 1995.

(2) Beneficiaries receiving a benefit under \*RCW 41.40.198 who are at least age seventy-nine shall receive on July 1, 1995, a permanent adjustment of one dollar and eighteen cents per month per year of service.

(3) Beneficiaries under this chapter who are not subject to subsection (1) of this section and are not receiving a benefit under \*RCW 41.40.198 shall receive the following permanent adjustment to their retirement allowance on July 1, 1995:

(a) Those who are age seventy, thirty-nine cents per month per year of service;

(b) Those who are age seventy-one, seventy-nine cents per month per year of service; and

(c) Those who are at least age seventy-two, one dollar and eighteen cents per month per year of service. [1995 c 345 § 8.]

**\*Reviser's note:** RCW 41.40.198 was repealed by 1995 c 345 § 11.

**Intent—Effective date—1995 c 345:** See notes following RCW 41.32.489.

**41.40.220 Allowance on retirement for duty disability—Before sixty.** Upon retirement for disability, as provided in RCW 41.40.200, a member who has not attained age

sixty shall receive the following benefits, subject to the provisions of RCW 41.40.310 and 41.40.320:

(1) A disability retirement pension of two-thirds of his or her average final compensation to his or her attainment of age sixty, subject to the provisions of RCW 41.40.310. The disability retirement pension provided by the employer shall not exceed forty-two hundred dollars per annum, and

(2) Upon attainment of age sixty, the disabled member shall receive a service retirement allowance as provided in RCW 41.40.210. The department shall grant the disabled member membership service for the period of time prior to age sixty he or she was out of such service due to disability.

(3) During the period a disabled member is receiving a disability pension, as provided for in subsection (1) of this section, his or her contributions to the employees' savings fund shall be suspended and his or her balance in the employees' savings fund, standing to his or her credit as of the date his or her disability pension is to begin, shall remain in the employees' savings fund. If the disabled member should die before attaining age sixty, while a disability beneficiary, upon receipt by the department of proper proof of death, the member's accumulated contributions standing to his or her credit in the employees' savings fund, shall be paid to the member's estate, or such person or persons, trust, or organization as he or she shall have nominated by written designation duly executed and filed with the department. If there is no designated person or persons still living at the time of the member's death, the accumulated contributions standing to the member's credit in the employees' savings fund shall be paid to his or her surviving spouse, or if there is no surviving spouse, then to the member's legal representative. [1995 c 144 § 2; 1991 c 35 § 81; 1972 ex.s. c 151 § 9; 1971 ex.s. c 271 § 8; 1961 c 291 § 7; 1953 c 200 § 12; 1949 c 240 § 16; 1947 c 274 § 23; Rem. Supp. 1949 § 11072-23.]

**Intent—1991 c 35:** See note following RCW 41.26.005.

**Severability—1971 ex.s. c 271:** See note following RCW 41.32.260.

**41.40.235 Nonduty disability retirement allowance—Amount—Maximum—Death benefit.** (1) Upon retirement, a member shall receive a nonduty disability retirement allowance equal to two percent of average final compensation for each service credit year of service: PROVIDED, That this allowance shall be reduced by two percent of itself for each year or fraction thereof that his or her age is less than fifty-five years: PROVIDED FURTHER, That in no case may the allowance provided by this section exceed sixty percent of average final compensation.

(2) If the recipient of a retirement allowance under this section dies before the total of the retirement allowance paid to the recipient equals the amount of the accumulated contributions at the date of retirement, then the balance shall be paid to the member's estate, or the person or persons, trust, or organization as the recipient has nominated by written designation duly executed and filed with the director or, if there is no designated person or persons still living at the time of the recipient's death, then to the surviving spouse or, if there is neither a designated person or persons still living at the time of his or her death nor a surviving spouse, then to his or her legal representative. [1995 c 144 § 3.

Prior: 1991 c 343 § 8; 1991 c 35 § 83; 1986 c 176 § 4; 1972 ex.s. c 151 § 10.]

**Findings—Effective dates—1991 c 343:** See notes following RCW 41.50.005.

**Intent—1991 c 35:** See note following RCW 41.26.005.

**41.40.250 Allowance on retirement for nonduty disability—Election.** An individual who was a member on February 25, 1972, may upon qualifying pursuant to RCW 41.40.230, make an irrevocable election to receive the nonduty disability retirement allowance provided in subsections (1) and (2) of this section subject to the provisions of RCW 41.40.310 and 41.40.320. Upon attaining or becoming disabled after age sixty the member shall receive a service retirement allowance as provided for in RCW 41.40.190 except that the annuity portion thereof shall consist of a continuation of the cash refund annuity previously provided to him or her. The disability retirement allowance prior to age sixty shall consist of:

(1) A cash refund annuity which shall be the actuarial equivalent of the member's accumulated contributions at the time of his or her retirement; and

(2) A pension, in addition to the annuity, equal to one one-hundredth of the member's average final compensation for each year of service. If the recipient of a retirement allowance under this section dies before the total of the annuity portions of the retirement allowance paid to him or her equals the amount of his or her accumulated contributions at the date of retirement, then the balance shall be paid to the member's estate, or the person or persons, trust, or organization as he or she shall have nominated by written designation duly executed and filed with the department, or if there is no designated person or persons, still living at the time of his or her death, then to his or her surviving spouse, or if there is no designated person or persons still living at the time of his or her death nor a surviving spouse, then to his or her legal representatives. [1995 c 144 § 4; 1991 c 35 § 84; 1972 ex.s. c 151 § 11; 1969 c 128 § 10; 1961 c 291 § 8; 1953 c 200 § 13; 1947 c 274 § 26; Rem. Supp. 1947 § 11072-26.]

**Intent—1991 c 35:** See note following RCW 41.26.005.

**Severability—1969 c 128:** See note following RCW 41.40.010.

*Nonduty disability retirement allowance—1972 act:* See RCW 41.40.235.

**41.40.270 Death before retirement—Payment of contributions to nominee, surviving spouse, or legal representative—Waiver of payment, effect—Benefits.** (1) Should a member die before the date of retirement the amount of the accumulated contributions standing to the member's credit in the employees' savings fund, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, at the time of death:

(a) Shall be paid to the member's estate, or such person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department; or

(b) If there be no such designated person or persons still living at the time of the member's death, or if a member fails to file a new beneficiary designation subsequent to marriage, remarriage, dissolution of marriage, divorce, or

reestablishment of membership following termination by withdrawal or retirement, such accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the surviving spouse as if in fact such spouse had been nominated by written designation as aforesaid, or if there be no such surviving spouse, then to the member's legal representatives.

(2) Upon the death in service, or while on authorized leave of absence for a period not to exceed one hundred and twenty days from the date of payroll separation, of any member who is qualified but has not applied for a service retirement allowance or has completed ten years of service at the time of death, the designated beneficiary, or the surviving spouse as provided in subsection (1) of this section, may elect to waive the payment provided by subsection (1) of this section. Upon such an election, a joint and one hundred percent survivor option under RCW 41.40.188, calculated under the retirement allowance described in RCW 41.40.185 or 41.40.190, whichever is greater, actuarially reduced by the amount of any lump sum benefit identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670 shall automatically be given effect as if selected for the benefit of the designated beneficiary. If the member is not then qualified for a service retirement allowance, such benefit shall be based upon the actuarial equivalent of the sum necessary to pay the accrued regular retirement allowance commencing when the deceased member would have first qualified for a service retirement allowance.

(3) Subsection (1) of this section, unless elected, shall not apply to any member who has applied for service retirement in RCW 41.40.180, as now or hereafter amended, and thereafter dies between the date of separation from service and the member's effective retirement date, where the member has selected a survivorship option under RCW 41.40.188. In those cases the beneficiary named in the member's final application for service retirement may elect to receive either a cash refund, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, or monthly payments according to the option selected by the member. [1995 c 144 § 5; 1991 c 365 § 27; 1990 c 249 § 11; 1979 ex.s. c 249 § 11; 1972 ex.s. c 151 § 12; 1969 c 128 § 11; 1965 c 155 § 5; 1963 c 174 § 13; 1961 c 291 § 9; 1953 c 201 § 1; 1953 c 200 § 14; 1951 c 141 § 1; 1949 c 240 § 19; 1947 c 274 § 28; Rem. Supp. 1949 § 11072-28.]

**Severability—1991 c 365:** See note following RCW 41.50.500.

**Findings—1990 c 249:** See note following RCW 2.10.146.

**Severability—1969 c 128:** See note following RCW 41.40.010.

**41.40.325 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**41.40.660 Options for payment of retirement allowances.** (1) Upon retirement for service as prescribed in RCW 41.40.630 or retirement for disability under RCW 41.40.670, a member shall elect to have the retirement

allowance paid pursuant to one of the following options, calculated so as to be actuarially equivalent to each other.

(a) Standard allowance. A member electing this option shall receive a retirement allowance payable throughout such member's life. However, if the retiree dies before the total of the retirement allowance paid to such retiree equals the amount of such retiree's accumulated contributions at the time of retirement, then the balance shall be paid to the member's estate, or such person or persons, trust, or organization as the retiree shall have nominated by written designation duly executed and filed with the department; or if there be no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or if there be neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the member a reduced retirement allowance and upon death, such portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid to a person nominated by the member by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and a joint and fifty percent survivor option.

(2) A member, if married, must provide the written consent of his or her spouse to the option selected under this section. If a member is married and both the member and the member's spouse do not give written consent to an option under this section, the department shall pay a joint and fifty percent survivor benefit calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section. [1995 c 144 § 6; 1990 c 249 § 10; 1977 ex.s. c 295 § 7.]

**Findings—1990 c 249:** See note following RCW 2.10.146.

**Legislative direction and placement—Section headings—1977 ex.s. c 295:** See notes following RCW 41.40.610.

**41.40.670 Earned disability allowance—Applicability to certain judges—Disposition upon death of recipient.** (1) A member of the retirement system who becomes totally incapacitated for continued employment by an employer as determined by the department upon recommendation of the department shall be eligible to receive an allowance under the provisions of RCW 41.40.610 through 41.40.740. The member shall receive a monthly disability allowance computed as provided for in RCW 41.40.620 and shall have this allowance actuarially reduced to reflect the difference in the number of years between age at disability and the attainment of age sixty-five.

Any member who receives an allowance under the provisions of this section shall be subject to comprehensive medical examinations as required by the department. If these medical examinations reveal that a member has recovered from the incapacitating disability and the member is offered reemployment by an employer at a comparable compensation, the member shall cease to be eligible for the allowance.

(2) The retirement for disability of a judge, who is a member of the retirement system, by the supreme court under Article IV, section 31 of the Constitution of the state of Washington (Amendment 71), with the concurrence of the department, shall be considered a retirement under subsection (1) of this section.

(3)(a) If the recipient of a monthly retirement allowance under this section dies before the total of the retirement allowance paid to the recipient equals the amount of the accumulated contributions at the date of retirement, then the balance shall be paid to the member's estate, or the person or persons, trust, or organization as the recipient has nominated by written designation duly executed and filed with the director, or, if there is no designated person or persons still living at the time of the recipient's death, then to the surviving spouse, or, if there is no designated person or persons still living at the time of his or her death nor a surviving spouse, then to his or her legal representative.

(b) If a recipient of a monthly retirement allowance under this section died before April 27, 1989, and before the total of the retirement allowance paid to the recipient equaled the amount of his or her accumulated contributions at the date of retirement, then the department shall pay the balance of the accumulated contributions to the member's surviving spouse or, if there is no surviving spouse, then in equal shares to the member's children. If there is no surviving spouse or children, the department shall retain the contributions. [1995 c 144 § 7; 1991 c 35 § 99; 1990 c 249 § 21; 1989 c 191 § 3; 1982 c 18 § 5; 1977 ex.s. c 295 § 8.]

**Intent—1991 c 35:** See note following RCW 41.26.005.

**Findings—1990 c 249:** See note following RCW 2.10.146.

**Legislative direction and placement—Section headings—1977 ex.s. c 295:** See notes following RCW 41.40.610.

**41.40.700 Death benefits.** (1) Except as provided in RCW 11.07.010, if a member or a vested member who has not completed at least ten years of service dies, the amount of the accumulated contributions standing to such member's credit in the retirement system at the time of such member's death, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's estate, or such person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's accumulated contributions standing to such member's credit in the retirement system, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's surviving spouse as if in fact such spouse had been nominated by written designation, or if there be no such surviving spouse, then to such member's legal representatives.

(2) If a member who is eligible for retirement or a member who has completed at least ten years of service dies, the surviving spouse or eligible child or children shall elect to receive either:

(a) A retirement allowance computed as provided for in RCW 41.40.630(1), actuarially reduced by the amount of any

lump sum benefit identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670 and actuarially adjusted to reflect a joint and one hundred percent survivor option under RCW 41.40.660 and if the member was not eligible for normal retirement at the date of death a further reduction as described in RCW 41.40.630(2); if a surviving spouse who is receiving a retirement allowance dies leaving a child or children of the member under the age of majority, then such child or children shall continue to receive an allowance in an amount equal to that which was being received by the surviving spouse, share and share alike, until such child or children reach the age of majority; if there is no surviving spouse eligible to receive an allowance at the time of the member's death, such member's child or children under the age of majority shall receive an allowance share and share alike calculated as herein provided making the assumption that the ages of the spouse and member were equal at the time of the member's death; or

(b) The member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670.

(3) If a member who is eligible for retirement or a member who has completed at least ten years of service dies after October 1, 1977, and is not survived by a spouse or an eligible child, then the accumulated contributions standing to the member's credit, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid:

(a) To a person or persons, estate, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department; or

(b) If there is no such designated person or persons still living at the time of the member's death, then to the member's legal representatives. [1995 c 144 § 8; 1993 c 236 § 5; 1991 c 365 § 28; 1990 c 249 § 18; 1977 ex.s. c 295 § 11.]

**Severability—1991 c 365:** See note following RCW 41.50.500.

**Findings—1990 c 249:** See note following RCW 2.10.146.

**Legislative direction and placement—Section headings—1977 ex.s. c 295:** See notes following RCW 41.40.610.

## Chapter 41.45

### ACTUARIAL FUNDING OF STATE RETIREMENT SYSTEMS

#### Sections

- 41.45.010 Intent—Goals. (*Effective July 1, 1996.*)
- 41.45.020 Definitions. (*Effective July 1, 1996.*)
- 41.45.030 State actuary to submit information on the experience and financial condition of each retirement system to the economic and revenue forecast council—Adoption of long-term economic assumptions.
- 41.45.040 Repealed.
- 41.45.050 Contributions to be based on rates established in this chapter—Allocation formula for contributions. (*Effective July 1, 1996.*)
- 41.45.060 Basic state and employer contribution rates set by council. (*Effective July 1, 1996.*)
- 41.45.0601 Repealed.
- 41.45.061 Teachers' retirement system plan II—Contribution rate. (*Effective July 1, 1996.*)



41.45.070 Supplemental rate. (*Effective July 1, 1996.*)  
 41.45.901 Repealed. (*Effective July 1, 1996.*)

**41.45.010 Intent—Goals.** (*Effective July 1, 1996.*)

It is the intent of the legislature to provide a dependable and systematic process for funding the benefits provided to members and retirees of the public employees' retirement system, chapter 41.40 RCW; the teachers' retirement system, chapter 41.32 RCW; the law enforcement officers' and fire fighters' retirement system, chapter 41.26 RCW; and the Washington state patrol retirement system, chapter 43.43 RCW.

The funding process established by this chapter is intended to achieve the following goals:

(1) To continue to fully fund the public employees' retirement system plan II, the teachers' retirement system plans II and III, and the law enforcement officers' and fire fighters' retirement system plan II as provided by law;

(2) To fully amortize the total costs of the public employees' retirement system plan I, the teachers' retirement system plan I, and the law enforcement officers' and fire fighters' retirement system plan I not later than June 30, 2024;

(3) To establish predictable long-term employer contribution rates which will remain a relatively constant proportion of the future state budgets; and

(4) To fund, to the extent feasible, benefit increases for plan I members and all benefits for plan II and III members over the working lives of those members so that the cost of those benefits are paid by the taxpayers who receive the benefit of those members' service. [1995 c 239 § 305; 1989 c 273 § 1.]

**Intent—Purpose—1995 c 239:** See note following RCW 41.32.831.

**Effective date—Part and subchapter headings not law—1995 c 239:** See notes following RCW 41.32.005.

*Benefits not contractual right until July 1, 1996: RCW 41.34.100.*

**41.45.020 Definitions.** (*Effective July 1, 1996.*) As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Council" means the economic and revenue forecast council created in RCW 82.33.010.

(2) "Department" means the department of retirement systems.

(3) "Law enforcement officers' and fire fighters' retirement system plan I" and "law enforcement officers' and fire fighters' retirement system plan II" mean the benefits and funding provisions under chapter 41.26 RCW.

(4) "Public employees' retirement system plan I" and "public employees' retirement system plan II" mean the benefits and funding provisions under chapter 41.40 RCW.

(5) "Teachers' retirement system plan I," "teachers' retirement system plan II," and "teachers' retirement system plan III" mean the benefits and funding provisions under chapter 41.32 RCW.

(6) "Washington state patrol retirement system" means the retirement benefits provided under chapter 43.43 RCW.

(7) "Unfunded liability" means the unfunded actuarial accrued liability of a retirement system.

(8) "Actuary" or "state actuary" means the state actuary employed under chapter 44.44 RCW.

(9) "State retirement systems" means the retirement systems listed in RCW 41.50.030. [1995 c 239 § 306; 1989 c 273 § 2.]

**Intent—Purpose—1995 c 239:** See note following RCW 41.32.831.

**Effective date—Part and subchapter headings not law—1995 c 239:** See notes following RCW 41.32.005.

*Benefits not contractual right until July 1, 1996: RCW 41.34.100.*

**41.45.030 State actuary to submit information on the experience and financial condition of each retirement system to the economic and revenue forecast council—Adoption of long-term economic assumptions.** (1) Beginning September 1, 1995, and every two years thereafter, the state actuary shall submit to the council information regarding the experience and financial condition of each state retirement system. The council shall review this and such other information as it may require.

(2) By December 31, 1995, and every two years thereafter, the council, by affirmative vote of five councilmembers, shall adopt the following long-term economic assumptions:

(a) Growth in system membership;

(b) Growth in salaries, exclusive of merit or longevity increases;

(c) Growth in inflation; and

(d) Investment rate of return.

The council shall work with the department of retirement systems, the state actuary, and the executive director of the state investment board, and shall consider long-term historical averages, in developing the economic assumptions.

(3) The assumptions adopted by the council shall be used by the state actuary in conducting all actuarial studies of the state retirement systems. [1995 c 233 § 1; 1993 c 519 § 17; 1989 c 273 § 3.]

**Effective date—1995 c 233:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 5, 1995]." [1995 c 233 § 4.]

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

**41.45.040 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**41.45.050 Contributions to be based on rates established in this chapter—Allocation formula for contributions.** (*Effective July 1, 1996.*) (1) Employers of members of the public employees' retirement system, the teachers' retirement system, and the Washington state patrol retirement system shall make contributions to those systems based on the rates established in RCW 41.45.060 and 41.45.070.

(2) The state shall make contributions to the law enforcement officers' and fire fighters' retirement system based on the rates established in RCW 41.45.060 and 41.45.070. The state treasurer shall transfer the required contributions each month on the basis of salary data provided by the department.

(3) The department shall bill employers, and the state shall make contributions to the law enforcement officers' and fire fighters' retirement system, using the combined rates

established in RCW 41.45.060 and 41.45.070 regardless of the level of pension funding provided in the biennial budget. Any member of an affected retirement system may, by mandamus or other appropriate proceeding, require the transfer and payment of funds as directed in this section.

(4) The contributions received for the public employees' retirement system shall be allocated between the public employees' retirement system plan I fund and public employees' retirement system plan II fund as follows: The contributions necessary to fully fund the public employees' retirement system plan II employer contribution required by RCW 41.40.650 shall first be deposited in the public employees' retirement system plan II fund. All remaining public employees' retirement system employer contributions shall be deposited in the public employees' retirement system plan I fund.

(5) The contributions received for the teachers' retirement system shall be allocated between the plan I fund and the combined plan II and plan III fund as follows: The contributions necessary to fully fund the combined plan II and plan III employer contribution shall first be deposited in the combined plan II and plan III fund. All remaining teachers' retirement system employer contributions shall be deposited in the plan I fund.

(6) The contributions received under RCW 41.26.450 for the law enforcement officers' and fire fighters' retirement system shall be allocated between the law enforcement officers' and fire fighters' retirement system plan I and the law enforcement officers' and fire fighters' retirement system plan II fund as follows: The contributions necessary to fully fund the law enforcement officers' and fire fighters' retirement system plan II employer contributions shall be first deposited in the law enforcement officers' and fire fighters' retirement system plan II fund. All remaining law enforcement officers' and fire fighters' retirement system employer contributions shall be deposited in the law enforcement officers' and fire fighters' retirement system plan I fund. [1995 c 239 § 308; 1989 c 273 § 5.]

**Intent—Purpose—1995 c 239:** See note following RCW 41.32.831.

**Effective date—Part and subchapter headings not law—1995 c 239:** See notes following RCW 41.32.005.

*Benefits not contractual right until July 1, 1996: RCW 41.34.100.*

**41.45.060 Basic state and employer contribution rates set by council. (Effective July 1, 1996.)** (1) The state actuary shall provide actuarial valuation results based on the assumptions adopted under RCW 41.45.030.

(2) Not later than September 30, 1996, and every two years thereafter, consistent with the assumptions adopted under RCW 41.45.030, the council shall adopt both: (a) A basic state contribution rate for the law enforcement officers' and fire fighters' retirement system; and (b) basic employer contribution rates for the public employees' retirement system plan I, the teachers' retirement system plan I, and the Washington state patrol retirement system to be used in the ensuing biennial period.

(3) The employer and state contribution rates adopted by the council shall be the level percentages of pay that are needed:

(a) To fully amortize the total costs of the public employees' retirement system plan I, the teachers' retirement

system plan I, the law enforcement officers' and fire fighters' retirement system plan I, and the unfunded liability of the Washington state patrol retirement system not later than June 30, 2024; and

(b) To also continue to fully fund the public employees' retirement system plan II, the teachers' retirement system plans II and III, and the law enforcement officers' and fire fighters' retirement system plan II in accordance with RCW 41.40.650, 41.26.450, and this section.

(4) The aggregate actuarial cost method shall be used to calculate a combined plan II and III employer contribution rate.

(5) The council shall immediately notify the directors of the office of financial management and department of retirement systems of the state and employer contribution rates adopted.

(6) The director of the department of retirement systems shall collect those rates adopted by the council. [1995 c 239 § 309; 1993 c 519 § 19; 1992 c 239 § 2; 1990 c 18 § 1; 1989 c 273 § 6.]

**Intent—Purpose—1995 c 239:** See note following RCW 41.32.831.

**Effective date—Part and subchapter headings not law—1995 c 239:** See notes following RCW 41.32.005.

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

**Effective date—1992 c 239:** "This act shall take effect September 1, 1992." [1992 c 239 § 6.]

**Effective date—1990 c 18:** "This act shall take effect September 1, 1991." [1990 c 18 § 3.]

*Benefits not contractual right until July 1, 1996: RCW 41.34.100.*

**41.45.0601 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**41.45.061 Teachers' retirement system plan II—Contribution rate. (Effective July 1, 1996.)** (1) The required contribution rate for members of the plan II teachers' retirement system shall be fixed at the rates in effect on July 1, 1996, subject to the following:

(a) Beginning September 1, 1998, except as provided in (b) of this subsection, the employee contribution rate shall not exceed the employer plan II and III rates adopted under RCW 41.45.060 and 41.45.070 for the teachers' retirement system;

(b) In addition, the employee contribution rate for plan II shall be increased by fifty percent of the contribution rate increase caused by any plan II benefit increase passed after July 1, 1996.

(2) The required plan II and III contribution rates for employers shall be adopted in the manner described in RCW 41.45.060. [1995 c 239 § 311.]

**Intent—Purpose—1995 c 239:** See note following RCW 41.32.831.

**Effective date—Part and subchapter headings not law—1995 c 239:** See notes following RCW 41.32.005.

*Benefits not contractual right until July 1, 1996: RCW 41.34.100.*

**41.45.070 Supplemental rate. (Effective July 1, 1996.)** (1) In addition to the basic employer contribution rate established in RCW 41.45.060, the department shall also charge employers of public employees' retirement system, teachers' retirement system, or Washington state patrol

retirement system members an additional supplemental rate to pay for the cost of additional benefits, if any, granted to members of those systems. The supplemental contribution rates required by this section shall be calculated by the state actuary and shall be charged regardless of language to the contrary contained in the statute which authorizes additional benefits.

(2) In addition to the basic state contribution rate established in RCW 41.45.060 for the law enforcement officers' and fire fighters' retirement system the department shall also establish a supplemental rate to pay for the cost of additional benefits, if any, granted to members of the law enforcement officers' and fire fighters' retirement system. This supplemental rate shall be calculated by the state actuary and the state treasurer shall transfer the additional required contributions regardless of language to the contrary contained in the statute which authorizes the additional benefits.

(3) The supplemental rate charged under this section to fund benefit increases provided to active members of the public employees' retirement system plan I, the teachers' retirement system plan I, the law enforcement officers' and fire fighters' retirement system plan I, and Washington state patrol retirement system, shall be calculated as the level percentage of all members' pay needed to fund the cost of the benefit not later than June 30, 2024.

(4) The supplemental rate charged under this section to fund benefit increases provided to active and retired members of the public employees' retirement system plan II, the teachers' retirement system plan II and plan III, or the law enforcement officers' and fire fighters' retirement system plan II, shall be calculated as the level percentage of all members' pay needed to fund the cost of the benefit, as calculated under RCW 41.40.650, \*41.32.775, or 41.26.450, respectively.

(5) The supplemental rate charged under this section to fund postretirement adjustments which are provided on a nonautomatic basis to current retirees shall be calculated as the percentage of pay needed to fund the adjustments as they are paid to the retirees. The supplemental rate charged under this section to fund automatic postretirement adjustments for active or retired members of the public employees' retirement system plan I and the teachers' retirement system plan I shall be calculated as the level percentage of pay needed to fund the cost of the automatic adjustments not later than June 30, 2024. [1995 c 239 § 310; 1990 c 18 § 2; 1989 1st ex.s. c 1 § 1; 1989 c 273 § 7.]

\*Reviser's note: RCW 41.32.775 was repealed by 1995 c 239 § 326, effective July 1, 1996.

**Intent—Purpose—1995 c 239:** See note following RCW 41.32.831.

**Effective date—Part and subchapter headings not law—1995 c 239:** See notes following RCW 41.32.005.

**Effective date—1990 c 18:** See note following RCW 41.45.060.

*Benefits not contractual right until July 1, 1996: RCW 41.34.100.*

**41.45.901 Repealed. (Effective July 1, 1996.)** See Supplementary Table of Disposition of Former RCW Sections, this volume.

## Chapter 41.50

### DEPARTMENT OF RETIREMENT SYSTEMS

#### Sections

- 41.50.030 Transfer of powers, duties, and functions of certain systems, administrators, and committees to department of retirement systems. *(Effective July 1, 1996.)*
- 41.50.032 Repealed. *(Effective July 1, 1996.)*
- 41.50.050 Powers, duties, and functions of director. *(Effective July 1, 1996.)*
- 41.50.060 Delegation of powers, duties, and functions—Director's responsibilities. *(Effective July 1, 1996.)*
- 41.50.075 Funds established. *(Effective July 1, 1996.)*
- 41.50.086 Employee retirement benefits board—Created—Membership. *(Effective July 1, 1996.)*
- 41.50.088 Employee retirement benefits board—Duties. *(Effective July 1, 1996.)*
- 41.50.110 Department of retirement systems expense fund—Administrative expense fee. *(Effective July 1, 1996.)*
- 41.50.150 Retirement benefits based on excess compensation—Employer liable for extra retirement costs.
- 41.50.152 Payment of excess compensation—Public notice requirements.
- 41.50.250 Repealed. *(Effective July 1, 1996.)*
- 41.50.255 Payment of legal and medical expenses of retirement systems.
- 41.50.760 Cost-of-living adjustments—Alternative calculation—Election.
- 41.50.770 Deferred compensation plans. *(Effective July 1, 1996.)*
- 41.50.780 Deferred compensation principal account—Created—Participation in deferred compensation plans. *(Effective July 1, 1996.)*

**41.50.030 Transfer of powers, duties, and functions of certain systems, administrators, and committees to department of retirement systems. (Effective July 1, 1996.)** (1) As soon as possible but not more than one hundred and eighty days after March 19, 1976, there is transferred to the department of retirement systems, except as otherwise provided in this chapter, all powers, duties, and functions of:

- (a) The Washington public employees' retirement system;
- (b) The Washington state teachers' retirement system;
- (c) The Washington law enforcement officers' and fire fighters' retirement system;
- (d) The Washington state patrol retirement system;
- (e) The Washington judicial retirement system; and
- (f) The state treasurer with respect to the administration of the judges' retirement fund imposed pursuant to chapter 2.12 RCW.

(2) On July 1, 1996, there is transferred to the department all powers, duties, and functions of the deferred compensation committee.

(3) The department shall administer chapter 41.34 RCW. [1995 c 239 § 316; 1975-'76 2nd ex.s. c 105 § 5.]

**Intent—Purpose—1995 c 239:** See note following RCW 41.32.831.

**Effective date—Part and subchapter headings not law—1995 c 239:** See notes following RCW 41.32.005.

*Benefits not contractual right until July 1, 1996: RCW 41.34.100.*

**41.50.032 Repealed. (Effective July 1, 1996.)** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**41.50.050 Powers, duties, and functions of director.** (*Effective July 1, 1996.*) The director shall:

(1) Have the authority to organize the department into not more than four divisions, each headed by an assistant director;

(2) Have free access to all files and records of various funds assigned to the department and inspect and audit the files and records as deemed necessary;

(3) Employ personnel to carry out the general administration of the department;

(4) Submit an annual written report of the activities of the department to the governor and the chairs of the appropriate legislative committees with one copy to the staff of each of the committees, including recommendations for statutory changes the director believes to be desirable;

(5) Adopt such rules and regulations as are necessary to carry out the powers, duties, and functions of the department pursuant to the provisions of chapter 34.05 RCW. [1995 c 239 § 317; 1993 c 61 § 1; 1987 c 505 § 24; 1981 c 3 § 33; 1977 ex.s. c 251 § 1; 1975-'76 2nd ex.s. c 105 § 7.]

**Intent—Purpose—1995 c 239:** See note following RCW 41.32.831.

**Effective date—Part and subchapter headings not law—1995 c 239:** See notes following RCW 41.32.005.

**Effective dates—Severability—1981 c 3:** See notes following RCW 43.33A.010.

*Benefits not contractual right until July 1, 1996: RCW 41.34.100.*

**41.50.060 Delegation of powers, duties, and functions—Director's responsibilities.** (*Effective July 1, 1996.*) The director may delegate the performance of such powers, duties, and functions, other than those relating to rule making, to employees of the department, but the director shall remain and be responsible for the official acts of the employees of the department.

The director shall be responsible for the public employees' retirement system, the teachers' retirement system, the judicial retirement system, the law enforcement officers' and fire fighters' retirement system, and the Washington state patrol retirement system. The director shall also be responsible for the deferred compensation program. [1995 c 239 § 318; 1975-'76 2nd ex.s. c 105 § 8.]

**Intent—Purpose—1995 c 239:** See note following RCW 41.32.831.

**Effective date—Part and subchapter headings not law—1995 c 239:** See notes following RCW 41.32.005.

*Benefits not contractual right until July 1, 1996: RCW 41.34.100.*

**41.50.075 Funds established.** (*Effective July 1, 1996.*) (1) Two funds are hereby created and established in the state treasury to be known as the Washington law enforcement officers' and fire fighters' system plan I retirement fund, and the Washington law enforcement officers' and fire fighters' system plan II retirement fund which shall consist of all moneys paid into them in accordance with the provisions of this chapter and chapter 41.26 RCW, whether such moneys take the form of cash, securities, or other assets. The plan I fund shall consist of all moneys paid to finance the benefits provided to members of the law enforcement officers' and fire fighters' retirement system plan I, and the plan II fund shall consist of all moneys paid to finance the benefits provided to members of

the law enforcement officers' and fire fighters' retirement system plan II.

(2) All of the assets of the Washington state teachers' retirement system shall be credited according to the purposes for which they are held, to two funds to be maintained in the state treasury, namely, the teachers' retirement system plan I fund and the teachers' retirement system combined plan II and III fund. The plan I fund shall consist of all moneys paid to finance the benefits provided to members of the Washington state teachers' retirement system plan I, and the combined plan II and III fund shall consist of all moneys paid to finance the benefits provided to members of the Washington state teachers' retirement system plan II and III.

(3) There is hereby established in the state treasury two separate funds, namely the public employees' retirement system plan I fund and the public employees' retirement system plan II fund. The plan I fund shall consist of all moneys paid to finance the benefits provided to members of the public employees' retirement system plan I, and the plan II fund shall consist of all moneys paid to finance the benefits provided to members of the public employees' retirement system plan II.

(4) There is hereby established in the state treasury the plan III defined contribution fund which shall consist of all contributions and earnings paid on behalf of members, except as otherwise provided. [1995 c 239 § 312; 1991 c 35 § 108.]

**Intent—Purpose—1995 c 239:** See note following RCW 41.32.831.

**Effective date—Part and subchapter headings not law—1995 c 239:** See notes following RCW 41.32.005.

**Intent—1991 c 35:** See note following RCW 41.26.005.

*Benefits not contractual right until July 1, 1996: RCW 41.34.100.*

**41.50.086 Employee retirement benefits board—Created—Membership.** (*Effective July 1, 1996.*) (1) The employee retirement benefits board is created within the department of retirement systems.

(2) The board shall be composed of eight members appointed by the governor and one ex officio member as follows:

(a) Three members representing the public employees' retirement system: One retired, two active. The members shall be appointed from a list of nominations submitted by organizations representing each category. The initial term of appointment shall be two years for the retired member, one year for one active member, and three years for the remaining active member.

(b) Three members representing the teachers' retirement system: One retired, two active. The members shall be appointed from a list of nominations submitted by organizations representing each category. The initial term of appointment shall be one year for the retired member, two years for one active member, and three years for the remaining active member.

(c) Two members with experience in defined contribution plan administration. The initial term for these members shall be two years for one member and three years for the remaining member.

(d) The director of the department shall serve ex officio and shall be the chair of the board.

(3) After the initial appointments, members shall be appointed to three-year terms.

(4) The board shall meet at least quarterly during the calendar year, at the call of the chair.

(5) Members of the board shall serve without compensation but shall receive travel expenses as provided for in RCW 43.03.050 and 43.03.060. Such travel expenses shall be reimbursed by the department from the retirement system expense fund.

(6) The board shall adopt rules governing its procedures and conduct of business.

(7) The actuary shall perform all actuarial services for the board and provide advice and support.

(8) The state investment board shall provide advice and support to the board. [1995 c 239 § 301.]

**Intent—Purpose—1995 c 239:** See note following RCW 41.32.831.

**Effective date—Part and subchapter headings not law—1995 c 239:** See notes following RCW 41.32.005.

*Benefits not contractual right until July 1, 1996: RCW 41.34.100.*

**41.50.088 Employee retirement benefits board—Duties.** (*Effective July 1, 1996.*) The board shall adopt rules as necessary and exercise all the powers and perform all duties prescribed by law with respect to:

(1) The preselection of options for members to choose from for self-directed investment deemed by the board to be in the best interest of the member. At the board's request, the state investment board may provide investment options for purposes of this subsection;

(2) The selection of optional benefit payment schedules available to members and survivors of members upon the death, disability, retirement, or termination of the member. The optional benefit payments may include but not be limited to: Fixed and participating annuities, joint and survivor annuities, and payments that bridge to social security or defined benefit plan payments;

(3) Approval of actuarially equivalent annuities that may be purchased from the combined plan II and plan III funds under RCW 41.50.075 (2) or (3);

(4) Determination of the basis for administrative charges to the self-directed investment fund to offset self-directed account expenses; and

(5) Selection of investment options for the deferred compensation program. [1995 c 239 § 302.]

**Intent—Purpose—1995 c 239:** See note following RCW 41.32.831.

**Effective date—Part and subchapter headings not law—1995 c 239:** See notes following RCW 41.32.005.

*Benefits not contractual right until July 1, 1996: RCW 41.34.100.*

**41.50.110 Department of retirement systems expense fund—Administrative expense fee.** (*Effective July 1, 1996.*) (1) Notwithstanding any provision of law to the contrary, the retirement system expense fund is hereby redesignated as the department of retirement systems expense fund from which shall be paid the expenses of the administration of the department and the expenses of administration of the retirement systems created in chapters 2.10, 2.12, 41.26, 41.32, 41.40, 41.34, and 43.43 RCW.

(2) In order to reimburse the department of retirement systems expense fund on an equitable basis the department shall ascertain and report to each employer, as defined in

RCW 41.26.030, 41.32.010, or 41.40.010, the sum necessary to defray its proportional share of the entire expense of the administration of the retirement system that the employer participates in during the ensuing biennium or fiscal year whichever may be required. Such sum is to be computed in an amount directly proportional to the estimated entire expense of the administration as the ratio of monthly salaries of the employer's members bears to the total salaries of all members in the entire system. It shall then be the duty of all such employers to include in their budgets or otherwise provide the amounts so required.

(3) The department shall compute and bill each employer, as defined in RCW 41.26.030, 41.32.010, or 41.40.010, at the end of each month for the amount due for that month to the department of retirement systems expense fund and the same shall be paid as are its other obligations. Such computation as to each employer shall be made on a percentage rate of salary established by the department. However, the department may at its discretion establish a system of billing based upon calendar year quarters in which event the said billing shall be at the end of each such quarter.

(4) The director may adjust the expense fund contribution rate for each system at any time when necessary to reflect unanticipated costs or savings in administering the department.

(5) An employer who fails to submit timely and accurate reports to the department may be assessed an additional fee related to the increased costs incurred by the department in processing the deficient reports. Fees paid under this subsection shall be deposited in the retirement system expense fund.

(a) Every six months the department shall determine the amount of an employer's fee by reviewing the timeliness and accuracy of the reports submitted by the employer in the preceding six months. If those reports were not both timely and accurate the department may prospectively assess an additional fee under this subsection.

(b) An additional fee assessed by the department under this subsection shall not exceed fifty percent of the standard fee.

(c) The department shall adopt rules implementing this section.

(6) Expenses incurred pursuant to RCW 41.34.060 shall be deducted from the defined contribution fund in accordance with rules established by the board under RCW 41.50.088. [1995 c 239 § 313; 1990 c 8 § 3; 1979 ex.s. c 249 § 8.]

**Intent—Purpose—1995 c 239:** See note following RCW 41.32.831.

**Effective date—Part and subchapter headings not law—1995 c 239:** See notes following RCW 41.32.005.

**Findings—1990 c 8:** See note following RCW 41.50.065.

*Benefits not contractual right until July 1, 1996: RCW 41.34.100.*

**41.50.150 Retirement benefits based on excess compensation—Employer liable for extra retirement costs.** (1) The employer of any employee whose retirement benefits are based in part on excess compensation, as defined in this section, shall, upon receipt of a billing from the department, pay into the appropriate retirement system the present value at the time of the employee's retirement of the total estimated cost of all present and future benefits from

the retirement system attributable to the excess compensation. The state actuary shall determine the estimated cost using the same method and procedure as is used in preparing fiscal note costs for the legislature. However, the director may in the director's discretion decline to bill the employer if the amount due is less than fifty dollars. Accounts unsettled within thirty days of the receipt of the billing shall be assessed an interest penalty of one percent of the amount due for each month or fraction thereof beyond the original thirty-day period.

(2) "Excess compensation," as used in this section, includes any payment that was used in the calculation of the employee's retirement allowance, except regular salary and overtime compensated at up to twice the regular rate of pay. Excess compensation includes but is not limited to:

(a) A cash out of unused annual leave in excess of two hundred forty hours of such leave. "Cash out" for purposes of this subsection means any payment in lieu of an accrual of annual leave or any payment added to salary or wages, concurrent with a reduction of annual leave;

(b) A cash out of any other form of leave;

(c) A payment for, or in lieu of, any personal expense or transportation allowance;

(d) The portion of any payment, including overtime payments, that exceeds twice the regular rate of pay; and

(e) Any other termination or severance payment.

(3) This section applies to the retirement systems listed in RCW 41.50.030 and to retirements occurring on or after March 15, 1984. Nothing in this section is intended to amend or determine the meaning of any definition in chapter 2.10, 2.12, 41.26, 41.32, 41.40, or 43.43 RCW or to determine in any manner what payments are includable in the calculation of a retirement allowance under such chapters.

(4) An employer is not relieved of liability under this section because of the death of any person either before or after the billing from the department. [1995 c 244 § 1; 1984 c 184 § 1.]

**Intent—Application—1995 c 244 § 1:** "The definition of "cash out" added to RCW 41.50.150(2)(a) by this act is a clarification of the legislature's original intent regarding the meaning of the term. The definition of "cash out" applies retroactively to payments made before July 23, 1995." [1995 c 244 § 2.]

**Severability—1984 c 184:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1984 c 184 § 31.]

**41.50.152 Payment of excess compensation—Public notice requirements.** (1) Except as limited by subsection (3) of this section, the governing body of an employer under chapter 41.32 or 41.40 RCW shall comply with the provisions of subsection (2) of this section prior to executing a contract or collective bargaining agreement with members under chapter 41.32 or 41.40 RCW which provides for:

(a) A cash out of unused annual leave in excess of two hundred forty hours of such leave. "Cash out" for purposes of this subsection means any payment in lieu of an accrual of annual leave or any payment added to regular salary, concurrent with a reduction of annual leave;

(b) A cash out of any other form of leave;

(c) A payment for, or in lieu of, any personal expense or transportation allowance;

(d) The portion of any payment, including overtime payments, that exceeds twice the regular rate of pay; or

(e) Any other termination or severance payment.

(2) Any governing body entering into a contract that includes a compensation provision listed in subsection (1) of this section shall do so only after public notice in compliance with the open public meetings act, chapter 42.30 RCW. This notification requirement may be accomplished as part of the approval process for adopting a contract in whole, and does not require separate or additional open public meetings. At the public meeting, full disclosure shall be made of the nature of the proposed compensation provision, and the employer's estimate of the excess compensation billings under RCW 41.50.150 that the employing entity would have to pay as a result of the proposed compensation provision. The employer shall notify the department of its compliance with this section at the time the department bills the employer under \*RCW 41.40.150 for the pension impact of compensation provisions listed in subsection (1) of this section that are adopted after July 23, 1995.

(3) The requirements of subsection (2) of this section shall not apply to the adoption of a compensation provision listed in subsection (1) of this section if the compensation would not be includable in calculating benefits under chapter 41.32 or 41.40 RCW for the employees covered by the compensation provision. [1995 c 387 § 1.]

**\*Reviser's note:** The reference to RCW 41.40.150 appears to be erroneous. The section governing the subject of billing an employer for excess compensation is RCW 41.50.150.

**41.50.250 Repealed.** (*Effective July 1, 1996.*) See Supplementary Table of Disposition of Former RCW Sections, this volume.

**41.50.255 Payment of legal and medical expenses of retirement systems.** The director is authorized to pay from the interest earnings of the trust funds of the public employees' retirement system, the teachers' retirement system, the Washington state patrol retirement system, the Washington judicial retirement system, the judges' retirement system, or the law enforcement officers' and fire fighters' retirement system lawful obligations of the appropriate system for legal expenses and medical expenses which expenses are primarily incurred for the purpose of protecting the appropriate trust fund or are incurred in compliance with statutes governing such funds.

The term "legal expense" includes, but is not limited to, legal services provided through the legal services revolving fund, fees for expert witnesses, travel expenses, fees for court reporters, cost of transcript preparation, and reproduction of documents.

The term "medical costs" includes, but is not limited to, expenses for the medical examination or reexamination of members or retirees, the costs of preparation of medical reports, and fees charged by medical professionals for attendance at discovery proceedings or hearings.

The director may also pay from the interest earnings of the trust funds specified in this section costs incurred in investigating fraud and collecting overpayments, including expenses incurred to review and investigate cases of possible fraud against the trust funds and collection agency fees and

other costs incurred in recovering overpayments. Recovered funds must be returned to the appropriate trust funds. [1995 c 281 § 1; 1993 sp.s. c 24 § 916; 1991 c 35 § 73; 1984 c 184 § 7. Formerly RCW 41.40.083.]

**Effective date—1995 c 281:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995." [1995 c 281 § 2.]

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

**Intent—1991 c 35:** See note following RCW 41.26.005.

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

**41.50.760 Cost-of-living adjustments—Alternative calculation—Election.** The department of retirement systems may continue to pay cost-of-living adjustments consistent with the provisions of the statutes repealed by section 11, chapter 345, Laws of 1995, in lieu of the benefits provided by RCW 41.32.489, 41.32.4872, 41.40.197, and 41.40.1986, if the department determines that: (1) A member earned service credit under chapter 41.40 or 41.32 RCW on or after May 8, 1989; and (2) a retiree would receive greater increases in the next ten years under the statutes repealed by section 11, chapter 345, Laws of 1995 than under the provisions of RCW 41.32.489, 41.32.4872, 41.40.197, and 41.40.1986; and (3) the retiree does not elect the benefits provided by chapter 345, Laws of 1995 over the benefits provided under the statutes repealed by section 11, chapter 345, Laws of 1995. The election must be made in a manner prescribed by the department. [1995 c 345 § 13.]

**Intent—Effective date—1995 c 345:** See notes following RCW 41.32.489.

**41.50.770 Deferred compensation plans. (Effective July 1, 1996.)** (1) "Employee" as used in this section and RCW 41.50.780 includes all full-time, part-time, and career seasonal employees of the state, a county, a municipality, or other political subdivision of the state, whether or not covered by civil service; elected and appointed officials of the executive branch of the government, including full-time members of boards, commissions, or committees; justices of the supreme court and judges of the court of appeals and of the superior and district courts; and members of the state legislature or of the legislative authority of any county, city, or town.

(2) The state, through the department, and any county, municipality, or other political subdivision of the state acting through its principal supervising official or governing body is authorized to contract with an employee to defer a portion of that employee's income, which deferred portion shall in no event exceed the amount allowable under 26 U.S.C. Sec. 457, and deposit or invest such deferred portion in a credit union, savings and loan association, bank, or mutual savings bank or purchase life insurance, shares of an investment company, or fixed and/or variable annuity contracts from any insurance company or any investment company licensed to contract business in this state.

(3) The department can provide such plans as the employee retirement benefits board, established under RCW 41.50.086, deems are in the interests of state employees. In addition to the types of investments described in this section, the department may invest the deferred portion of an

employee's income, without limitation as to amount, in any of the class of investments described in RCW 43.84.150 as in effect on January 1, 1981. Any income deferred under such a plan shall continue to be included as regular compensation, for the purpose of computing the state or local retirement and pension benefits earned by any employee.

(4) Coverage of an employee under a deferred compensation plan under this section shall not render such employee ineligible for simultaneous membership and participation in any pension system for public employees. [1995 c 239 § 314.]

**Intent—Purpose—1995 c 239:** See note following RCW 41.32.831.

**Effective date—Part and subchapter headings not law—1995 c 239:** See notes following RCW 41.32.005.

*Benefits not contractual right until July 1, 1996: RCW 41.34.100.*

**41.50.780 Deferred compensation principal account—Created—Participation in deferred compensation plans. (Effective July 1, 1996.)** (1) The deferred compensation principal account is hereby created in the state treasury. Any deficiency in the deferred compensation administrative account caused by an excess of administrative expenses disbursed from that account over earnings of investments of balances credited to that account shall be eliminated by transferring moneys to that account from the deferred compensation principal account.

(2) The amount of compensation deferred by employees under agreements entered into under the authority contained in RCW 41.50.770 shall be paid into the deferred compensation principal account and shall be sufficient to cover costs of administration and staffing in addition to such other amounts as determined by the department. The deferred compensation principal account shall be used to carry out the purposes of RCW 41.50.770. All eligible state employees shall be given the opportunity to participate in agreements entered into by the department under RCW 41.50.770. State agencies shall cooperate with the department in providing employees with the opportunity to participate.

(3) Any county, municipality, or other subdivision of the state may elect to participate in any agreements entered into by the department under RCW 41.50.770, including the making of payments therefrom to the employees participating in a deferred compensation plan upon their separation from state or other qualifying service. Accordingly, the deferred compensation principal account shall be considered to be a public pension or retirement fund within the meaning of Article XXIX, section 1 of the state Constitution, for the purpose of determining eligible investments and deposits of the moneys therein.

(4) All moneys in the deferred compensation principal account, all property and rights purchased therewith, and all income attributable thereto, shall remain (until made available to the participating employee or other beneficiary) solely the money, property, and rights of the state and participating counties, municipalities, and subdivisions (without being restricted to the provision of benefits under the plan) subject only to the claims of the state's and participating jurisdictions' general creditors. Participating jurisdictions shall each retain property rights separately.

(5) The state investment board, at the request of the employee retirement benefits board as established under

RCW 41.50.086, is authorized to invest moneys in the deferred compensation principal account in accordance with RCW 43.84.150. Except as provided in RCW 43.33A.160, one hundred percent of all earnings from these investments shall accrue directly to the deferred compensation principal account.

(6) The deferred compensation administrative account is hereby created in the state treasury. All expenses of the department pertaining to the deferred compensation plan including staffing and administrative expenses shall be paid out of the deferred compensation administrative account. Any excess of earnings of investments of balances credited to this account over administrative expenses disbursed from this account shall be transferred to the deferred compensation principal account. Any deficiency in the deferred compensation administrative account caused by an excess of administrative expenses disbursed from this account over earnings of investments of balances credited to this account shall be transferred to this account from the deferred compensation principal account.

(7) In addition to the duties specified in this section and RCW 41.50.770, the department shall administer the salary reduction plan established in RCW 41.04.600 through 41.04.645.

(8) The department shall keep or cause to be kept full and adequate accounts and records of the assets, obligations, transactions, and affairs of any deferred compensation plans created under RCW 41.50.770 and this section.

(9) The department shall file an annual report of the financial condition, transactions, and affairs of the deferred compensation plans under its jurisdiction. A copy of the annual report shall be filed with the speaker of the house of representatives, the president of the senate, the governor, and the state auditor.

(10) Members of the employee retirement benefits board established under RCW 41.50.086 shall be deemed to stand in a fiduciary relationship to the employees participating in the deferred compensation plans created under RCW 41.50.770 and this section and shall discharge the duties of their respective positions in good faith and with that diligence, care, and skill which ordinary prudent persons would exercise under similar circumstances in like positions.

(11) The department may adopt rules necessary to carry out the purposes of RCW 41.50.770 and this section. [1995 c 239 § 315.]

**Intent—Purpose—1995 c 239:** See note following RCW 41.32.831.

**Effective date—Part and subchapter headings not law—1995 c 239:** See notes following RCW 41.32.005.

*Benefits not contractual right until July 1, 1996: RCW 41.34.100.*

#### Chapter 41.54

### PORTABILITY OF PUBLIC RETIREMENT BENEFITS

#### Sections

- 41.54.030 Calculation of service retirement allowance. (*Effective July 1, 1996.*)  
 41.54.035 Transfer to teachers' retirement system plan III. (*Effective July 1, 1996.*)

**41.54.030 Calculation of service retirement allowance.** (*Effective July 1, 1996.*) (1) A dual member may combine service in all systems for the purpose of:

(a) Determining the member's eligibility to receive a service retirement allowance; and

(b) Qualifying for a benefit under RCW 41.32.885(3).

(2) A dual member who is eligible to retire under any system may elect to retire from all the member's systems and to receive service retirement allowances calculated as provided in this section. Each system shall calculate the allowance using its own criteria except that the member shall be allowed to substitute the member's base salary from any system as the compensation used in calculating the allowance.

(3) The service retirement allowances from a system which, but for this section, would not be allowed to be paid at this date based on the dual member's age shall be either actuarially adjusted from the earliest age upon which the combined service would have made such dual member eligible in that system, or the dual member may choose to defer the benefit until fully eligible. [1995 c 239 § 319; 1990 c 192 § 2; 1988 c 195 § 2; 1987 c 192 § 3.]

**Intent—Purpose—1995 c 239:** See note following RCW 41.32.831.

**Effective date—Part and subchapter headings not law—1995 c 239:** See notes following RCW 41.32.005.

*Benefits not contractual right until July 1, 1996: RCW 41.34.100.*

**41.54.035 Transfer to teachers' retirement system plan III.** (*Effective July 1, 1996.*) Any dual member who elects to transfer under RCW 41.32.817 may subject to the provisions of this chapter:

(1) Similarly transfer any other prior plan II service credit to plan III of the same retirement system; or

(2) Combine service credit in all systems for purposes of vesting pursuant to RCW 41.32.817(1)(c). [1995 c 239 § 320.]

**Intent—Purpose—1995 c 239:** See note following RCW 41.32.831.

**Effective date—Part and subchapter headings not law—1995 c 239:** See notes following RCW 41.32.005.

*Benefits not contractual right until July 1, 1996: RCW 41.34.100.*

#### Chapter 41.56

### PUBLIC EMPLOYEES' COLLECTIVE BARGAINING

#### Sections

- 41.56.030 Definitions.  
 41.56.460 Repealed.  
 41.56.465 Uniformed personnel—Interest arbitration panel—Determinations—Factors to be considered.

**41.56.030 Definitions.** As used in this chapter:

(1) "Public employer" means any officer, board, commission, council, or other person or body acting on behalf of any public body governed by this chapter, or any subdivision of such public body. For the purposes of this section, the public employer of district court or superior court employees for wage-related matters is the respective county legislative authority, or person or body acting on behalf of the legislative authority, and the public employer



for nonwage-related matters is the judge or judge's designee of the respective district court or superior court.

(2) "Public employee" means any employee of a public employer except any person (a) elected by popular vote, or (b) appointed to office pursuant to statute, ordinance or resolution for a specified term of office by the executive head or body of the public employer, or (c) whose duties as deputy, administrative assistant or secretary necessarily imply a confidential relationship to the executive head or body of the applicable bargaining unit, or any person elected by popular vote or appointed to office pursuant to statute, ordinance or resolution for a specified term of office by the executive head or body of the public employer, or (d) who is a personal assistant to a district court judge, superior court judge, or court commissioner. For the purpose of (d) of this subsection, no more than one assistant for each judge or commissioner may be excluded from a bargaining unit.

(3) "Bargaining representative" means any lawful organization which has as one of its primary purposes the representation of employees in their employment relations with employers.

(4) "Collective bargaining" means the performance of the mutual obligations of the public employer and the exclusive bargaining representative to meet at reasonable times, to confer and negotiate in good faith, and to execute a written agreement with respect to grievance procedures and collective negotiations on personnel matters, including wages, hours and working conditions, which may be peculiar to an appropriate bargaining unit of such public employer, except that by such obligation neither party shall be compelled to agree to a proposal or be required to make a concession unless otherwise provided in this chapter. In the case of the Washington state patrol, "collective bargaining" shall not include wages and wage-related matters.

(5) "Commission" means the public employment relations commission.

(6) "Executive director" means the executive director of the commission.

(7) "Uniformed personnel" means: (a)(i) Until July 1, 1997, law enforcement officers as defined in RCW 41.26.030 employed by the governing body of any city or town with a population of seven thousand five hundred or more and law enforcement officers employed by the governing body of any county with a population of thirty-five thousand or more; (ii) beginning on July 1, 1997, law enforcement officers as defined in RCW 41.26.030 employed by the governing body of any city or town with a population of two thousand five hundred or more and law enforcement officers employed by the governing body of any county with a population of ten thousand or more; (b) correctional employees who are uniformed and nonuniformed, commissioned and noncommissioned security personnel employed in a jail as defined in RCW 70.48.020(5), by a county with a population of seventy thousand or more, and who are trained for and charged with the responsibility of controlling and maintaining custody of inmates in the jail and safeguarding inmates from other inmates; (c) general authority Washington peace officers as defined in RCW 10.93.020 employed by a port district in a county with a population of one million or more; (d) security forces established under RCW 43.52.520; (e) fire fighters as that term is defined in RCW

41.26.030; (f) employees of a port district in a county with a population of one million or more whose duties include crash fire rescue or other fire fighting duties; (g) employees of fire departments of public employers who dispatch exclusively either fire or emergency medical services, or both; or (h) employees in the several classes of advanced life support technicians, as defined in RCW 18.71.200, who are employed by a public employer.

(8) "Institution of higher education" means the University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, The Evergreen State College, and the various state community colleges. [1995 c 273 § 1. Prior: 1993 c 398 § 1; 1993 c 397 § 1; 1993 c 379 § 302; 1992 c 36 § 2; 1991 c 363 § 119; 1989 c 275 § 2; 1987 c 135 § 2; 1984 c 150 § 1; 1975 1st ex.s. c 296 § 15; 1973 c 131 § 2; 1967 ex.s. c 108 § 3.]

**Effective date—1995 c 273:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995." [1995 c 273 § 5.]

**Effective dates—1993 c 398:** "(1) Sections 3 and 5 of this act shall take effect July 1, 1995.

(2) Sections 1, 2, 4, and 6 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 15, 1993]." [1993 c 398 § 7.]

**Intent—Severability—Effective date—1993 c 379:** See notes following RCW 28B.10.029.

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

**Severability—1987 c 135:** See note following RCW 41.56.020.

**Effective date—1984 c 150:** "This act shall take effect on July 1, 1985." [1984 c 150 § 2.]

**Effective date—1975 1st ex.s. c 296:** See RCW 41.58.901.

**Construction—Severability—1973 c 131:** See RCW 41.56.905, 41.56.910.

*Public employment relations commission: Chapter 41.58 RCW.*

**41.56.460 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**41.56.465 Uniformed personnel—Interest arbitration panel—Determinations—Factors to be considered.**

(1) In making its determination, the panel shall be mindful of the legislative purpose enumerated in RCW 41.56.430 and, as additional standards or guidelines to aid it in reaching a decision, it shall take into consideration the following factors:

(a) The constitutional and statutory authority of the employer;

(b) Stipulations of the parties;

(c)(i) For employees listed in RCW 41.56.030(7) (a) through (d), comparison of the wages, hours, and conditions of employment of personnel involved in the proceedings with the wages, hours, and conditions of employment of like personnel of like employers of similar size on the west coast of the United States;

(ii) For employees listed in RCW 41.56.030(7) (e) through (h), comparison of the wages, hours, and conditions of employment of personnel involved in the proceedings with the wages, hours, and conditions of employment of like personnel of public fire departments of similar size on the

west coast of the United States. However, when an adequate number of comparable employers exists within the state of Washington, other west coast employers may not be considered;

(d) The average consumer prices for goods and services, commonly known as the cost of living;

(e) Changes in any of the circumstances under (a) through (d) of this subsection during the pendency of the proceedings; and

(f) Such other factors, not confined to the factors under (a) through (e) of this subsection, that are normally or traditionally taken into consideration in the determination of wages, hours, and conditions of employment. For those employees listed in RCW 41.56.030(7)(a) who are employed by the governing body of a city or town with a population of less than fifteen thousand, or a county with a population of less than seventy thousand, consideration must also be given to regional differences in the cost of living.

(2) Subsection (1)(c) of this section may not be construed to authorize the panel to require the employer to pay, directly or indirectly, the increased employee contributions resulting from chapter 502, Laws of 1993 or chapter 517, Laws of 1993 as required under chapter 41.26 RCW. [1995 c 273 § 2; 1993 c 398 § 3.]

**Effective date—1995 c 273:** See note following RCW 41.56.030.

**Effective dates—1993 c 398:** See note following RCW 41.56.030.

### Chapter 41.60

#### STATE EMPLOYEES' SUGGESTION AWARDS AND INCENTIVE PAY

##### Sections

41.60.020 Employee suggestion program—Rules for administration of chapter.

**41.60.020 Employee suggestion program—Rules for administration of chapter.** (1) The board shall formulate, establish, and maintain an employee suggestion program to encourage and reward meritorious suggestions by state employees that will promote efficiency and economy in the performance of any function of state government: PROVIDED, That the program shall include provisions for the processing of suggestions having multi-agency impact and post-implementation auditing of suggestions for fiscal accountability.

(2) The board shall prepare a topical list of all the productivity awards granted and disseminate this information to all the state government agencies that may be able to adapt them to their procedures.

(3) The board shall adopt rules and regulations necessary or appropriate for the proper administration and for the accomplishment of the purposes of this chapter. [1995 c 181 § 1; 1993 c 467 § 3; 1982 c 167 § 7; 1975-'76 2nd ex.s. c 122 § 1; 1969 ex.s. c 152 § 4; 1965 ex.s. c 142 § 2.]

**Effective date—1993 c 467:** See note following RCW 41.60.010.

**Severability—1982 c 167:** See note following RCW 41.60.015.

## Title 42

### PUBLIC OFFICERS AND AGENCIES

#### Chapters

- 42.17** Disclosure—Campaign finances—Lobbying—Records.
- 42.24** Payment of claims for expenses, material, purchases—Advancements.
- 42.40** Disclosure of improper governmental action—Protection of employee disclosures.
- 42.41** Local government whistleblower protection.
- 42.52** Ethics in public service.

#### Chapter 42.17

##### DISCLOSURE—CAMPAIGN FINANCES—LOBBYING—RECORDS

##### Sections

- 42.17.020 Definitions.
- 42.17.021 Repealed.
- 42.17.080 Candidates' and treasurers' duty to report contributions and expenditures.
- 42.17.095 Disposal of surplus funds.
- 42.17.100 Special reports—Independent expenditures.
- 42.17.105 Special reports, late contributions or totals over five hundred dollars—Certain late contributions prohibited.
- 42.17.125 Personal use of contributions—When permitted.
- 42.17.132 Restrictions on mailings by incumbents.
- 42.17.155 Photograph and information—Booklet—Publication.
- 42.17.160 Exemption from registration.
- 42.17.170 Reporting by lobbyists.
- 42.17.190 Legislative activities of state agencies, other units of government, elective officials, employees.
- 42.17.240 Elected and appointed officials, candidates, and appointees—Reports of financial affairs and gifts.
- 42.17.2401 "Executive state officer" defined.
- 42.17.241 Contents of report.
- 42.17.2415 Repealed.
- 42.17.260 Documents and indexes to be made public.
- 42.17.280 Times for inspection and copying.
- 42.17.290 Protection of public records—Public access.
- 42.17.300 Charges for copying.
- 42.17.305 Other provisions not superseded.
- 42.17.310 Certain personal and other records exempt.
- 42.17.313 Application for license or small loan endorsement under chapter 31.45 RCW—Certain information exempt.
- 42.17.31903 Identification of viators regulated by the insurance commissioner exempt.
- 42.17.31904 Insurance antifraud plans exempt.
- 42.17.31905 Insurance information on certain material transactions exempt.
- 42.17.31906 Fireworks records exempt.
- 42.17.320 Prompt responses required.
- 42.17.341 Application of RCW 42.17.340.
- 42.17.370 Commission—Additional powers.
- 42.17.420 Date of mailing deemed date of receipt—Exceptions—Electronic filings.
- 42.17.510 Identification of sponsor—Exemptions.
- 42.17.630 Repealed.
- 42.17.640 Limits specified—Exemptions.
- 42.17.720 Restriction on loans.
- 42.17.740 Certain contributions required to be by written instrument.
- 42.17.750 Solicitation of contributions by public officials or employees.
- 42.17.770 Solicitation of endorsement fees.
- 42.17.780 Reimbursement for contributions.

42.17.790	Prohibition on use of contributions for a different office.
42.17.960	Effective date—1995 c 397.
42.17.961	Captions—1995 c 397.
42.17.962	Severability—1995 c 397.

**42.17.020 Definitions.** (1) "Agency" includes all state agencies and all local agencies. "State agency" includes every state office, department, division, bureau, board, commission, or other state agency. "Local agency" includes every county, city, town, municipal corporation, quasi-municipal corporation, or special purpose district, or any office, department, division, bureau, board, commission, or agency thereof, or other local public agency.

(2) "Authorized committee" means the political committee authorized by a candidate, or by the public official against whom recall charges have been filed, to accept contributions or make expenditures on behalf of the candidate or public official.

(3) "Ballot proposition" means any "measure" as defined by RCW 29.01.110, or any initiative, recall, or referendum proposition proposed to be submitted to the voters of the state or any municipal corporation, political subdivision, or other voting constituency from and after the time when the proposition has been initially filed with the appropriate election officer of that constituency prior to its circulation for signatures.

(4) "Benefit" means a commercial, proprietary, financial, economic, or monetary advantage, or the avoidance of a commercial, proprietary, financial, economic, or monetary disadvantage.

(5) "Bona fide political party" means:

(a) An organization that has filed a valid certificate of nomination with the secretary of state under chapter 29.24 RCW;

(b) The governing body of the state organization of a major political party, as defined in RCW 29.01.090, that is the body authorized by the charter or bylaws of the party to exercise authority on behalf of the state party; or

(c) The county central committee or legislative district committee of a major political party. There may be only one legislative district committee for each party in each legislative district.

(6) "Depository" means a bank designated by a candidate or political committee pursuant to RCW 42.17.050.

(7) "Treasurer" and "deputy treasurer" mean the individuals appointed by a candidate or political committee, pursuant to RCW 42.17.050, to perform the duties specified in that section.

(8) "Candidate" means any individual who seeks nomination for election or election to public office. An individual seeks nomination or election when he or she first:

(a) Receives contributions or makes expenditures or reserves space or facilities with intent to promote his or her candidacy for office;

(b) Announces publicly or files for office;

(c) Purchases commercial advertising space or broadcast time to promote his or her candidacy; or

(d) Gives his or her consent to another person to take on behalf of the individual any of the actions in (a) or (c) of this subsection.

(9) "Caucus political committee" means a political committee organized and maintained by the members of a major political party in the state senate or state house of representatives.

(10) "Commercial advertiser" means any person who sells the service of communicating messages or producing printed material for broadcast or distribution to the general public or segments of the general public whether through the use of newspapers, magazines, television and radio stations, billboard companies, direct mail advertising companies, printing companies, or otherwise.

(11) "Commission" means the agency established under RCW 42.17.350.

(12) "Compensation" unless the context requires a narrower meaning, includes payment in any form for real or personal property or services of any kind: PROVIDED, That for the purpose of compliance with RCW 42.17.241, the term "compensation" shall not include per diem allowances or other payments made by a governmental entity to reimburse a public official for expenses incurred while the official is engaged in the official business of the governmental entity.

(13) "Continuing political committee" means a political committee that is an organization of continuing existence not established in anticipation of any particular election campaign.

(14)(a) "Contribution" includes:

(i) A loan, gift, deposit, subscription, forgiveness of indebtedness, donation, advance, pledge, payment, transfer of funds between political committees, or anything of value, including personal and professional services for less than full consideration;

(ii) An expenditure made by a person in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a political committee, or their agents;

(iii) The financing by a person of the dissemination, distribution, or republication, in whole or in part, of broadcast, written, graphic, or other form of political advertising prepared by a candidate, a political committee, or its authorized agent;

(iv) Sums paid for tickets to fund-raising events such as dinners and parties, except for the actual cost of the consumables furnished at the event.

(b) "Contribution" does not include:

(i) Standard interest on money deposited in a political committee's account;

(ii) Ordinary home hospitality;

(iii) A contribution received by a candidate or political committee that is returned to the contributor within five business days of the date on which it is received by the candidate or political committee;

(iv) A news item, feature, commentary, or editorial in a regularly scheduled news medium that is of primary interest to the general public, that is in a news medium controlled by a person whose business is that news medium, and that is not controlled by a candidate or a political committee;

(v) An internal political communication primarily limited to the members of or contributors to a political party organization or political committee, or to the officers, management staff, or stockholders of a corporation or similar

enterprise, or to the members of a labor organization or other membership organization;

(vi) The rendering of personal services of the sort commonly performed by volunteer campaign workers, or incidental expenses personally incurred by volunteer campaign workers not in excess of fifty dollars personally paid for by the worker. "Volunteer services," for the purposes of this section, means services or labor for which the individual is not compensated by any person;

(vii) Messages in the form of reader boards, banners, or yard or window signs displayed on a person's own property or property occupied by a person. However, a facility used for such political advertising for which a rental charge is normally made must be reported as an in-kind contribution and counts towards any applicable contribution limit of the person providing the facility;

(viii) Legal or accounting services rendered to or on behalf of:

(A) A political party or caucus political committee if the person paying for the services is the regular employer of the person rendering such services; or

(B) A candidate or an authorized committee if the person paying for the services is the regular employer of the individual rendering the services and if the services are solely for the purpose of ensuring compliance with state election or public disclosure laws.

(c) Contributions other than money or its equivalent are deemed to have a monetary value equivalent to the fair market value of the contribution. Services or property or rights furnished at less than their fair market value for the purpose of assisting any candidate or political committee are deemed a contribution. Such a contribution must be reported as an in-kind contribution at its fair market value and counts towards any applicable contribution limit of the provider.

(15) "Elected official" means any person elected at a general or special election to any public office, and any person appointed to fill a vacancy in any such office.

(16) "Election" includes any primary, general, or special election for public office and any election in which a ballot proposition is submitted to the voters: PROVIDED, That an election in which the qualifications for voting include other than those requirements set forth in Article VI, section 1 (Amendment 63) of the Constitution of the state of Washington shall not be considered an election for purposes of this chapter.

(17) "Election campaign" means any campaign in support of or in opposition to a candidate for election to public office and any campaign in support of, or in opposition to, a ballot proposition.

(18) "Election cycle" means the period beginning on the first day of December after the date of the last previous general election for the office that the candidate seeks and ending on November 30th after the next election for the office. In the case of a special election to fill a vacancy in an office, "election cycle" means the period beginning on the day the vacancy occurs and ending on November 30th after the special election.

(19) "Expenditure" includes a payment, contribution, subscription, distribution, loan, advance, deposit, or gift of money or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure. The term "expenditure" also

includes a promise to pay, a payment, or a transfer of anything of value in exchange for goods, services, property, facilities, or anything of value for the purpose of assisting, benefiting, or honoring any public official or candidate, or assisting in furthering or opposing any election campaign. For the purposes of this chapter, agreements to make expenditures, contracts, and promises to pay may be reported as estimated obligations until actual payment is made. The term "expenditure" shall not include the partial or complete repayment by a candidate or political committee of the principal of a loan, the receipt of which loan has been properly reported.

(20) "Final report" means the report described as a final report in RCW 42.17.080(2).

(21) "General election" means the election that results in the election of a person to a state office. It does not include a primary.

(22) "Gift," is as defined in RCW 42.52.010.

(23) "Immediate family" includes the spouse, dependent children, and other dependent relatives, if living in the household. For the purposes of RCW 42.17.640 through 42.17.790, "immediate family" means an individual's spouse, and child, stepchild, grandchild, parent, stepparent, grandparent, brother, half brother, sister, or half sister of the individual and the spouse of any such person and a child, stepchild, grandchild, parent, stepparent, grandparent, brother, half brother, sister, or half sister of the individual's spouse and the spouse of any such person.

(24) "Independent expenditure" means an expenditure that has each of the following elements:

(a) It is made in support of or in opposition to a candidate for office by a person who is not (i) a candidate for that office, (ii) an authorized committee of that candidate for that office, (iii) a person who has received the candidate's encouragement or approval to make the expenditure, if the expenditure pays in whole or in part for political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office, or (iv) a person with whom the candidate has collaborated for the purpose of making the expenditure, if the expenditure pays in whole or in part for political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office;

(b) The expenditure pays in whole or in part for political advertising that either specifically names the candidate supported or opposed, or clearly and beyond any doubt identifies the candidate without using the candidate's name; and

(c) The expenditure, alone or in conjunction with another expenditure or other expenditures of the same person in support of or opposition to that candidate, has a value of five hundred dollars or more. A series of expenditures, each of which is under five hundred dollars, constitutes one independent expenditure if their cumulative value is five hundred dollars or more.

(25)(a) "Intermediary" means an individual who transmits a contribution to a candidate or committee from another person unless the contribution is from the individual's employer, immediate family as defined for purposes of RCW 42.17.640 through 42.17.790, or an association to which the individual belongs.

(b) A treasurer or a candidate is not an intermediary for purposes of the committee that the treasurer or candidate serves.

(c) A professional fund-raiser is not an intermediary if the fund-raiser is compensated for fund-raising services at the usual and customary rate.

(d) A volunteer hosting a fund-raising event at the individual's home is not an intermediary for purposes of that event.

(26) "Legislation" means bills, resolutions, motions, amendments, nominations, and other matters pending or proposed in either house of the state legislature, and includes any other matter that may be the subject of action by either house or any committee of the legislature and all bills and resolutions that, having passed both houses, are pending approval by the governor.

(27) "Lobby" and "lobbying" each mean attempting to influence the passage or defeat of any legislation by the legislature of the state of Washington, or the adoption or rejection of any rule, standard, rate, or other legislative enactment of any state agency under the state Administrative Procedure Act, chapter 34.05 RCW. Neither "lobby" nor "lobbying" includes an association's or other organization's act of communicating with the members of that association or organization.

(28) "Lobbyist" includes any person who lobbies either in his or her own or another's behalf.

(29) "Lobbyist's employer" means the person or persons by whom a lobbyist is employed and all persons by whom he or she is compensated for acting as a lobbyist.

(30) "Person" includes an individual, partnership, joint venture, public or private corporation, association, federal, state, or local governmental entity or agency however constituted, candidate, committee, political committee, political party, executive committee thereof, or any other organization or group of persons, however organized.

(31) "Person in interest" means the person who is the subject of a record or any representative designated by that person, except that if that person is under a legal disability, the term "person in interest" means and includes the parent or duly appointed legal representative.

(32) "Political advertising" includes any advertising displays, newspaper ads, billboards, signs, brochures, articles, tabloids, flyers, letters, radio or television presentations, or other means of mass communication, used for the purpose of appealing, directly or indirectly, for votes or for financial or other support in any election campaign.

(33) "Political committee" means any person (except a candidate or an individual dealing with his or her own funds or property) having the expectation of receiving contributions or making expenditures in support of, or opposition to, any candidate or any ballot proposition.

(34) "Primary" means the procedure for nominating a candidate to state office under chapter 29.18 or 29.21 RCW or any other primary for an election that uses, in large measure, the procedures established in chapter 29.18 or 29.21 RCW.

(35) "Public office" means any federal, state, county, city, town, school district, port district, special district, or other state political subdivision elective office.

(36) "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. For the office of the secretary of the senate and the office of the chief clerk of the house of representatives, public records means legislative records as defined in RCW 40.14.100 and also means the following: All budget and financial records; personnel leave, travel, and payroll records; records of legislative sessions; reports submitted to the legislature; and any other record designated a public record by any official action of the senate or the house of representatives.

(37) "Recall campaign" means the period of time beginning on the date of the filing of recall charges under RCW 29.82.015 and ending thirty days after the recall election.

(38) "State legislative office" means the office of a member of the state house of representatives or the office of a member of the state senate.

(39) "State office" means state legislative office or the office of governor, lieutenant governor, secretary of state, attorney general, commissioner of public lands, insurance commissioner, superintendent of public instruction, state auditor, or state treasurer.

(40) "State official" means a person who holds a state office.

(41) "Surplus funds" mean, in the case of a political committee or candidate, the balance of contributions that remain in the possession or control of that committee or candidate subsequent to the election for which the contributions were received, and that are in excess of the amount necessary to pay remaining debts incurred by the committee or candidate prior to that election. In the case of a continuing political committee, "surplus funds" mean those contributions remaining in the possession or control of the committee that are in excess of the amount necessary to pay all remaining debts when it makes its final report under RCW 42.17.065.

(42) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated.

As used in this chapter, the singular shall take the plural and any gender, the other, as the context requires. [1995 c 397 § 1; 1992 c 139 § 1; 1991 sp.s. c 18 § 1; 1990 c 139 § 2. Prior: 1989 c 280 § 1; 1989 c 175 § 89; 1984 c 34 § 5; 1979 ex.s. c 50 § 1; 1977 ex.s. c 313 § 1; 1975 1st ex.s. c 294 § 2; 1973 c 1 § 2 (Initiative Measure No. 276, approved November 7, 1972).]

**Legislative intent—1990 c 139:** "The provisions of this act which repeal the reporting requirements established by chapter 423, Laws of 1987 for registered lobbyists and employers of lobbyists are not intended to alter, expand, or restrict whatsoever the definition of "lobby" or "lobbying" contained in RCW 42.17.020 as it existed prior to the enactment of chapter 423, Laws of 1987." [1990 c 139 § 1.]

**Effective date—1989 c 280:** "This act shall take effect January 1, 1990." [1989 c 280 § 14.]

**Effective date—1989 c 175:** See note following RCW 34.05.010.

**Effective date—1977 ex.s. c 313:** "This 1977 amendatory act shall take effect on January 1, 1978." [1977 ex.s. c 313 § 9.]

**Severability—1977 ex.s. c 313:** "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 313 § 8.]

**42.17.021 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**42.17.080 Candidates' and treasurers' duty to report contributions and expenditures.** (1) On the day the treasurer is designated, each candidate or political committee shall file with the commission and the county auditor or elections officer of the county in which the candidate resides, or in the case of a political committee, the county in which the treasurer resides, in addition to any statement of organization required under RCW 42.17.040 or 42.17.050, a report of all contributions received and expenditures made prior to that date, if any.

(2) At the following intervals each treasurer shall file with the commission and the county auditor or elections officer of the county in which the candidate resides, or in the case of a political committee, the county in which the committee maintains its office or headquarters, and if there is no office or headquarters then in the county in which the treasurer resides, a report containing the information required by RCW 42.17.090:

(a) On the twenty-first day and the seventh day immediately preceding the date on which the election is held; and

(b) On the tenth day of the first month after the election: PROVIDED, That this report shall not be required following a primary election from:

(i) A candidate whose name will appear on the subsequent general election ballot; or

(ii) Any continuing political committee; and

(c) On the tenth day of each month in which no other reports are required to be filed under this section: PROVIDED, That such report shall only be filed if the committee has received a contribution or made an expenditure in the preceding calendar month and either the total contributions received or total expenditures made since the last such report exceed two hundred dollars.

When there is no outstanding debt or obligation, and the campaign fund is closed, and the campaign is concluded in all respects, and in the case of a political committee, the committee has ceased to function and has dissolved, the treasurer shall file a final report. Upon submitting a final report, the duties of the treasurer shall cease and there shall be no obligation to make any further reports.

The report filed twenty-one days before the election shall report all contributions received and expenditures made as of the end of the fifth business day before the date of the report. The report filed seven days before the election shall report all contributions received and expenditures made as of the end of the one business day before the date of the report. Reports filed on the tenth day of the month shall report all contributions received and expenditures made from the

closing date of the last report filed through the last day of the month preceding the date of the current report.

(3) For the period beginning the first day of the fourth month preceding the date on which the special or general election is held and ending on the date of that election, each Friday the treasurer shall file with the commission and the appropriate county elections officer a report of each bank deposit made during the previous seven calendar days. The report shall contain the name of each person contributing the funds so deposited and the amount contributed by each person. However, contributions of no more than twenty-five dollars in the aggregate from any one person may be deposited without identifying the contributor. A copy of the report shall be retained by the treasurer for his or her records. In the event of deposits made by a deputy treasurer, the copy shall be forwarded to the treasurer for his or her records. Each report shall be certified as correct by the treasurer or deputy treasurer making the deposit.

(4) The treasurer or candidate shall maintain books of account accurately reflecting all contributions and expenditures on a current basis within five business days of receipt or expenditure. During the eight days immediately preceding the date of the election the books of account shall be kept current within one business day and shall be open for public inspection for at least two consecutive hours Monday through Friday, excluding legal holidays, between 8:00 a.m. and 8:00 p.m., as specified in the committee's statement of organization filed pursuant to RCW 42.17.040, at the principal headquarters or, if there is no headquarters, at the address of the treasurer or such other place as may be authorized by the commission. The treasurer or candidate shall preserve books of account, bills, receipts, and all other financial records of the campaign or political committee for not less than five calendar years following the year during which the transaction occurred.

(5) All reports filed pursuant to subsections (1) or (2) of this section shall be certified as correct by the candidate and the treasurer.

(6) Copies of all reports filed pursuant to this section shall be readily available for public inspection for at least two consecutive hours Monday through Friday, excluding legal holidays, between 8:00 a.m. and 8:00 p.m., as specified in the committee's statement of organization filed pursuant to RCW 42.17.040, at the principal headquarters or, if there is no headquarters, at the address of the treasurer or such other place as may be authorized by the commission.

(7) The commission shall adopt administrative rules establishing requirements for filer participation in any system designed and implemented by the commission for the electronic filing of reports. [1995 c 397 § 2; 1989 c 280 § 8; 1986 c 28 § 1; 1982 c 147 § 6; 1975 1st ex.s. c 294 § 6; 1973 c 1 § 8 (Initiative Measure No. 276, approved November 7, 1972).]

**Effective date—1989 c 280:** See note following RCW 42.17.020.

**42.17.095 Disposal of surplus funds.** The surplus funds of a candidate, or of a political committee supporting or opposing a candidate, may only be disposed of in any one or more of the following ways:

(1) Return the surplus to a contributor in an amount not to exceed that contributor's original contribution;

(2) Transfer the surplus to the candidate's personal account as reimbursement for lost earnings incurred as a result of that candidate's election campaign. Such lost earnings shall be verifiable as unpaid salary or, when the candidate is not salaried, as an amount not to exceed income received by the candidate for services rendered during an appropriate, corresponding time period. All lost earnings incurred shall be documented and a record thereof shall be maintained by the candidate or the candidate's political committee. The committee shall include a copy of such record when its expenditure for such reimbursement is reported pursuant to RCW 42.17.090;

(3) Transfer the surplus without limit to a political party or to a caucus political committee;

(4) Donate the surplus to a charitable organization registered in accordance with chapter 19.09 RCW;

(5) Transmit the surplus to the state treasurer for deposit in the general fund; or

(6) Hold the surplus in the campaign depository or depositories designated in accordance with RCW 42.17.050 for possible use in a future election campaign for the same office last sought by the candidate and report any such disposition in accordance with RCW 42.17.090: PROVIDED, That if the candidate subsequently announces or publicly files for office, information as appropriate is reported to the commission in accordance with RCW 42.17.040 through 42.17.090. If a subsequent office is not sought the surplus held shall be disposed of in accordance with the requirements of this section.

(7) Hold the surplus campaign funds in a separate account for nonreimbursed public office-related expenses or as provided in this section, and report any such disposition in accordance with RCW 42.17.090. The separate account required under this subsection shall not be used for deposits of campaign funds that are not surplus.

(8) No candidate or authorized committee may transfer funds to any other candidate or other political committee.

The disposal of surplus funds under this section shall not be considered a contribution for purposes of this chapter. [1995 c 397 § 31; 1993 c 2 § 20 (Initiative Measure No. 134, approved November 3, 1992); 1982 c 147 § 8; 1977 ex.s. c 336 § 3.]

**Severability—1977 ex.s. c 336:** See note following RCW 42.17.040.

**42.17.100 Special reports—Independent expenditures.** (1) For the purposes of this section and RCW 42.17.550 the term "independent expenditure" means any expenditure that is made in support of or in opposition to any candidate or ballot proposition and is not otherwise required to be reported pursuant to RCW 42.17.060, 42.17.080, or 42.17.090. "Independent expenditure" does not include: An internal political communication primarily limited to the contributors to a political party organization or political action committee, or the officers, management staff, and stockholders of a corporation or similar enterprise, or the members of a labor organization or other membership organization; or the rendering of personal services of the sort commonly performed by volunteer campaign workers, or incidental expenses personally incurred by volunteer campaign workers not in excess of fifty dollars personally paid for by the worker. "Volunteer services," for the purposes of

this section, means services or labor for which the individual is not compensated by any person.

(2) Within five days after the date of making an independent expenditure that by itself or when added to all other such independent expenditures made during the same election campaign by the same person equals one hundred dollars or more, or within five days after the date of making an independent expenditure for which no reasonable estimate of monetary value is practicable, whichever occurs first, the person who made the independent expenditure shall file with the commission and the county elections officer of the county of residence for the candidate supported or opposed by the independent expenditure (or in the case of an expenditure made in support of or in opposition to a local ballot proposition, the county of residence for the person making the expenditure) an initial report of all independent expenditures made during the campaign prior to and including such date.

(3) At the following intervals each person who is required to file an initial report pursuant to subsection (2) of this section shall file with the commission and the county elections officer of the county of residence for the candidate supported or opposed by the independent expenditure (or in the case of an expenditure made in support of or in opposition to a ballot proposition, the county of residence for the person making the expenditure) a further report of the independent expenditures made since the date of the last report:

(a) On the twenty-first day and the seventh day preceding the date on which the election is held; and

(b) On the tenth day of the first month after the election; and

(c) On the tenth day of each month in which no other reports are required to be filed pursuant to this section. However, the further reports required by this subsection (3) shall only be filed if the reporting person has made an independent expenditure since the date of the last previous report filed.

The report filed pursuant to paragraph (a) of this subsection (3) shall be the final report, and upon submitting such final report the duties of the reporting person shall cease, and there shall be no obligation to make any further reports.

(4) All reports filed pursuant to this section shall be certified as correct by the reporting person.

(5) Each report required by subsections (2) and (3) of this section shall disclose for the period beginning at the end of the period for the last previous report filed or, in the case of an initial report, beginning at the time of the first independent expenditure, and ending not more than one business day before the date the report is due:

(a) The name and address of the person filing the report;

(b) The name and address of each person to whom an independent expenditure was made in the aggregate amount of more than fifty dollars, and the amount, date, and purpose of each such expenditure. If no reasonable estimate of the monetary value of a particular independent expenditure is practicable, it is sufficient to report instead a precise description of services, property, or rights furnished through the expenditure and where appropriate to attach a copy of the item produced or distributed by the expenditure;

(c) The total sum of all independent expenditures made during the campaign to date; and

(d) Such other information as shall be required by the commission by rule in conformance with the policies and purposes of this chapter. [1995 c 397 § 28; 1989 c 280 § 10; 1985 c 367 § 6; 1982 c 147 § 9; 1975-'76 2nd ex.s. c 112 § 4; 1973 c 1 § 10 (Initiative Measure No. 276, approved November 7, 1972).]

**Effective date—1989 c 280:** See note following RCW 42.17.020.

**42.17.105 Special reports, late contributions or totals over five hundred dollars—Certain late contributions prohibited.** (1) Campaign treasurers shall prepare and deliver to the commission a special report regarding any contribution or aggregate of contributions which: Exceeds five hundred dollars; is from a single person or entity; and is received during a special reporting period.

Any political committee making a contribution or an aggregate of contributions to a single entity which exceeds five hundred dollars shall also prepare and deliver to the commission the special report if the contribution or aggregate of contributions is made during a special reporting period.

For the purposes of subsections (1) through (7) of this section:

(a) Each of the following intervals is a special reporting period: (i) The interval beginning after the period covered by the last report required by RCW 42.17.080 and 42.17.090 to be filed before a primary and concluding on the end of the day before that primary; and (ii) the interval composed of the twenty-one days preceding a general election; and

(b) An aggregate of contributions includes only those contributions received from a single entity during any one special reporting period or made by the contributing political committee to a single entity during any one special reporting period.

(2) If a campaign treasurer files a special report under this section for one or more contributions received from a single entity during a special reporting period, the treasurer shall also file a special report under this section for each subsequent contribution of any size which is received from that entity during the special reporting period. If a political committee files a special report under this section for a contribution or contributions made to a single entity during a special reporting period, the political committee shall also file a special report for each subsequent contribution of any size which is made to that entity during the special reporting period.

(3) Except as provided in subsection (4) of this section, the special report required by this section shall be delivered electronically or in written form, including but not limited to mailgram, telegram, or nightletter. The special report required of a contribution recipient by subsection (1) of this section shall be delivered to the commission within forty-eight hours of the time, or on the first working day after: The contribution exceeding five hundred dollars is received by the candidate or treasurer; the aggregate received by the candidate or treasurer first exceeds five hundred dollars; or the subsequent contribution that must be reported under subsection (2) of this section is received by the candidate or treasurer. The special report required of a contributor by

subsection (1) of this section or RCW 42.17.175 shall be delivered to the commission, and the candidate or political committee to whom the contribution or contributions are made, within twenty-four hours of the time, or on the first working day after: The contribution is made; the aggregate of contributions made first exceeds five hundred dollars; or the subsequent contribution that must be reported under subsection (2) of this section is made.

(4) The special report may be transmitted orally by telephone to the commission to satisfy the delivery period required by subsection (3) of this section if the written form of the report is also mailed to the commission and post-marked within the delivery period established in subsection (3) of this section or the file transfer date of the electronic filing is within the delivery period established in subsection (3) of this section.

(5) The special report shall include at least:

(a) The amount of the contribution or contributions;

(b) The date or dates of receipt;

(c) The name and address of the donor;

(d) The name and address of the recipient; and

(e) Any other information the commission may by rule require.

(6) Contributions reported under this section shall also be reported as required by other provisions of this chapter.

(7) The commission shall prepare daily a summary of the special reports made under this section and RCW 42.17.175.

(8) It is a violation of this chapter for any person to make, or for any candidate or political committee to accept from any one person, contributions reportable under RCW 42.17.090 in the aggregate exceeding fifty thousand dollars for any campaign for state-wide office or exceeding five thousand dollars for any other campaign subject to the provisions of this chapter within twenty-one days of a general election. This subsection does not apply to contributions made by, or accepted from, a bona fide political party as defined in this chapter, excluding the county central committee or legislative district committee.

(9) Contributions governed by this section include, but are not limited to, contributions made or received indirectly through a third party or entity whether the contributions are or are not reported to the commission as earmarked contributions under RCW 42.17.135. [1995 c 397 § 4; 1991 c 157 § 1; 1989 c 280 § 11; 1986 c 228 § 2; 1985 c 359 § 1; 1983 c 176 § 1.]

**Effective date—1989 c 280:** See note following RCW 42.17.020.

**42.17.125 Personal use of contributions—When permitted.** Contributions received and reported in accordance with RCW 42.17.060 through 42.17.090 may only be transferred to the personal account of a candidate, or of a treasurer or other individual or expended for such individual's personal use under the following circumstances:

(1) Reimbursement for or loans to cover lost earnings incurred as a result of campaigning or services performed for the political committee. Such lost earnings shall be verifiable as unpaid salary, or when the individual is not salaried, as an amount not to exceed income received by the individual for services rendered during an appropriate, corresponding time period. All lost earnings incurred shall be documented



and a record thereof shall be maintained by the individual or the individual's political committee. The political committee shall include a copy of such record when its expenditure for such reimbursement is reported pursuant to RCW 42.17.090.

(2) Reimbursement for direct out-of-pocket election campaign and postelection campaign related expenses made by the individual. To receive reimbursement from the political committee, the individual shall provide the political committee with written documentation as to the amount, date, and description of each expense, and the political committee shall include a copy of such information when its expenditure for such reimbursement is reported pursuant to RCW 42.17.090.

(3) Repayment of loans made by the individual to political committees, which repayment shall be reported pursuant to RCW 42.17.090. However, contributions may not be used to reimburse a candidate for loans totaling more than three thousand dollars made by the candidate to the candidate's own political committee or campaign. [1995 c 397 § 29; 1993 c 2 § 21 (Initiative Measure No. 134, approved November 3, 1992); 1989 c 280 § 12; 1985 c 367 § 7; 1977 ex.s. c 336 § 6.]

**Effective date—1989 c 280:** See note following RCW 42.17.020.

**Severability—1977 ex.s. c 336:** See note following RCW 42.17.040.

#### **42.17.132 Restrictions on mailings by incumbents.**

During the twelve-month period preceding the last day for certification of the election results for a state legislator's election to office, the legislator may not mail to a constituent at public expense a letter, newsletter, brochure, or other piece of literature except as provided in this section.

The legislator may mail one mailing no later than thirty days after the start of a regular legislative session and one mailing no later than sixty days after the end of a regular legislative session of identical newsletters to constituents.

The legislator may mail an individual letter to an individual constituent who (1) has contacted the legislator regarding the subject matter of the letter during the legislator's current term of office; or (2) holds a governmental office with jurisdiction over the subject matter of the letter.

A violation of this section constitutes use of the facilities of a public office for the purpose of assisting a campaign under RCW 42.52.180.

The house of representatives and senate shall specifically limit expenditures per member for the total cost of mailings, including but not limited to production costs, printing costs, and postage. [1995 c 397 § 5; 1993 c 2 § 25 (Initiative Measure No. 134, approved November 3, 1992).]

**42.17.155 Photograph and information—Booklet—Publication.** Each lobbyist shall at the time he or she registers submit to the commission a recent photograph of himself or herself of a size and format as determined by rule of the commission, together with the name of the lobbyist's employer, the length of his or her employment as a lobbyist before the legislature, a brief biographical description, and any other information he or she may wish to submit not to exceed fifty words in length. Such photograph and information shall be published at least biennially in a booklet form by the commission for distribution to legislators and the

public. [1995 c 397 § 6; 1985 c 367 § 8; 1982 c 147 § 11; 1975 1st ex.s. c 294 § 21.]

**42.17.160 Exemption from registration.** The following persons and activities shall be exempt from registration and reporting under RCW 42.17.150, 42.17.170, and 42.17.200:

(1) Persons who limit their lobbying activities to appearing before public sessions of committees of the legislature, or public hearings of state agencies;

(2) Activities by lobbyists or other persons whose participation has been solicited by an agency under RCW 34.05.310(2);

(3) News or feature reporting activities and editorial comment by working members of the press, radio, or television and the publication or dissemination thereof by a newspaper, book publisher, regularly published periodical, radio station, or television station;

(4) Persons who lobby without compensation or other consideration for acting as a lobbyist: PROVIDED, Such person makes no expenditure for or on behalf of any member of the legislature or elected official or public officer or employee of the state of Washington in connection with such lobbying. The exemption contained in this subsection is intended to permit and encourage citizens of this state to lobby any legislator, public official, or state agency without incurring any registration or reporting obligation provided they do not exceed the limits stated above. Any person exempt under this subsection (4) may at his or her option register and report under this chapter;

(5) Persons who restrict their lobbying activities to no more than four days or parts thereof during any three-month period and whose total expenditures during such three-month period for or on behalf of any one or more members of the legislature or state elected officials or public officers or employees of the state of Washington in connection with such lobbying do not exceed twenty-five dollars: PROVIDED, That the commission shall promulgate regulations to require disclosure by persons exempt under this subsection or their employers or entities which sponsor or coordinate the lobbying activities of such persons if it determines that such regulations are necessary to prevent frustration of the purposes of this chapter. Any person exempt under this subsection (5) may at his or her option register and report under this chapter;

(6) The governor;

(7) The lieutenant governor;

(8) Except as provided by RCW 42.17.190(1), members of the legislature;

(9) Except as provided by RCW 42.17.190(1), persons employed by the legislature for the purpose of aiding in the preparation or enactment of legislation or the performance of legislative duties;

(10) Elected officials, and officers and employees of any agency reporting under RCW 42.17.190(4) as now or hereafter amended. [1995 c 397 § 32; 1982 c 147 § 12; 1977 ex.s. c 313 § 4; 1975 1st ex.s. c 294 § 9; 1973 c 1 § 16 (Initiative Measure No. 276, approved November 7, 1972).]

**Effective date—Severability—1977 ex.s. c 313:** See notes following RCW 42.17.020.

**42.17.170 Reporting by lobbyists.** (1) Any lobbyist registered under RCW 42.17.150 and any person who lobbies shall file with the commission periodic reports of his or her activities signed by the lobbyist. The reports shall be made in the form and manner prescribed by the commission. They shall be due monthly and shall be filed within fifteen days after the last day of the calendar month covered by the report.

(2) Each such monthly periodic report shall contain:

(a) The totals of all expenditures for lobbying activities made or incurred by such lobbyist or on behalf of such lobbyist by the lobbyist's employer during the period covered by the report. Such totals for lobbying activities shall be segregated according to financial category, including compensation; food and refreshments; living accommodations; advertising; travel; contributions; and other expenses or services. Each individual expenditure of more than twenty-five dollars for entertainment shall be identified by date, place, amount, and the names of all persons in the group partaking in or of such entertainment including any portion thereof attributable to the lobbyist's participation therein, and shall include amounts actually expended on each person where calculable, or allocating any portion of the expenditure to individual participants.

Notwithstanding the foregoing, lobbyists are not required to report the following:

(i) Unreimbursed personal living and travel expenses not incurred directly for lobbying;

(ii) Any expenses incurred for his or her own living accommodations;

(iii) Any expenses incurred for his or her own travel to and from hearings of the legislature;

(iv) Any expenses incurred for telephone, and any office expenses, including rent and salaries and wages paid for staff and secretarial assistance.

(b) In the case of a lobbyist employed by more than one employer, the proportionate amount of such expenditures in each category incurred on behalf of each of his employers.

(c) An itemized listing of each such expenditure, whether contributed by the lobbyist personally or delivered or transmitted by the lobbyist, in the nature of a contribution of money or of tangible or intangible personal property to any candidate, elected official, or officer or employee of any agency, or any political committee supporting or opposing any ballot proposition, or for or on behalf of any candidate, elected official, or officer or employee of any agency, or any political committee supporting or opposing any ballot proposition. All contributions made to, or for the benefit of, any candidate, elected official, or officer or employee of any agency, or any political committee supporting or opposing any ballot proposition shall be identified by date, amount, and the name of the candidate, elected official, or officer or employee of any agency, or any political committee supporting or opposing any ballot proposition receiving, or to be benefited by each such contribution.

(d) The subject matter of proposed legislation or other legislative activity or rule-making under chapter 34.05 RCW, the state Administrative Procedure Act, and the state agency considering the same, which the lobbyist has been engaged in supporting or opposing during the reporting period, unless exempt under RCW 42.17.160(2).

(e) Such other information relevant to lobbying activities as the commission shall by rule prescribe. Information supporting such activities as are required to be reported is subject to audit by the commission.

(f) A listing of each payment for an item specified in RCW 42.52.150(5) in excess of fifty dollars and each item specified in RCW 42.52.010(9) (d) and (f) made to a state elected official, state officer, or state employee. Each item shall be identified by recipient, date, and approximate value of the item.

(g) The total expenditures made during the reporting period by the lobbyist for lobbying purposes, whether through or on behalf of a lobbyist or otherwise. As used in this subsection, "expenditures" includes amounts paid or incurred during the reporting period for (i) political advertising as defined in RCW 42.17.020; and (ii) public relations, telemarketing, polling, or similar activities if such activities, directly or indirectly, are intended, designed, or calculated to influence legislation or the adoption or rejection of a rule, standard, or rate by an agency under the administrative procedure act. The report shall specify the amount, the person to whom the amount was paid, and a brief description of the activity.

(3) If a state elected official or a member of such an official's immediate family is identified by a lobbyist in such a report as having received from the lobbyist an item specified in RCW 42.52.150(5) or 42.52.010(9) (d) or (f), the lobbyist shall transmit to the official a copy of the completed form used to identify the item in the report at the same time the report is filed with the commission.

(4) The commission may adopt rules to vary the content of lobbyist reports to address specific circumstances, consistent with this section. [1995 c 397 § 33; 1991 sp.s. c 18 § 2; 1990 c 139 § 3; 1989 c 175 § 90; 1987 c 423 § 1; 1985 c 367 § 9; 1982 c 147 § 13; 1977 ex.s. c 313 § 5; 1975 1st ex.s. c 294 § 10; 1973 c 1 § 17 (Initiative Measure No. 276, approved November 7, 1972).]

**Effective date—1995 c 397 § 33:** "Section 33 of this act takes effect September 1, 1995." [1995 c 397 § 36.]

**Legislative intent—1990 c 139:** See note following RCW 42.17.020.

**Effective date—1989 c 175:** See note following RCW 34.05.010.

**Effective date—Severability—1977 ex.s. c 313:** See notes following RCW 42.17.020.

**42.17.190 Legislative activities of state agencies, other units of government, elective officials, employees.**

(1) The house of representatives and the senate shall report annually: The total budget; the portion of the total attributed to staff; and the number of full-time and part-time staff positions by assignment, with dollar figures as well as number of positions.

(2) Unless authorized by subsection (3) of this section or otherwise expressly authorized by law, no public funds may be used directly or indirectly for lobbying: PROVIDED, This does not prevent officers or employees of an agency from communicating with a member of the legislature on the request of that member; or communicating to the legislature, through the proper official channels, requests for legislative action or appropriations which are deemed necessary for the efficient conduct of the public business or actually made in the proper performance of their official

duties: PROVIDED FURTHER, That this subsection does not apply to the legislative branch.

(3) Any agency, not otherwise expressly authorized by law, may expend public funds for lobbying, but such lobbying activity shall be limited to (a) providing information or communicating on matters pertaining to official agency business to any elected official or officer or employee of any agency or (b) advocating the official position or interests of the agency to any elected official or officer or employee of any agency: PROVIDED, That public funds may not be expended as a direct or indirect gift or campaign contribution to any elected official or officer or employee of any agency. For the purposes of this subsection, the term "gift" means a voluntary transfer of any thing of value without consideration of equal or greater value, but does not include informational material transferred for the sole purpose of informing the recipient about matters pertaining to official agency business. This section does not permit the printing of a state publication which has been otherwise prohibited by law.

(4) No elective official or any employee of his or her office or any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, in any effort to support or oppose an initiative to the legislature. "Facilities of a public office or agency" has the same meaning as in RCW 42.17.130 and 42.52.180. The provisions of this subsection shall not apply to the following activities:

(a) Action taken at an open public meeting by members of an elected legislative body to express a collective decision, or to actually vote upon a motion, proposal, resolution, order, or ordinance, or to support or oppose an initiative to the legislature so long as (i) any required notice of the meeting includes the title and number of the initiative to the legislature, and (ii) members of the legislative body or members of the public are afforded an approximately equal opportunity for the expression of an opposing view;

(b) A statement by an elected official in support of or in opposition to any initiative to the legislature at an open press conference or in response to a specific inquiry;

(c) Activities which are part of the normal and regular conduct of the office or agency;

(d) Activities conducted regarding an initiative to the legislature that would be permitted under RCW 42.17.130 and 42.52.180 if conducted regarding other ballot measures.

(5) Each state agency, county, city, town, municipal corporation, quasi-municipal corporation, or special purpose district which expends public funds for lobbying shall file with the commission, except as exempted by (d) of this subsection, quarterly statements providing the following information for the quarter just completed:

(a) The name of the agency filing the statement;

(b) The name, title, and job description and salary of each elected official, officer, or employee who lobbied, a general description of the nature of the lobbying, and the proportionate amount of time spent on the lobbying;

(c) A listing of expenditures incurred by the agency for lobbying including but not limited to travel, consultant or other special contractual services, and brochures and other

publications, the principal purpose of which is to influence legislation;

(d) For purposes of this subsection the term "lobbying" does not include:

(i) Requests for appropriations by a state agency to the office of financial management pursuant to chapter 43.88 RCW nor requests by the office of financial management to the legislature for appropriations other than its own agency budget requests;

(ii) Recommendations or reports to the legislature in response to a legislative request expressly requesting or directing a specific study, recommendation, or report by an agency on a particular subject;

(iii) Official reports including recommendations submitted to the legislature on an annual or biennial basis by a state agency as required by law;

(iv) Requests, recommendations, or other communication between or within state agencies or between or within local agencies;

(v) Any other lobbying to the extent that it includes:

(A) Telephone conversations or preparation of written correspondence;

(B) In-person lobbying on behalf of an agency of no more than four days or parts thereof during any three-month period by officers or employees of that agency and in-person lobbying by any elected official of such agency on behalf of such agency or in connection with the powers, duties, or compensation of such official: PROVIDED, That the total expenditures of nonpublic funds made in connection with such lobbying for or on behalf of any one or more members of the legislature or state elected officials or public officers or employees of the state of Washington do not exceed fifteen dollars for any three-month period: PROVIDED FURTHER, That the exemption under this subsection is in addition to the exemption provided in (A) of this subsection;

(C) Preparation or adoption of policy positions.

The statements shall be in the form and the manner prescribed by the commission and shall be filed within one month after the end of the quarter covered by the report.

(6) In lieu of reporting under subsection (5) of this section any county, city, town, municipal corporation, quasi-municipal corporation, or special purpose district may determine and so notify the public disclosure commission, that elected officials, officers, or employees who on behalf of any such local agency engage in lobbying reportable under subsection (5) of this section shall register and report such reportable lobbying in the same manner as a lobbyist who is required to register and report under RCW 42.17.150 and 42.17.170. Each such local agency shall report as a lobbyist employer pursuant to RCW 42.17.180.

(7) The provisions of this section do not relieve any elected official or officer or employee of an agency from complying with other provisions of this chapter, if such elected official, officer, or employee is not otherwise exempted.

(8) The purpose of this section is to require each state agency and certain local agencies to report the identities of those persons who lobby on behalf of the agency for compensation, together with certain separately identifiable and measurable expenditures of an agency's funds for that purpose. This section shall be reasonably construed to

accomplish that purpose and not to require any agency to report any of its general overhead cost or any other costs which relate only indirectly or incidentally to lobbying or which are equally attributable to or inseparable from nonlobbying activities of the agency.

The public disclosure commission may adopt rules clarifying and implementing this legislative interpretation and policy. [1995 c 397 § 7; 1986 c 239 § 1; 1979 ex.s. c 265 § 1; 1977 ex.s. c 313 § 6; 1975 1st ex.s. c 294 § 12; 1973 c 1 § 19 (Initiative Measure No. 276, approved November 7, 1972).]

**Effective date—Severability—1977 ex.s. c 313:** See notes following RCW 42.17.020.

**42.17.240 Elected and appointed officials, candidates, and appointees—Reports of financial affairs and gifts.** (1) Every elected official and every executive state officer shall after January 1st and before April 15th of each year file with the commission a statement of financial affairs for the preceding calendar year. However, any local elected official whose term of office expires immediately after December 31st shall file the statement required to be filed by this section for the year that ended on that December 31st.

(2) Every candidate shall within two weeks of becoming a candidate file with the commission a statement of financial affairs for the preceding twelve months.

(3) Every person appointed to a vacancy in an elective office or executive state officer position shall within two weeks of being so appointed file with the commission a statement of financial affairs for the preceding twelve months.

(4) A statement of a candidate or appointee filed during the period from January 1st to April 15th shall cover the period from January 1st of the preceding calendar year to the time of candidacy or appointment if the filing of the statement would relieve the individual of a prior obligation to file a statement covering the entire preceding calendar year.

(5) No individual may be required to file more than once in any calendar year.

(6) Each statement of financial affairs filed under this section shall be sworn as to its truth and accuracy.

(7) Every elected official and every executive state officer shall file with their statement of financial affairs a statement certifying that they have read and are familiar with RCW 42.17.130 or 42.52.180, whichever is applicable.

(8) For the purposes of this section, the term "executive state officer" includes those listed in RCW 42.17.2401.

(9) This section does not apply to incumbents or candidates for a federal office or the office of precinct committee officer. [1995 c 397 § 8; 1993 c 2 § 31 (Initiative Measure No. 134, approved November 3, 1992); 1989 c 158 § 1; 1987 c 295 § 19. Prior: 1984 c 125 § 14; 1984 c 34 § 1; 1983 c 161 § 27; 1982 c 10 § 9; prior: 1981 c 311 § 20; 1981 c 67 § 15; 1979 ex.s. c 265 § 3; 1979 c 151 § 73; prior: 1975-'76 2nd ex.s. c 112 § 7; 1975-'76 2nd ex.s. c 104 § 1 (Ref. Bill No. 36); 1975 1st ex.s. c 294 § 13; 1973 c 1 § 24 (Initiative Measure No. 276, approved November 7, 1972).]

**Temporary exemption:** "Persons identified as executive officers under RCW 42.17.2401(4), who were appointed to their positions before July 23, 1989, and who were not required to file a statement of financial affairs at the time of their appointment, are exempt from the requirements

of RCW 42.17.240 until they are reappointed to such positions." [1989 c 158 § 4.]

**Severability—Headings—Effective date—1984 c 125:** See RCW 43.63A.901 through 43.63A.903.

**Severability—Effective dates—1983 c 161:** See RCW 43.180.903, and 43.180.904.

**Severability—1982 c 10:** See note following RCW 6.13.080.

**Severability—1981 c 311:** See RCW 41.64.910.

**Effective dates—Severability—1981 c 67:** See notes following RCW 34.12.010.

*Cemetery district commissioners exempt from chapter:* RCW 68.52.140, 68.52.220.

**42.17.2401 "Executive state officer" defined.** For the purposes of RCW 42.17.240, the term "executive state officer" includes:

(1) The chief administrative law judge, the director of agriculture, the administrator of the office of marine safety, the administrator of the Washington basic health plan, the director of the department of services for the blind, the director of the state system of community and technical colleges, the director of community, trade, and economic development, the secretary of corrections, the director of ecology, the commissioner of employment security, the chairman of the energy facility site evaluation council, the director of the energy office, the secretary of the state finance committee, the director of financial management, the director of fish and wildlife, the executive secretary of the forest practices appeals board, the director of the gambling commission, the director of general administration, the secretary of health, the administrator of the Washington state health care authority, the executive secretary of the health care facilities authority, the executive secretary of the higher education facilities authority, the executive secretary of the horse racing commission, the executive secretary of the human rights commission, the executive secretary of the indeterminate sentence review board, the director of the department of information services, the director of the interagency committee for outdoor recreation, the executive director of the state investment board, the director of labor and industries, the director of licensing, the director of the lottery commission, the director of the office of minority and women's business enterprises, the director of parks and recreation, the director of personnel, the executive director of the public disclosure commission, the director of retirement systems, the director of revenue, the secretary of social and health services, the chief of the Washington state patrol, the executive secretary of the board of tax appeals, the secretary of transportation, the secretary of the utilities and transportation commission, the director of veterans affairs, the president of each of the regional and state universities and the president of The Evergreen State College, each district and each campus president of each state community college;

(2) Each professional staff member of the office of the governor;

(3) Each professional staff member of the legislature; and

(4) Central Washington University board of trustees, board of trustees of each community college, each member of the state board for community and technical colleges, state convention and trade center board of directors, commit-

tee for deferred compensation, Eastern Washington University board of trustees, Washington economic development finance authority, The Evergreen State College board of trustees, executive ethics board, forest practices appeals board, forest practices board, gambling commission, Washington health care facilities authority, each member of the Washington health services commission, higher education coordinating board, higher education facilities authority, horse racing commission, state housing finance commission, human rights commission, indeterminate sentence review board, board of industrial insurance appeals, information services board, interagency committee for outdoor recreation, state investment board, commission on judicial conduct, legislative ethics board, liquor control board, lottery commission, marine oversight board, Pacific Northwest electric power and conservation planning council, parks and recreation commission, personnel appeals board, board of pilotage commissioners, pollution control hearings board, public disclosure commission, public pension commission, shorelines hearing board, public employees' benefits board, board of tax appeals, transportation commission, University of Washington board of regents, utilities and transportation commission, Washington state maritime commission, Washington personnel resources board, Washington public power supply system executive board, Washington State University board of regents, Western Washington University board of trustees, and fish and wildlife commission. [1995 c 399 § 60; 1995 c 397 § 10. Prior: 1993 sp.s. c 2 § 18; 1993 c 492 § 488; 1993 c 281 § 43; 1991 c 200 § 404; 1991 c 3 § 293; prior: 1989 1st ex.s. c 9 § 812; 1989 c 279 § 22; 1989 c 158 § 2; 1988 c 36 § 13; 1987 c 504 § 14; 1985 c 6 § 8; 1984 c 34 § 2.]

**Reviser's note:** This section was amended by 1995 c 397 § 10 and by 1995 c 399 § 60, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Effective date—1993 sp.s. c 2 §§ 1-6, 8-59, and 61-79:** See RCW 43.300.900.

**Severability—1993 sp.s. c 2:** See RCW 43.300.901.

**Findings—Intent—1993 c 492:** See notes following RCW 43.72.005.

**Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492:** See RCW 43.72.910 through 43.72.915.

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

**Effective dates—Severability—1991 c 200:** See RCW 90.56.901 and 90.56.904.

**Effective date—Severability—1989 1st ex.s. c 9:** See RCW 43.70.910 and 43.70.920.

**Report—Severability—1989 c 279:** See RCW 43.163.900 and 43.163.901.

**Alphabetization—1989 c 158 § 2:** "When section 2 of this act is codified, the code reviser shall arrange the names of the agencies in each subsection in alphabetical order." [1989 c 158 § 3.] The names of the agencies in the above section have been arranged according to the first distinctive word of each agency's name.

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

**42.17.241 Contents of report.** (1) The statement of financial affairs required by RCW 42.17.240 shall disclose for the reporting individual and each member of his or her immediate family:

(a) Occupation, name of employer, and business address; and

(b) Each bank or savings account or insurance policy in which any such person or persons owned a direct financial interest that exceeded five thousand dollars at any time during the reporting period; each other item of intangible personal property in which any such person or persons owned a direct financial interest, the value of which exceeded five hundred dollars during the reporting period; the name, address, and nature of the entity; and the nature and highest value of each such direct financial interest during the reporting period; and

(c) The name and address of each creditor to whom the value of five hundred dollars or more was owed; the original amount of each debt to each such creditor; the amount of each debt owed to each creditor as of the date of filing; the terms of repayment of each such debt; and the security given, if any, for each such debt: PROVIDED, That debts arising out of a "retail installment transaction" as defined in chapter 63.14 RCW (Retail Installment Sales Act) need not be reported; and

(d) Every public or private office, directorship, and position held as trustee; and

(e) All persons for whom any legislation, rule, rate, or standard has been prepared, promoted, or opposed for current or deferred compensation: PROVIDED, That for the purposes of this subsection, "compensation" does not include payments made to the person reporting by the governmental entity for which such person serves as an elected official or state executive officer or professional staff member for his service in office; the description of such actual or proposed legislation, rules, rates, or standards; and the amount of current or deferred compensation paid or promised to be paid; and

(f) The name and address of each governmental entity, corporation, partnership, joint venture, sole proprietorship, association, union, or other business or commercial entity from whom compensation has been received in any form of a total value of five hundred dollars or more; the value of the compensation; and the consideration given or performed in exchange for the compensation; and

(g) The name of any corporation, partnership, joint venture, association, union, or other entity in which is held any office, directorship, or any general partnership interest, or an ownership interest of ten percent or more; the name or title of that office, directorship, or partnership; the nature of ownership interest; and with respect to each such entity: (i) With respect to a governmental unit in which the official seeks or holds any office or position, if the entity has received compensation in any form during the preceding twelve months from the governmental unit, the value of the compensation and the consideration given or performed in exchange for the compensation; (ii) the name of each governmental unit, corporation, partnership, joint venture, sole proprietorship, association, union, or other business or commercial entity from which the entity has received compensation in any form in the amount of two thousand five hundred dollars or more during the preceding twelve months and the consideration given or performed in exchange for the compensation: PROVIDED, That the term "compensation" for purposes of this subsection (1)(g)(ii)

does not include payment for water and other utility services at rates approved by the Washington state utilities and transportation commission or the legislative authority of the public entity providing the service: PROVIDED, FURTHER, That with respect to any bank or commercial lending institution in which is held any office, directorship, partnership interest, or ownership interest, it shall only be necessary to report either the name, address, and occupation of every director and officer of the bank or commercial lending institution and the average monthly balance of each account held during the preceding twelve months by the bank or commercial lending institution from the governmental entity for which the individual is an official or candidate or professional staff member, or all interest paid by a borrower on loans from and all interest paid to a depositor by the bank or commercial lending institution if the interest exceeds six hundred dollars; and

(h) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of Washington, the assessed valuation of which exceeds two thousand five hundred dollars in which any direct financial interest was acquired during the preceding calendar year, and a statement of the amount and nature of the financial interest and of the consideration given in exchange for that interest; and

(i) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of Washington, the assessed valuation of which exceeds two thousand five hundred dollars in which any direct financial interest was divested during the preceding calendar year, and a statement of the amount and nature of the consideration received in exchange for that interest, and the name and address of the person furnishing the consideration; and

(j) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of Washington, the assessed valuation of which exceeds two thousand five hundred dollars in which a direct financial interest was held: PROVIDED, That if a description of the property has been included in a report previously filed, the property may be listed, for purposes of this provision, by reference to the previously filed report; and

(k) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of Washington, the assessed valuation of which exceeds five thousand dollars, in which a corporation, partnership, firm, enterprise, or other entity had a direct financial interest, in which corporation, partnership, firm, or enterprise a ten percent or greater ownership interest was held; and

(l) A list of each occasion, specifying date, donor, and amount, at which food and beverage in excess of fifty dollars was accepted under RCW 42.52.150(5); [and]

(m) A list of each occasion, specifying date, donor, and amount, at which items specified in RCW 42.52.010(9) (d) and (f) were accepted; [and]

(n) Such other information as the commission may deem necessary in order to properly carry out the purposes and policies of this chapter, as the commission shall prescribe by rule.

(2) Where an amount is required to be reported under subsection (1) (a) through (m) of this section, it shall be sufficient to comply with the requirement to report whether

the amount is less than one thousand dollars, at least one thousand dollars but less than five thousand dollars, at least five thousand dollars but less than ten thousand dollars, at least ten thousand dollars but less than twenty-five thousand dollars, or twenty-five thousand dollars or more. An amount of stock may be reported by number of shares instead of by market value. No provision of this subsection may be interpreted to prevent any person from filing more information or more detailed information than required.

(3) Items of value given to an official's or employee's spouse or family member are attributable to the official or employee, except the item is not attributable if an independent business, family, or social relationship exists between the donor and the spouse or family member. [1995 c 397 § 9; 1984 c 34 § 3; 1979 ex.s. c 126 § 42.]

Purpose—1979 ex.s. c 126: See RCW 29.04.170(1).

**42.17.2415 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**42.17.260 Documents and indexes to be made public.** (1) Each agency, in accordance with published rules, shall make available for public inspection and copying all public records, unless the record falls within the specific exemptions of subsection (6) of this section, RCW 42.17.310, 42.17.315, or other statute which exempts or prohibits disclosure of specific information or records. To the extent required to prevent an unreasonable invasion of personal privacy interests protected by RCW 42.17.310 and 42.17.315, an agency shall delete identifying details in a manner consistent with RCW 42.17.310 and 42.17.315 when it makes available or publishes any public record; however, in each case, the justification for the deletion shall be explained fully in writing.

(2) For informational purposes, each agency shall publish and maintain a current list containing every law, other than those listed in this chapter, that the agency believes exempts or prohibits disclosure of specific information or records of the agency. An agency's failure to list an exemption shall not affect the efficacy of any exemption.

(3) Each local agency shall maintain and make available for public inspection and copying a current index providing identifying information as to the following records issued, adopted, or promulgated after January 1, 1973:

(a) Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(b) Those statements of policy and interpretations of policy, statute, and the Constitution which have been adopted by the agency;

(c) Administrative staff manuals and instructions to staff that affect a member of the public;

(d) Planning policies and goals, and interim and final planning decisions;

(e) Factual staff reports and studies, factual consultant's reports and studies, scientific reports and studies, and any other factual information derived from tests, studies, reports, or surveys, whether conducted by public employees or others; and

(f) Correspondence, and materials referred to therein, by and with the agency relating to any regulatory, supervisory,

or enforcement responsibilities of the agency, whereby the agency determines, or opines upon, or is asked to determine or opine upon, the rights of the state, the public, a subdivision of state government, or of any private party.

(4) A local agency need not maintain such an index, if to do so would be unduly burdensome, but it shall in that event:

(a) Issue and publish a formal order specifying the reasons why and the extent to which compliance would unduly burden or interfere with agency operations; and

(b) Make available for public inspection and copying all indexes maintained for agency use.

(5) Each state agency shall, by rule, establish and implement a system of indexing for the identification and location of the following records:

(a) All records issued before July 1, 1990, for which the agency has maintained an index;

(b) Final orders entered after June 30, 1990, that are issued in adjudicative proceedings as defined in RCW 34.05.010(1) and that contain an analysis or decision of substantial importance to the agency in carrying out its duties;

(c) Declaratory orders entered after June 30, 1990, that are issued pursuant to RCW 34.05.240 and that contain an analysis or decision of substantial importance to the agency in carrying out its duties;

(d) Interpretive statements as defined in RCW 34.05.010(8) that were entered after June 30, 1990; and

(e) Policy statements as defined in RCW 34.05.010(14) that were entered after June 30, 1990.

Rules establishing systems of indexing shall include, but not be limited to, requirements for the form and content of the index, its location and availability to the public, and the schedule for revising or updating the index. State agencies that have maintained indexes for records issued before July 1, 1990, shall continue to make such indexes available for public inspection and copying. Information in such indexes may be incorporated into indexes prepared pursuant to this subsection. State agencies may satisfy the requirements of this subsection by making available to the public indexes prepared by other parties but actually used by the agency in its operations. State agencies shall make indexes available for public inspection and copying. State agencies may charge a fee to cover the actual costs of providing individual mailed copies of indexes.

(6) A public record may be relied on, used, or cited as precedent by an agency against a party other than an agency and it may be invoked by the agency for any other purpose only if—

(a) It has been indexed in an index available to the public; or

(b) Parties affected have timely notice (actual or constructive) of the terms thereof.

(7) Each agency shall establish, maintain, and make available for public inspection and copying a statement of the actual per page cost or other costs, if any, that it charges for providing photocopies of public records and a statement of the factors and manner used to determine the actual per page cost or other costs, if any.

(a) In determining the actual per page cost for providing photocopies of public records, an agency may include all

costs directly incident to copying such public records including the actual cost of the paper and the per page cost for use of agency copying equipment. In determining other actual costs for providing photocopies of public records, an agency may include all costs directly incident to shipping such public records, including the cost of postage or delivery charges and the cost of any container or envelope used.

(b) In determining the actual per page cost or other costs for providing copies of public records, an agency may not include staff salaries, benefits, or other general administrative or overhead charges, unless those costs are directly related to the actual cost of copying the public records. Staff time to copy and mail the requested public records may be included in an agency's costs.

(8) An agency need not calculate the actual per page cost or other costs it charges for providing photocopies of public records if to do so would be unduly burdensome, but in that event: The agency may not charge in excess of fifteen cents per page for photocopies of public records or for the use of agency equipment to photocopy public records and the actual postage or delivery charge and the cost of any container or envelope used to mail the public records to the requestor.

(9) This chapter shall not be construed as giving authority to any agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives to give, sell or provide access to lists of individuals requested for commercial purposes, and agencies, the office of the secretary of the senate, and the office of the chief clerk of the house of representatives shall not do so unless specifically authorized or directed by law: PROVIDED, HOWEVER, That lists of applicants for professional licenses and of professional licensees shall be made available to those professional associations or educational organizations recognized by their professional licensing or examination board, upon payment of a reasonable charge therefor: PROVIDED FURTHER, That such recognition may be refused only for a good cause pursuant to a hearing under the provisions of chapter 34.05 RCW, the Administrative Procedure Act. [1995 c 397 § 11; 1995 c 341 § 1; 1992 c 139 § 3; 1989 c 175 § 36; 1987 c 403 § 3; 1975 1st ex.s. c 294 § 14; 1973 c 1 § 26 (Initiative Measure No. 276, approved November 7, 1972).]

**Reviser's note:** This section was amended by 1995 c 341 § 1 and by 1995 c 397 § 11, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Effective date—1989 c 175:** See note following RCW 34.05.010.

**Intent—Severability—1987 c 403:** See notes following RCW 42.17.255.

**Exemption for registered trade names:** RCW 19.80.065.

**42.17.280 Times for inspection and copying.** Public records shall be available for inspection and copying during the customary office hours of the agency, the office of the secretary of the senate, and the office of the chief clerk of the house of representatives: PROVIDED, That if the entity does not have customary office hours of at least thirty hours per week, the public records shall be available from nine o'clock a.m. to noon and from one o'clock p.m. to four o'clock p.m. Monday through Friday, excluding legal holidays, unless the person making the request and the

agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives or its representative agree on a different time. [1995 c 397 § 12; 1973 c 1 § 28 (Initiative Measure No. 276, approved November 7, 1972).]

**42.17.290 Protection of public records—Public access.** Agencies shall adopt and enforce reasonable rules and regulations, and the office of the secretary of the senate and the office of the chief clerk of the house of representatives shall adopt reasonable procedures allowing for the time, resource, and personnel constraints associated with legislative sessions, consonant with the intent of this chapter to provide full public access to public records, to protect public records from damage or disorganization, and to prevent excessive interference with other essential functions of the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives. Such rules and regulations shall provide for the fullest assistance to inquirers and the most timely possible action on requests for information. Nothing in this section shall relieve agencies, the office of the secretary of the senate, and the office of the chief clerk of the house of representatives from honoring requests received by mail for copies of identifiable public records.

If a public record request is made at a time when such record exists but is scheduled for destruction in the near future, the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives shall retain possession of the record, and may not destroy or erase the record until the request is resolved. [1995 c 397 § 13; 1992 c 139 § 4; 1975 1st ex.s. c 294 § 16; 1973 c 1 § 29 (Initiative Measure No. 276, approved November 7, 1972).]

**42.17.300 Charges for copying.** No fee shall be charged for the inspection of public records. No fee shall be charged for locating public documents and making them available for copying. A reasonable charge may be imposed for providing copies of public records and for the use by any person of agency equipment or equipment of the office of the secretary of the senate or the office of the chief clerk of the house of representatives to copy public records, which charges shall not exceed the amount necessary to reimburse the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives for its actual costs directly incident to such copying. Agency charges for photocopies shall be imposed in accordance with the actual per page cost or other costs established and published by the agency. In no event may an agency charge a per page cost greater than the actual per page cost as established and published by the agency. To the extent the agency has not determined the actual per page cost for photocopies of public records, the agency may not charge in excess of fifteen cents per page. [1995 c 397 § 14; 1995 c 341 § 2; 1973 c 1 § 30 (Initiative Measure No. 276, approved November 7, 1972).]

**Reviser's note:** This section was amended by 1995 c 341 § 2 and by 1995 c 397 § 14, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**42.17.305 Other provisions not superseded.** The provisions of RCW 42.17.260 (7) and (8) and 42.17.300 that establish or allow agencies to establish the costs charged for photocopies of public records do not supersede other statutory provisions, other than in this chapter, authorizing or governing fees for copying public records. [1995 c 341 § 3.]

**42.17.310 Certain personal and other records exempt.** (1) The following are exempt from public inspection and copying:

(a) Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, or welfare recipients.

(b) Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy.

(c) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would (i) be prohibited to such persons by RCW 82.32.330 or (ii) violate the taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer.

(d) Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy.

(e) Information revealing the identity of persons who are witnesses to or victims of crime or who file complaints with investigative, law enforcement, or penology agencies, other than the public disclosure commission, if disclosure would endanger any person's life, physical safety, or property. If at the time a complaint is filed the complainant, victim or witness indicates a desire for disclosure or nondisclosure, such desire shall govern. However, all complaints filed with the public disclosure commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath.

(f) Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination.

(g) Except as provided by chapter 8.26 RCW, the contents of real estate appraisals, made for or by any agency relative to the acquisition or sale of property, until the project or prospective sale is abandoned or until such time as all of the property has been acquired or the property to which the sale appraisal relates is sold, but in no event shall disclosure be denied for more than three years after the appraisal.

(h) Valuable formulae, designs, drawings, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss.

(i) Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended except that a specific record shall not be exempt when publicly cited by an agency in connection with any agency action.



(j) Records which are relevant to a controversy to which an agency is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts.

(k) Records, maps, or other information identifying the location of archaeological sites in order to avoid the looting or depredation of such sites.

(l) Any library record, the primary purpose of which is to maintain control of library materials, or to gain access to information, which discloses or could be used to disclose the identity of a library user.

(m) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (i) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (ii) highway construction or improvement as required by RCW 47.28.070.

(n) Railroad company contracts filed prior to July 28, 1991, with the utilities and transportation commission under \*RCW 81.34.070, except that the summaries of the contracts are open to public inspection and copying as otherwise provided by this chapter.

(o) Financial and commercial information and records supplied by private persons pertaining to export services provided pursuant to chapter 43.163 RCW and chapter 53.31 RCW.

(p) Financial disclosures filed by private vocational schools under chapter 28C.10 RCW.

(q) Records filed with the utilities and transportation commission or attorney general under RCW 80.04.095 that a court has determined are confidential under RCW 80.04.095.

(r) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW, or during application for economic development loans or program services provided by any local agency.

(s) Membership lists or lists of members or owners of interests of units in timeshare projects, subdivisions, camping resorts, condominiums, land developments, or common-interest communities affiliated with such projects, regulated by the department of licensing, in the files or possession of the department.

(t) All applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to an applicant.

(u) The residential addresses and residential telephone numbers of employees or volunteers of a public agency which are held by the agency in personnel records, employment or volunteer rosters, or mailing lists of employees or volunteers.

(v) The residential addresses and residential telephone numbers of the customers of a public utility contained in the records or lists held by the public utility of which they are customers.

(w)(i) The federal social security number of individuals governed under chapter 18.130 RCW maintained in the files of the department of health, except this exemption does not apply to requests made directly to the department from federal, state, and local agencies of government, and national

and state licensing, credentialing, investigatory, disciplinary, and examination organizations; (ii) the current residential address and current residential telephone number of a health care provider governed under chapter 18.130 RCW maintained in the files of the department, if the provider requests that this information be withheld from public inspection and copying, and provides to the department an accurate alternate or business address and business telephone number. On or after January 1, 1995, the current residential address and residential telephone number of a health care provider governed under RCW 18.130.140 maintained in the files of the department shall automatically be withheld from public inspection and copying if the provider has provided the department with an accurate alternative or business address and telephone number.

(x) Information obtained by the board of pharmacy as provided in RCW 69.45.090.

(y) Information obtained by the board of pharmacy or the department of health and its representatives as provided in RCW 69.41.044, 69.41.280, and 18.64.420.

(z) Financial information, business plans, examination reports, and any information produced or obtained in evaluating or examining a business and industrial development corporation organized or seeking certification under chapter 31.24 RCW.

(aa) Financial and commercial information supplied to the state investment board by any person when the information relates to the investment of public trust or retirement funds and when disclosure would result in loss to such funds or in private loss to the providers of this information.

(bb) Financial and valuable trade information under RCW 51.36.120.

(cc) Client records maintained by an agency that is a domestic violence program as defined in RCW 70.123.020 or 70.123.075 or a rape crisis center as defined in RCW 70.125.030.

(dd) Information that identifies a person who, while an agency employee: (i) Seeks advice, under an informal process established by the employing agency, in order to ascertain his or her rights in connection with a possible unfair practice under chapter 49.60 RCW against the person; and (ii) requests his or her identity or any identifying information not be disclosed.

(ee) Investigative records compiled by an employing agency conducting a current investigation of a possible unfair practice under chapter 49.60 RCW or of a possible violation of other federal, state, or local laws prohibiting discrimination in employment.

(ff) Business related information protected from public inspection and copying under RCW 15.86.110.

(gg) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the clean Washington center in applications for, or delivery of, program services under chapter 70.95H RCW.

(hh) Information and documents created specifically for, and collected and maintained by a quality improvement committee pursuant to RCW 43.70.510, regardless of which agency is in possession of the information and documents.

(2) Except for information described in subsection (1)(c)(i) of this section and confidential income data exempted from public inspection pursuant to RCW 84.40.020, the

exemptions of this section are inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital governmental interests, can be deleted from the specific records sought. No exemption may be construed to permit the nondisclosure of statistical information not descriptive of any readily identifiable person or persons.

(3) Inspection or copying of any specific records exempt under the provisions of this section may be permitted if the superior court in the county in which the record is maintained finds, after a hearing with notice thereof to every person in interest and the agency, that the exemption of such records is clearly unnecessary to protect any individual's right of privacy or any vital governmental function.

(4) Agency responses refusing, in whole or in part, inspection of any public record shall include a statement of the specific exemption authorizing the withholding of the record (or part) and a brief explanation of how the exemption applies to the record withheld. [1995 c 267 § 6. Prior: 1994 c 233 § 2; 1994 c 182 § 1; prior: 1993 c 360 § 2; 1993 c 320 § 9; 1993 c 280 § 35; prior: 1992 c 139 § 5; 1992 c 71 § 12; 1991 c 301 § 13; 1991 c 87 § 13; 1991 c 23 § 10; 1991 c 1 § 1; 1990 2nd ex.s. c 1 § 1103; 1990 c 256 § 1; prior: 1989 1st ex.s. c 9 § 407; 1989 c 352 § 7; 1989 c 279 § 23; 1989 c 238 § 1; 1989 c 205 § 20; 1989 c 189 § 3; 1989 c 11 § 12; prior: 1987 c 411 § 10; 1987 c 404 § 1; 1987 c 370 § 16; 1987 c 337 § 1; 1987 c 107 § 2; prior: 1986 c 299 § 25; 1986 c 276 § 7; 1985 c 414 § 8; 1984 c 143 § 21; 1983 c 133 § 10; 1982 c 64 § 1; 1977 ex.s. c 314 § 13; 1975-'76 2nd ex.s. c 82 § 5; 1975 1st ex.s. c 294 § 17; 1973 c 1 § 31 (Initiative Measure No. 276, approved November 7, 1972).]

\*Reviser's note: RCW 81.34.070 was repealed by 1991 c 49 § 1.

Captions not law—Severability—Effective dates—1995 c 267: See notes following RCW 43.70.052.

Effective date—1994 c 233: See note following RCW 70.123.075.

Effective date—1994 c 182: "This act shall take effect July 1, 1994." [1994 c 182 § 2.]

Effective date—1993 c 360: See note following RCW 18.130.085.

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Finding—1991 c 301: See note following RCW 10.99.020.

Effective date—1991 c 87: See note following RCW 18.64.350.

Effective dates—1991 c 23: See RCW 40.24.900.

Effective dates—1990 2nd ex.s. c 1: See note following RCW 84.52.010.

Severability—1990 2nd ex.s. c 1: See note following RCW 82.14.300.

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

Report—Severability—1989 c 279: See RCW 43.163.900 and 43.163.901.

Severability—1989 c 11: See note following RCW 9A.56.220.

Severability—1987 c 411: See RCW 69.45.900.

Severability—Effective date—1986 c 299: See RCW 28C.10.900 and 28C.10.902.

Severability—1986 c 276: See RCW 53.31.901.

Basic health plan records: RCW 70.47.150.

Exemptions from public inspection

accounting records of special inquiry judge: RCW 10.29.090.

bill drafting service of code reviser's office: RCW 1.08.027, 44.68.060.

certificate submitted by physically or mentally disabled person seeking a driver's license: RCW 46.20.041.

commercial fertilizers, sales reports: RCW 15.54.362.

criminal records: Chapter 10.97 RCW.

joint legislative service center, information: RCW 44.68.060.

medical quality assurance commission, reports required to be filed with: RCW 18.71.0195.

organized crime

advisory board files: RCW 10.29.030.

investigative information: RCW 43.43.856.

salary and fringe benefit survey information: RCW 41.06.160.

**42.17.313 Application for license or small loan endorsement under chapter 31.45 RCW—Certain information exempt.** Information in an application for licensing or a small loan endorsement under chapter 31.45 RCW regarding the personal residential address, telephone number of the applicant, or financial statement is exempt from disclosure under this chapter. [1995 c 18 § 8; 1991 c 355 § 22.]

Effective date, implementation—1991 c 355: See RCW 31.45.900.

**42.17.31903 Identification of viators regulated by the insurance commissioner exempt.** The names and individual identification data of all viators regulated by the insurance commissioner under chapter 48.102 RCW are exempt from the disclosure and reporting requirements of this chapter. [1995 c 161 § 15.]

Short title—1995 c 161: See RCW 48.102.900.

**42.17.31904 Insurance antifraud plans exempt.** Information provided under RCW 48.30A.045 through 48.30A.060 are exempt from disclosure under this chapter. [1995 c 285 § 15.]

Effective date—1995 c 285: See RCW 48.30A.900.

**42.17.31905 Insurance information on certain material transactions exempt.** Information provided under RCW 48.05.510 through 48.05.535, 48.43.200 through 48.43.225, 48.44.530 through 48.44.555, and 48.46.600 through 48.46.625 is exempt from disclosure under this chapter. [1995 c 86 § 25.]

**42.17.31906 Fireworks records exempt.** All records obtained and all reports produced, as required under chapter 70.77 RCW, are not subject to the disclosure requirements under this chapter. [1995 c 61 § 30.]

Severability—Effective date—1995 c 61: See notes following RCW 70.77.111.

**42.17.320 Prompt responses required.** Responses to requests for public records shall be made promptly by agencies, the office of the secretary of the senate, and the office of the chief clerk of the house of representatives. Within five business days of receiving a public record request, an agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives must respond by either (1) providing the record; (2) acknowledging that the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives has received the request and providing a reasonable estimate of the time the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives will require to respond to the request; or (3) denying the public record request. Additional

time required to respond to a request may be based upon the need to clarify the intent of the request, to locate and assemble the information requested, to notify third persons or agencies affected by the request, or to determine whether any of the information requested is exempt and that a denial should be made as to all or part of the request. In acknowledging receipt of a public record request that is unclear, an agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives may ask the requestor to clarify what information the requestor is seeking. If the requestor fails to clarify the request, the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives need not respond to it. Denials of requests must be accompanied by a written statement of the specific reasons therefor. Agencies, the office of the secretary of the senate, and the office of the chief clerk of the house of representatives shall establish mechanisms for the most prompt possible review of decisions denying inspection, and such review shall be deemed completed at the end of the second business day following the denial of inspection and shall constitute final agency action or final action by the office of the secretary of the senate or the office of the chief clerk of the house of representatives for the purposes of judicial review. [1995 c 397 § 15; 1992 c 139 § 6; 1975 1st ex.s. c 294 § 18; 1973 c 1 § 32 (Initiative Measure No. 276, approved November 7, 1972).]

**42.17.341 Application of RCW 42.17.340.** The procedures in RCW 42.17.340 govern denials of an opportunity to inspect or copy a public record by the office of the secretary of the senate or the office of the chief clerk of the house of representatives. [1995 c 397 § 16.]

**42.17.370 Commission—Additional powers.** The commission is empowered to:

(1) Adopt, promulgate, amend, and rescind suitable administrative rules to carry out the policies and purposes of this chapter, which rules shall be adopted under chapter 34.05 RCW. Any rule relating to campaign finance, political advertising, or related forms that would otherwise take effect after June 30th of a general election year shall take effect no earlier than the day following the general election in that year;

(2) Appoint and set, within the limits established by the committee on agency officials' salaries under RCW 43.03.028, the compensation of an executive director who shall perform such duties and have such powers as the commission may prescribe and delegate to implement and enforce this chapter efficiently and effectively. The commission shall not delegate its authority to adopt, amend, or rescind rules nor shall it delegate authority to determine whether an actual violation of this chapter has occurred or to assess penalties for such violations;

(3) Prepare and publish such reports and technical studies as in its judgment will tend to promote the purposes of this chapter, including reports and statistics concerning campaign financing, lobbying, financial interests of elected officials, and enforcement of this chapter;

(4) Make from time to time, on its own motion, audits and field investigations;

(5) Make public the time and date of any formal hearing set to determine whether a violation has occurred, the question or questions to be considered, and the results thereof;

(6) Administer oaths and affirmations, issue subpoenas, and compel attendance, take evidence and require the production of any books, papers, correspondence, memorandums, or other records relevant or material for the purpose of any investigation authorized under this chapter, or any other proceeding under this chapter;

(7) Adopt and promulgate a code of fair campaign practices;

(8) Relieve, by rule, candidates or political committees of obligations to comply with the provisions of this chapter relating to election campaigns, if they have not received contributions nor made expenditures in connection with any election campaign of more than one thousand dollars;

(9) Adopt rules prescribing reasonable requirements for keeping accounts of and reporting on a quarterly basis costs incurred by state agencies, counties, cities, and other municipalities and political subdivisions in preparing, publishing, and distributing legislative information. The term "legislative information," for the purposes of this subsection, means books, pamphlets, reports, and other materials prepared, published, or distributed at substantial cost, a substantial purpose of which is to influence the passage or defeat of any legislation. The state auditor in his or her regular examination of each agency under chapter 43.09 RCW shall review the rules, accounts, and reports and make appropriate findings, comments, and recommendations in his or her examination reports concerning those agencies;

(10) After hearing, by order approved and ratified by a majority of the membership of the commission, suspend or modify any of the reporting requirements of this chapter in a particular case if it finds that literal application of this chapter works a manifestly unreasonable hardship and if it also finds that the suspension or modification will not frustrate the purposes of the chapter. The commission shall find that a manifestly unreasonable hardship exists if reporting the name of an entity required to be reported under RCW 42.17.241(1)(g)(ii) would be likely to adversely affect the competitive position of any entity in which the person filing the report or any member of his or her immediate family holds any office, directorship, general partnership interest, or an ownership interest of ten percent or more. Any suspension or modification shall be only to the extent necessary to substantially relieve the hardship. The commission shall act to suspend or modify any reporting requirements only if it determines that facts exist that are clear and convincing proof of the findings required under this section. Requests for renewals of reporting modifications may be heard in a brief adjudicative proceeding as set forth in RCW 34.05.482 through 34.05.494 and in accordance with the standards established in this section. No initial request may be heard in a brief adjudicative proceeding and no request for renewal may be heard in a brief adjudicative proceeding if the initial request was granted more than three years previously or if the applicant is holding an office or position of employment different from the office or position held when the initial request was granted. The commission shall adopt administrative rules governing the proceedings. Any

citizen has standing to bring an action in Thurston county superior court to contest the propriety of any order entered under this section within one year from the date of the entry of the order; and

(11) Revise, at least once every five years but no more often than every two years, the monetary reporting thresholds and reporting code values of this chapter. The revisions shall be only for the purpose of recognizing economic changes as reflected by an inflationary index recommended by the office of financial management. The revisions shall be guided by the change in the index for the period commencing with the month of December preceding the last revision and concluding with the month of December preceding the month the revision is adopted. As to each of the three general categories of this chapter (reports of campaign finance, reports of lobbyist activity, and reports of the financial affairs of elected and appointed officials), the revisions shall equally affect all thresholds within each category. Revisions shall be adopted as rules under chapter 34.05 RCW. The first revision authorized by this subsection shall reflect economic changes from the time of the last legislative enactment affecting the respective code or threshold through December 1985;

(12) Develop and provide to filers a system for certification of reports required under this chapter which are transmitted by facsimile or electronically to the commission. Implementation of the program is contingent on the availability of funds. [1995 c 397 § 17; 1994 c 40 § 3; 1986 c 155 § 11; 1985 c 367 § 11; 1984 c 34 § 7; 1977 ex.s. c 336 § 7; 1975 1st ex.s. c 294 § 25; 1973 c 1 § 37 (Initiative Measure No. 276, approved November 7, 1972).]

**Findings—Severability—Effective date—1994 c 40:** See notes following RCW 42.17.367.

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

**Severability—1977 ex.s. c 336:** See note following RCW 42.17.040.

**42.17.420 Date of mailing deemed date of receipt—Exceptions—Electronic filings.** (1) Except as provided in subsection (2) of this section, when any application, report, statement, notice, or payment required to be made under the provisions of this chapter has been deposited postpaid in the United States mail properly addressed, it shall be deemed to have been received on the date of mailing. It shall be presumed that the date shown by the post office cancellation mark on the envelope is the date of mailing. The provisions of this section do not apply to reports required to be delivered under RCW 42.17.105 and 42.17.175.

(2) When a report is filed electronically with the commission, it is deemed to have been received on the file transfer date. Electronic filing may be used for purposes of filing the special reports required to be delivered under RCW 42.17.105 and 42.17.175. [1995 c 397 § 18; 1983 c 176 § 2; 1973 c 1 § 42 (Initiative Measure No. 276, approved November 7, 1972).]

**42.17.510 Identification of sponsor—Exemptions.**

(1) All written political advertising, whether relating to candidates or ballot propositions, shall include the sponsor's name and address. All radio and television political advertising, whether relating to candidates or ballot propositions,

shall include the sponsor's name. The use of an assumed name shall be unlawful. The party with which a candidate files shall be clearly identified in political advertising for partisan office.

(2) In addition to the materials required by subsection (1) of this section, all political advertising undertaken as an independent expenditure by a person or entity other than a party organization must include the following statement on the communication "NOTICE TO VOTERS (Required by law): This advertisement is not authorized or approved by any candidate. It is paid for by (name, address, city, state)." If the advertisement undertaken as an independent expenditure is undertaken by a nonindividual other than a party organization, then the following notation must also be included: "Top Five Contributors," followed by a listing of the names of the five persons or entities making the largest contributions reportable under this chapter during the twelve-month period before the date of the advertisement.

(3) The statements and listings of contributors required by subsections (1) and (2) of this section shall:

(a) Appear on the first page or fold of the written communication in at least ten-point type, or in type at least ten percent of the largest size type used in a written communication directed at more than one voter, such as a billboard or poster, whichever is larger;

(b) Not be subject to the half-tone or screening process;

(c) Be set apart from any other printed matter; and

(d) Be clearly spoken on any broadcast advertisement.

(4) Political yard signs are exempt from the requirement of subsections (1) and (2) of this section that the name and address of the sponsor of political advertising be listed on the advertising. In addition, the public disclosure commission shall, by rule, exempt from the identification requirements of subsections (1) and (2) of this section forms of political advertising such as campaign buttons, balloons, pens, pencils, sky-writing, inscriptions, and other forms of advertising where identification is impractical.

(5) For the purposes of this section, "yard sign" means any outdoor sign with dimensions no greater than eight feet by four feet. [1995 c 397 § 19; 1993 c 2 § 22 (Initiative Measure No. 134, approved November 3, 1992); 1984 c 216 § 1.]

*Advertising rates for political candidates: RCW 65.16.095.*

**42.17.630 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**42.17.640 Limits specified—Exemptions.** (1) No person, other than a bona fide political party or a caucus political committee, may make contributions to a candidate for a state legislative office that in the aggregate exceed five hundred dollars or to a candidate for a state office other than a state legislative office that in the aggregate exceed one thousand dollars for each election in which the candidate is on the ballot or appears as a write-in candidate. Contributions made with respect to a primary may not be made after the date of the primary. Contributions made with respect to a general election may not be made after the final day of the applicable election cycle.

(2) No person, other than a bona fide political party or a caucus political committee, may make contributions to a

state official against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the recall of the state official, during a recall campaign that in the aggregate exceed five hundred dollars if for a state legislative office or one thousand dollars if for a state office other than a state legislative office.

(3)(a) Notwithstanding subsection (1) of this section, no bona fide political party or caucus political committee may make contributions to a candidate during an election cycle that in the aggregate exceed (i) fifty cents multiplied by the number of eligible registered voters in the jurisdiction from which the candidate is elected if the contributor is a caucus political committee or the governing body of a state organization, or (ii) twenty-five cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected if the contributor is a county central committee or a legislative district committee.

(b) No candidate may accept contributions from a county central committee or a legislative district committee during an election cycle that when combined with contributions from other county central committees or legislative district committees would in the aggregate exceed twenty-five cents times the number of registered voters in the jurisdiction from which the candidate is elected.

(4)(a) Notwithstanding subsection (2) of this section, no bona fide political party or caucus political committee may make contributions to a state official against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the state official, during a recall campaign that in the aggregate exceed (i) fifty cents multiplied by the number of eligible registered voters in the jurisdiction entitled to recall the state official if the contributor is a caucus political committee or the governing body of a state organization, or (ii) twenty-five cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected if the contributor is a county central committee or a legislative district committee.

(b) No state official against whom recall charges have been filed, no authorized committee of the official, and no political committee having the expectation of making expenditures in support of the recall of a state official may accept contributions from a county central committee or a legislative district committee during an election cycle that when combined with contributions from other county central committees or legislative district committees would in the aggregate exceed twenty-five cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected.

(5) For purposes of determining contribution limits under subsections (3) and (4) of this section, the number of eligible registered voters in a jurisdiction is the number at the time of the most recent general election in the jurisdiction.

(6) Notwithstanding subsections (1) through (4) of this section, no person other than an individual, bona fide political party, or caucus political committee may make contributions reportable under this chapter to a caucus political committee that in the aggregate exceed five hundred dollars in a calendar year or to a bona fide political party

that in the aggregate exceed two thousand five hundred dollars in a calendar year. This subsection does not apply to loans made in the ordinary course of business.

(7) For the purposes of RCW 42.17.640 through 42.17.790, a contribution to the authorized political committee of a candidate, or of a state official against whom recall charges have been filed, is considered to be a contribution to the candidate or state official.

(8) A contribution received within the twelve-month period after a recall election concerning a state office is considered to be a contribution during that recall campaign if the contribution is used to pay a debt or obligation incurred to influence the outcome of that recall campaign.

(9) The contributions allowed by subsection (2) of this section are in addition to those allowed by subsection (1) of this section, and the contributions allowed by subsection (4) of this section are in addition to those allowed by subsection (3) of this section.

(10) RCW 42.17.640 through 42.17.790 apply to a special election conducted to fill a vacancy in a state office. However, the contributions made to a candidate or received by a candidate for a primary or special election conducted to fill such a vacancy shall not be counted toward any of the limitations that apply to the candidate or to contributions made to the candidate for any other primary or election.

(11) Notwithstanding the other subsections of this section, no corporation or business entity not doing business in Washington state, no labor union with fewer than ten members who reside in Washington state, and no political committee that has not received contributions of ten dollars or more from at least ten persons registered to vote in Washington state during the preceding one hundred eighty days may make contributions reportable under this chapter to a candidate, to a state official against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the recall of the official. This subsection does not apply to loans made in the ordinary course of business.

(12) Notwithstanding the other subsections of this section, no county central committee or legislative district committee may make contributions reportable under this chapter to a candidate, state official against whom recall charges have been filed, or political committee having the expectation of making expenditures in support of the recall of a state official if the county central committee or legislative district committee is outside of the jurisdiction entitled to elect the candidate or recall the state official.

(13) No person may accept contributions that exceed the contribution limitations provided in this section.

(14) The following contributions are exempt from the contribution limits of this section:

(a) An expenditure or contribution earmarked for voter registration, for absentee ballot information, for precinct caucuses, for get-out-the-vote campaigns, for precinct judges or inspectors, for sample ballots, or for ballot counting, all without promotion of or political advertising for individual candidates; or

(b) An expenditure by a political committee for its own internal organization or fund raising without direct association with individual candidates. [1995 c 397 § 20; 1993 c 2

§ 4 (Initiative Measure No. 134, approved November 3, 1992).]

**42.17.720 Restriction on loans.** (1) A loan is considered to be a contribution from the lender and any guarantor of the loan and is subject to the contribution limitations of this chapter. The full amount of the loan shall be attributed to the lender and to each guarantor.

(2) A loan to a candidate for public office or the candidate's political committee must be by written agreement.

(3) The proceeds of a loan made to a candidate for public office:

- (a) By a commercial lending institution;
- (b) Made in the regular course of business; and
- (c) On the same terms ordinarily available to members

of the public, are not subject to the contribution limits of this chapter. [1995 c 397 § 22; 1993 c 2 § 12 (Initiative Measure No. 134, approved November 3, 1992).]

**42.17.740 Certain contributions required to be by written instrument.** (1) A person may not make a contribution of more than fifty dollars, other than an in-kind contribution, except by a written instrument containing the name of the donor and the name of the payee.

(2) A political committee may not make a contribution, other than in-kind, except by a written instrument containing the name of the donor and the name of the payee. [1995 c 397 § 23; 1993 c 2 § 14 (Initiative Measure No. 134, approved November 3, 1992).]

**42.17.750 Solicitation of contributions by public officials or employees.** (1) No state or local official or state or local official's agent may knowingly solicit, directly or indirectly, a contribution to a candidate for public office, political party, or political committee from an employee in the state or local official's agency.

(2) No state or local official or public employee may provide an advantage or disadvantage to an employee or applicant for employment in the classified civil service concerning the applicant's or employee's:

- (a) Employment;
- (b) Conditions of employment; or
- (c) Application for employment,

based on the employee's or applicant's contribution or promise to contribute or failure to make a contribution or contribute to a political party or political committee. [1995 c 397 § 24; 1993 c 2 § 15 (Initiative Measure No. 134, approved November 3, 1992).]

**42.17.770 Solicitation of endorsement fees.** A person may not solicit from a candidate for public office, political committee, political party, or other person money or other property as a condition or consideration for an endorsement, article, or other communication in the news media promoting or opposing a candidate for public office, political committee, or political party. [1995 c 397 § 25; 1993 c 2 § 17 (Initiative Measure No. 134, approved November 3, 1992).]

**42.17.780 Reimbursement for contributions.** A person may not, directly or indirectly, reimburse another person for a contribution to a candidate for public office, political committee, or political party. [1995 c 397 § 26; 1993 c 2 § 18 (Initiative Measure No. 134, approved November 3, 1992).]

**42.17.790 Prohibition on use of contributions for a different office.** (1) Except as provided in subsection (2) of this section, a candidate for public office or the candidate's political committee may not use or permit the use of contributions, whether or not surplus, solicited for or received by the candidate for public office or the candidate's political committee to further the candidacy of the individual for an office other than the office designated on the statement of organization. A contribution solicited for or received on behalf of the candidate for public office is considered solicited or received for the candidacy for which the individual is then a candidate if the contribution is solicited or received before the general elections for which the candidate for public office is a nominee or is unopposed.

(2) With the written approval of the contributor, a candidate for public office or the candidate's political committee may use or permit the use of contributions, whether or not surplus, solicited for or received by the candidate for public office or the candidate's political committee from that contributor to further the candidacy of the individual for an office other than the office designated on the statement of organization. If the contributor does not approve the use of his or her contribution to further the candidacy of the individual for an office other than the office designated on the statement of organization at the time of the contribution, the contribution must be considered surplus funds and disposed of in accordance with RCW 42.17.095. [1995 c 397 § 27; 1993 c 2 § 19 (Initiative Measure No. 134, approved November 3, 1992).]

**42.17.960 Effective date—1995 c 397.** Sections 1 through 32, 34, and 37 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995. [1995 c 397 § 35.]

**42.17.961 Captions—1995 c 397.** Captions as used in chapter 397, Laws of 1995 constitute no part of the law. [1995 c 397 § 37.]

**42.17.962 Severability—1995 c 397.** 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. [1995 c 397 § 38.]

#### Chapter 42.24

#### PAYMENT OF CLAIMS FOR EXPENSES, MATERIAL, PURCHASES—ADVANCEMENTS

## Sections

- 42.24.080 Municipal corporations and political subdivisions—Claims against for contractual purposes—Auditing and payment—Forms—Authentication and certification.
- 42.24.090 Municipal corporations and political subdivisions—Reimbursement claims by officers and employees.
- 42.24.115 Municipal corporations and political subdivisions—Charge cards for officers' and employees' travel expenses.
- 42.24.150 Advancements for travel expenses—Travel expense voucher.

**42.24.080 Municipal corporations and political subdivisions—Claims against for contractual purposes—Auditing and payment—Forms—Authentication and certification.** All claims presented against any county, city, district or other municipal corporation or political subdivision by persons furnishing materials, rendering services or performing labor, or for any other contractual purpose, shall be audited, before payment, by an auditing officer elected or appointed pursuant to statute or, in the absence of statute, an appropriate charter provision, ordinance or resolution of the municipal corporation or political subdivision. Such claims shall be prepared for audit and payment on a form and in the manner prescribed by the state auditor. The form shall provide for the authentication and certification by such auditing officer that the materials have been furnished, the services rendered or the labor performed as described, and that the claim is a just, due and unpaid obligation against the municipal corporation or political subdivision; and no claim shall be paid without such authentication and certification: PROVIDED, That the certificates as to claims of officers and employees of a county, city, district or other municipal corporation or political subdivision, for services rendered, shall be made by the person charged with the duty of preparing and submitting vouchers for the payment of services, and he or she shall certify that the claim is just, true and unpaid, which certificate shall be part of the voucher. [1995 c 301 § 72; 1965 c 116 § 1.]

**42.24.090 Municipal corporations and political subdivisions—Reimbursement claims by officers and employees.** No claim for reimbursement of any expenditures by officers or employees of any municipal corporation or political subdivision of the state for transportation, lodging, meals or any other purpose shall be allowed by any officer, employee or board charged with auditing accounts unless the same shall be presented in a detailed account: PROVIDED, That, unless otherwise authorized by law, the legislative body of any municipal corporation or political subdivision of the state may prescribe by ordinance or resolution the amounts to be paid officers or employees thereof as reimbursement for the use of their personal automobiles or other transportation equipment in connection with officially assigned duties and other travel for approved public purposes, or as reimbursement to such officers or employees in lieu of actual expenses incurred for lodging, meals or other purposes. The rates for such reimbursements may be computed on a mileage, hourly, per diem, monthly, or other basis as the respective legislative bodies shall determine to be proper in each instance: PROVIDED, That in lieu of such reimbursements, payments for the use of personal automobiles for official travel may be established if the legislative body determines that these payments would

be less costly to the municipal corporation or political subdivision of the state than providing automobiles for official travel.

All claims authorized under this section shall be duly certified by the officer or employee submitting such claims on forms and in the manner prescribed by the state auditor. [1995 c 301 § 73; 1981 c 56 § 1; 1965 c 116 § 2.]

**42.24.115 Municipal corporations and political subdivisions—Charge cards for officers' and employees' travel expenses.** (1) Any municipal corporation or political subdivision may provide for the issuance of charge cards to officers and employees for the purpose of covering expenses incident to authorized travel.

(2) If a charge card is issued for the purpose of covering expenses relating to authorized travel, upon billing or no later than thirty days of the billing date, the officer or employee using a charge card issued under this section shall submit a fully itemized travel expense voucher. Any charges against the charge card not properly identified on the travel expense voucher or not allowed following the audit required under RCW 42.24.080 shall be paid by the official or employee by check, United States currency, or salary deduction.

(3) If, for any reason, disallowed charges are not repaid before the charge card billing is due and payable, the municipal corporation or political subdivision shall have a prior lien against and a right to withhold any and all funds payable or to become payable to the official or employee up to an amount of the disallowed charges and interest at the same rate as charged by the company which issued the charge card. Any official or employee who has been issued a charge card by a municipal corporation or political subdivision shall not use the card if any disallowed charges are outstanding and shall surrender the card upon demand of the auditing officer. The municipal corporation or political subdivision shall have unlimited authority to revoke use of any charge card issued under this section, and, upon such revocation order being delivered to the charge card company, shall not be liable for any costs. [1995 c 30 § 3; 1984 c 203 § 5.]

**Findings—1995 c 30:** See note following RCW 39.58.180.

**Severability—1984 c 203:** See note following RCW 35.43.140.

**42.24.150 Advancements for travel expenses—Travel expense voucher.** On or before the fifteenth day following the close of the authorized travel period for which expenses have been advanced to any officer or employee, he shall submit to the appropriate official a fully itemized travel expense voucher, for all reimbursable items legally expended, accompanied by the unexpended portion of such advance, if any.

Any advance made for this purpose, or any portion thereof, not repaid or accounted for in the time and manner specified herein, shall bear interest at the rate of ten percent per annum from the date of default until paid. [1995 c 194 § 9; 1969 c 74 § 4.]

## Chapter 42.40

## DISCLOSURE OF IMPROPER GOVERNMENTAL ACTION—PROTECTION OF EMPLOYEE DISCLOSURES

## Sections

- 42.40.010 Policy.  
 42.40.020 Definitions.  
 42.40.030 Right to disclose improper governmental actions—  
 Interference prohibited.

**42.40.010 Policy.** It is the policy of the legislature that employees should be encouraged to disclose, to the extent not expressly prohibited by law, improper governmental actions, and it is the intent of the legislature to protect the rights of state employees making these disclosures. It is also the policy of the legislature that employees should be encouraged to identify rules warranting review or provide information to the rules review committee, and it is the intent of the legislature to protect the rights of these employees. [1995 c 403 § 508; 1982 c 208 § 1.]

**Findings—Short title—Intent—1995 c 403:** See note following RCW 34.05.328.

**Part headings not law—Severability—1995 c 403:** See RCW 43.05.903 and 43.05.904.

**42.40.020 Definitions.** As used in this chapter, the terms defined in this section shall have the meanings indicated unless the context clearly requires otherwise.

(1) "Auditor" means the office of the state auditor.

(2) "Employee" means any individual employed or holding office in any department or agency of state government.

(3)(a) "Improper governmental action" means any action by an employee:

(i) Which is undertaken in the performance of the employee's official duties, whether or not the action is within the scope of the employee's employment; and

(ii) Which is in violation of any state law or rule, is an abuse of authority, is of substantial and specific danger to the public health or safety, or is a gross waste of public funds.

(b) "Improper governmental action" does not include personnel actions including but not limited to employee grievances, complaints, appointments, promotions, transfers, assignments, reassignments, reinstatements, restorations, reemployments, performance evaluations, reductions in pay, dismissals, suspensions, demotions, violations of the state civil service law, alleged labor agreement violations, reprimands, or any action which may be taken under chapter 41.06 RCW, or other disciplinary action except as provided in RCW 42.40.030.

(4) "Use of official authority or influence" includes taking, directing others to take, recommending, processing, or approving any personnel action such as an appointment, promotion, transfer, assignment, reassignment, reinstatement, restoration, reemployment, performance evaluation, or any adverse action under chapter 41.06 RCW, or other disciplinary action.

(5) "Whistleblower" means an employee who in good faith reports alleged improper governmental action to the auditor, initiating an investigation under RCW 42.40.040.

For purposes of the provisions of this chapter and chapter 49.60 RCW relating to reprisals and retaliatory action, the term "whistleblower" also means: (a) An employee who in good faith provides information to the auditor in connection with an investigation under RCW 42.40.040 and an employee who is believed to have reported alleged improper governmental action to the auditor or to have provided information to the auditor in connection with an investigation under RCW 42.40.040 but who, in fact, has not reported such action or provided such information; or (b) an employee who in good faith identifies rules warranting review or provides information to the rules review committee, and an employee who is believed to have identified rules warranting review or provided information to the rules review committee but who, in fact, has not done so. [1995 c 403 § 509; 1992 c 118 § 1; 1989 c 284 § 1; 1982 c 208 § 2.]

**Findings—Short title—Intent—1995 c 403:** See note following RCW 34.05.328.

**Part headings not law—Severability—1995 c 403:** See RCW 43.05.903 and 43.05.904.

**42.40.030 Right to disclose improper governmental actions—Interference prohibited.** (1) An employee shall not directly or indirectly use or attempt to use the employee's official authority or influence for the purpose of intimidating, threatening, coercing, commanding, influencing, or attempting to intimidate, threaten, coerce, command, or influence any individual for the purpose of interfering with the right of the individual to: (a) Disclose to the auditor (or representative thereof) information concerning improper governmental action; or (b) identify rules warranting review or provide information to the rules review committee.

(2) Nothing in this section authorizes an individual to disclose information otherwise prohibited by law. [1995 c 403 § 510; 1989 c 284 § 2; 1982 c 208 § 3.]

**Findings—Short title—Intent—1995 c 403:** See note following RCW 34.05.328.

**Part headings not law—Severability—1995 c 403:** See RCW 43.05.903 and 43.05.904.

## Chapter 42.41

## LOCAL GOVERNMENT WHISTLEBLOWER PROTECTION

## Sections

- 42.41.030 Right to report improper governmental action—Policies and procedures.

**42.41.030 Right to report improper governmental action—Policies and procedures.** (1) Every local government employee has the right to report to the appropriate person or persons information concerning an alleged improper governmental action.

(2) The governing body or chief administrative officer of each local government shall adopt a policy on the appropriate procedures to follow for reporting such information and shall provide information to their employees on the policy. Local governments are encouraged to consult with their employees on the policy.

(3) The policy shall describe the appropriate person or persons within the local government to whom to report



information and a list of appropriate person or persons outside the local government to whom to report. The list shall include the county prosecuting attorney.

(4) Each local government shall permanently post a summary of the procedures for reporting information on an alleged improper governmental action and the procedures for protection against retaliatory actions described in RCW 42.41.040 in a place where all employees will have reasonable access to it. A copy of the summary shall be made available to any employee upon request.

(5) A local government may require as part of its policy that, except in the case of an emergency, before an employee provides information of an improper governmental action to a person or an entity who is not a public official or a person listed pursuant to subsection (3) of this section, the employee shall submit a written report to the local government. Where a local government has adopted such a policy under this section, an employee who fails to make a good faith attempt to follow the policy shall not receive the protections of this chapter.

(6) If a local government has failed to adopt a policy as required by subsection (2) of this section, an employee may report alleged improper government action directly to the county prosecuting attorney or, if the prosecuting attorney or an employee of the prosecuting attorney participated in the alleged improper government action, to the state auditor. The cost incurred by the state auditor in such investigations shall be paid by the local government through the municipal revolving account authorized in RCW 43.09.282.

(7) The identity of a reporting employee shall be kept confidential to the extent possible under law, unless the employee authorizes the disclosure of his or her identity in writing. [1995 c 213 § 1; 1992 c 44 § 3.]

## Chapter 42.52

### ETHICS IN PUBLIC SERVICE

#### Sections

- 42.52.180 Use of public resources for political campaigns.  
42.52.210 Repealed.

**42.52.180 Use of public resources for political campaigns.** (1) No state officer or state employee may use or authorize the use of facilities of an agency, directly or indirectly, for the purpose of assisting a campaign for election of a person to an office or for the promotion of or opposition to a ballot proposition. Knowing acquiescence by a person with authority to direct, control, or influence the actions of the state officer or state employee using public resources in violation of this section constitutes a violation of this section. Facilities of an agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of state employees of the agency during working hours, vehicles, office space, publications of the agency, and clientele lists of persons served by the agency.

(2) This section shall not apply to the following activities:

(a) Action taken at an open public meeting by members of an elected legislative body to express a collective decision, or to actually vote upon a motion, proposal, resolution, order, or ordinance, or to support or oppose a ballot proposi-

tion as long as (i) required notice of the meeting includes the title and number of the ballot proposition, and (ii) members of the legislative body or members of the public are afforded an approximately equal opportunity for the expression of an opposing view;

(b) A statement by an elected official in support of or in opposition to any ballot proposition at an open press conference or in response to a specific inquiry. For the purposes of this subsection, it is not a violation of this section for an elected official to respond to an inquiry regarding a ballot proposition, to make incidental remarks concerning a ballot proposition in an official communication, or otherwise comment on a ballot proposition without an actual, measurable expenditure of public funds. The ethics boards shall adopt by rule a definition of measurable expenditure;

(c) Activities that are part of the normal and regular conduct of the office or agency; and

(d) De minimis use of public facilities by state-wide elected officials and legislators incidental to the preparation or delivery of permissible communications, including written and verbal communications initiated by them of their views on ballot propositions that foreseeably may affect a matter that falls within their constitutional or statutory responsibilities.

(3) As to state officers and employees, this section operates to the exclusion of RCW 42.17.130. [1995 c 397 § 30; 1994 c 154 § 118.]

**Effective date—Captions—Severability—1995 c 397:** See RCW 42.17.960 through 42.17.962.

**42.52.210 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

## Title 43

### STATE GOVERNMENT—EXECUTIVE

#### Chapters

- 43.01 State officers—General provisions.**  
**43.03 Salaries and expenses.**  
**43.05 Technical assistance programs.**  
**43.06 Governor.**  
**43.08 State treasurer.**  
**43.09 State auditor.**  
**43.10 Attorney general.**  
**43.12 Commissioner of public lands.**  
**43.17 Administrative departments and agencies—General provisions.**  
**43.19 Department of general administration.**  
**43.19A Recycled product procurement.**  
**43.20A Department of social and health services.**  
**43.20B Revenue recovery for department of social and health services.**  
**43.21A Department of ecology.**  
**43.21B Environmental hearings office—Pollution control hearings board.**  
**43.21C State environmental policy.**  
**43.21I Office of marine safety.**

43.21J Environmental and forest restoration projects.  
 43.22 Department of labor and industries.  
 43.23 Department of agriculture.  
 43.24 Department of licensing.  
 43.30 Department of natural resources.  
 43.31 Department of community, trade, and economic development—Authority.  
 43.33A State investment board.  
 43.41 Office of financial management.  
 43.43 Washington state patrol.  
 43.51 Parks and recreation commission.  
 43.52 Operating agencies.  
 43.60A Department of veterans affairs.  
 43.62 Determination of populations—Student enrollments.  
 43.63A Department of community, trade, and economic development—Authority.  
 43.70 Department of health.  
 43.72 Health system reform—Health services commission.  
 43.73 Washington health care policy board.  
 43.79 State funds.  
 43.79A Treasurer's trust fund.  
 43.80 Fiscal agencies.  
 43.83 Capital improvements.  
 43.84 Investments and interfund loans.  
 43.88 State budgeting, accounting, and reporting system.  
 43.99 Marine recreation land—Interagency committee for outdoor recreation.  
 43.99H Financing for capital and operating appropriations—1989-1991 fiscal biennium.  
 43.99J Financing for capital and operating appropriations—1993-1995 fiscal biennium.  
 43.99K Financing for capital and operating appropriations—1995-1997 fiscal biennium.  
 43.103 Washington state forensic investigations council.  
 43.105 Department of information services.  
 43.117 State commission on Asian Pacific American affairs.  
 43.131 Washington sunset act of 1977.  
 43.132 Fiscal impact of proposed legislation on political subdivisions.  
 43.133 Washington sunrise act.  
 43.143 Ocean resources management act.  
 43.150 Center for volunteerism and citizen service.  
 43.155 Public works projects.  
 43.160 Economic development—Public facilities loans and grants.  
 43.163 Economic development finance authority.  
 43.165 Community revitalization team—Assistance to distressed areas.  
 43.168 Washington state development loan fund committee.  
 43.170 Small business innovators' opportunity program.  
 43.172 Minority and women-owned businesses—Small business bonding assistance program.  
 43.180 Housing finance commission.

43.185 Housing assistance program.  
 43.185A Affordable housing program.  
 43.185B Washington housing policy act.  
 43.190 Long-term care ombudsman program.  
 43.210 Small business export finance assistance center.  
 43.220 Washington conservation corps.  
 43.280 Community treatment services for victims of sex offenders.  
 43.300 Department of fish and wildlife.  
 43.310 Youth gangs.  
 43.320 Department of financial institutions.  
 43.330 Department of community, trade, and economic development.  
 43.332 Office of the Washington state trade representative.

### Chapter 43.01

#### STATE OFFICERS—GENERAL PROVISIONS

##### Sections

43.01.225 Commute trip reduction—Parking revenue—State vehicle parking account.  
 43.01.230 Commute trip reduction—Use of public funds.  
 43.01.236 Commute trip reduction—Institutions of higher education—Exemption.  
 43.01.240 State agency parking account—Parking rental fees—Employee parking, limitations—Report to the legislature.

**43.01.225 Commute trip reduction—Parking revenue—State vehicle parking account.** There is hereby established an account in the state treasury to be known as the "state vehicle parking account." All parking rental income resulting from parking fees established by the department of general administration under RCW 46.08.172 at state-owned or leased property shall be deposited in the "state vehicle parking account." Revenue deposited in the "state vehicle parking account" shall be first applied to pledged purposes. Unpledged parking revenues deposited in the "state vehicle parking account" may be used to:

(1) Pay costs incurred in the operation, maintenance, regulation, and enforcement of vehicle parking and parking facilities;

(2) Support the lease costs and/or capital investment costs of vehicle parking and parking facilities; and

(3) Support agency commute trip reduction programs under RCW 70.94.521 through 70.94.551. [1995 c 215 § 2; 1993 c 394 § 5.]

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

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

payment for the use of state-owned vehicles for commuter ride sharing. [1995 c 215 § 1; 1993 c 394 § 6.]

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

**43.01.236 Commute trip reduction—Institutions of higher education—Exemption.** All institutions of higher education as defined under RCW 28B.10.016 are exempt from the requirements under RCW 43.01.225. [1995 c 215 § 5.]

**43.01.240 State agency parking account—Parking rental fees—Employee parking, limitations—Report to the legislature.** (1) There is hereby established an account in the state treasury to be known as the state agency parking account. All parking income collected from the fees imposed by state agencies on parking spaces at state-owned or leased facilities, including the capitol campus, shall be deposited in the state agency parking account. Only the office of financial management may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures. No agency may receive an allotment greater than the amount of revenue deposited into the state agency parking account.

(2) An agency may, as an element of the agency’s commute trip reduction program to achieve the goals set forth in RCW 70.94.527, impose parking rental fees at state-owned and leased properties. These fees will be deposited in the state agency parking account. Each agency shall establish a committee to advise the agency director on parking rental fees, taking into account the market rate of comparable, privately owned rental parking in each region. The agency shall solicit representation of the employee population including, but not limited to, management, administrative staff, production workers, and state employee bargaining units. Funds shall be used by agencies to: (a) Support the agencies’ commute trip reduction program under RCW 70.94.521 through 70.94.551; (b) support the agencies’ parking program; or (c) support the lease or ownership costs for the agencies’ parking facilities.

(3) In order to reduce the state’s subsidization of employee parking, after July 1997 agencies shall not enter into leases for employee parking in excess of building code requirements, except as authorized by the director of general administration. In situations where there are fewer parking spaces than employees at a worksite, parking must be allocated equitably, with no special preference given to managers.

(4) The director of general administration must report to the house and senate transportation committees no later than December 1, 1997, regarding the implementation of chapter 215, Laws of 1995. The report must include an estimate of the reduction in parking supply and an estimate of the cost savings. [1995 c 215 § 3.]

Sections

- 43.03.011 Salaries of state elected officials of the executive branch.
- 43.03.012 Salaries of judges.
- 43.03.013 Salaries of members of the legislature.
- 43.03.028 State committee on agency officials’ salaries—Members—Duties—Reports.
- 43.03.305 Washington citizens’ commission on salaries for elected officials—Generally.
- 43.03.310 Duties of citizens’ commission—Travel expenses—Chair—Schedule of salaries—Publication—Hearings.

**43.03.011 Salaries of state elected officials of the executive branch.** Pursuant to Article XXVIII, section 1 of the state Constitution and RCW 43.03.010 and 43.03.310, the annual salaries of the state elected officials of the executive branch shall be as follows:

(1) Effective September 1, 1993:

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

(2) Effective September 1, 1995:

- (a) Governor . . . . . \$ 121,000
- (b) Lieutenant governor . . . . . \$ 62,700
- (c) Secretary of state . . . . . \$ 64,300
- (d) Treasurer . . . . . \$ 84,100
- (e) Auditor . . . . . \$ 84,100
- (f) Attorney general . . . . . \$ 92,000
- (g) Superintendent of public instruction . . \$ 86,600
- (h) Commissioner of public lands . . . . . \$ 86,600
- (i) Insurance commissioner . . . . . \$ 77,200

(3) The lieutenant governor shall receive the fixed amount of his salary plus 1/260th of the difference between his salary and that of the governor for each day that the lieutenant governor is called upon to perform the duties of the governor by reason of the absence from the state, removal, resignation, death, or disability of the governor. [1995 2nd sp.s. c 1 § 1; 1993 sp.s. c 26 § 1; 1991 sp.s. c 1 § 1; 1989 2nd ex.s. c 4 § 1; 1987 1st ex.s. c 1 § 1, part.]

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

(1) Effective September 1, 1993:

- (a) Justices of the supreme court . . . . . \$ 107,200
- (b) Judges of the court of appeals . . . . . \$ 101,900
- (c) Judges of the superior court . . . . . \$ 96,600
- (d) Full-time judges of the district court . . \$ 91,900

(2) Effective September 1, 1995:

- (a) Justices of the supreme court . . . . . \$ 109,880
- (b) Judges of the court of appeals . . . . . \$ 104,448
- (c) Judges of the superior court . . . . . \$ 99,015
- (d) Full-time judges of the district court . . \$ 94,198

(3) The salary for a part-time district court judge shall be the proportion of full-time work for which the position is authorized, multiplied by the salary for a full-time district court judge. [1995 2nd sp.s. c 1 § 2; 1993 sp.s. c 26 § 2;

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

**43.03.013 Salaries of members of the legislature.**

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

- (1) Effective September 1, 1993:
  - (a) Legislator . . . . . \$ 25,900
  - (b) Speaker of the house . . . . . \$ 33,900
  - (c) Senate majority leader . . . . . \$ 29,900
  - (d) Senate minority leader . . . . . \$ 29,900
  - (e) House minority leader . . . . . \$ 29,900
- (2) Effective September 1, 1995:
  - (a) Legislator . . . . . \$ 27,100
  - (b) Speaker of the house . . . . . \$ 35,100
  - (c) Senate majority leader . . . . . \$ 31,100
  - (d) Senate minority leader . . . . . \$ 31,100
  - (e) House minority leader . . . . . \$ 31,100
- (3) Effective September 1, 1996:
  - (a) Legislator . . . . . \$ 28,300
  - (b) Speaker of the house . . . . . \$ 36,300
  - (c) Senate majority leader . . . . . \$ 32,300
  - (d) Senate minority leader . . . . . \$ 32,300
  - (e) House minority leader . . . . . \$ 32,300

[1995 2nd sp.s. c 1 § 3; 1993 sp.s. c 26 § 3; 1991 sp.s. c 1 § 3; 1989 2nd ex.s. c 4 § 3; 1987 1st ex.s. c 1 § 1, part.]

**43.03.028 State committee on agency officials' salaries—Members—Duties—Reports.**

(1) There is hereby created a state committee on agency officials' salaries to consist of seven members, or their designees, as follows: The president of the University of Puget Sound; the chairperson of the council of presidents of the state's four-year institutions of higher education; the chairperson of the Washington personnel resources board; the president of the Association of Washington Business; the president of the Pacific Northwest Personnel Managers' Association; the president of the Washington State Bar Association; and the president of the Washington State Labor Council. If any of the titles or positions mentioned in this subsection are changed or abolished, any person occupying an equivalent or like position shall be qualified for appointment by the governor to membership upon the committee.

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

The arts commission; the human rights commission; the board of accountancy; the board of pharmacy; the eastern Washington historical society; the Washington state historical society; the interagency committee for outdoor recreation; the criminal justice training commission; the department of personnel; the state finance committee; the state library; the traffic safety commission; the horse racing commission; the advisory council on vocational education; the public disclosure commission; the state conservation commission; the commission on Hispanic affairs; the commission on Asian Pacific American affairs; the state board for volunteer fire

fighters; the transportation improvement board; the public employment relations commission; the forest practices appeals board; and the energy facilities site evaluation council.

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

(3) Committee members shall be reimbursed by the department of personnel for travel expenses under RCW 43.03.050 and 43.03.060. [1995 c 67 § 1. Prior: 1993 c 281 § 45; 1993 c 101 § 14; 1991 c 3 § 294; 1988 c 167 § 9; prior: 1987 c 504 § 15; 1987 c 249 § 7; 1986 c 155 § 9; 1982 c 163 § 21; 1980 c 87 § 20; prior: 1977 ex.s. c 127 § 1; 1977 c 75 § 36; 1970 ex.s. c 43 § 2; 1967 c 19 § 1; 1965 c 8 § 43.03.028; prior: 1961 c 307 § 1; 1955 c 340 § 1.]

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

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

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

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

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

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

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

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

**43.03.305 Washington citizens' commission on salaries for elected officials—Generally.**

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

(1) Nine of the sixteen commission members shall be selected by lot by the secretary of state from among those registered voters eligible to vote at the time persons are selected for appointment to full terms on the commission under subsection (3) of this section. One member shall be selected from each congressional district. The secretary shall establish policies and procedures for conducting the selection by lot. The policies and procedures shall include, but not be limited to, those for notifying persons selected and for providing a new selection from a congressional district if a person selected from the district declines appointment to the commission or if, following the person's appointment, the person's position on the commission becomes vacant before the end of the person's term of office.

(2) The remaining seven of the sixteen commission members, all residents of this state, shall be selected jointly by the speaker of the house of representatives and the president of the senate. The persons selected under this subsection shall have had experience in the field of personnel management. Of these seven members, one shall be selected from each of the following five sectors in this state: Private institutions of higher education; business; professional personnel management; legal profession; and organized

labor. Of the two remaining members, one shall be a person recommended to the speaker and the president by the chair of the Washington personnel resources board and one shall be a person recommended by majority vote of the presidents of the state's four-year institutions of higher education.

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

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

The unexcused absence of any person who is a member of the commission from two consecutive meetings of the commission shall constitute the relinquishment of that person's membership on the commission. Such a relinquishment creates a vacancy in that person's position on the commission. A member's absence may be excused by the chair of the commission upon the member's written request if the chair believes there is just cause for the absence. Such a request must be received by the chair before the meeting for which the absence is to be excused. A member's absence from a meeting of the commission may also be excused during the meeting for which the member is absent by the affirmative vote of a majority of the members of the commission present at the meeting.

(5) No state official, public employee, or lobbyist, or immediate family member of the official, employee, or lobbyist, subject to the registration requirements of chapter 42.17 RCW is eligible for membership on the commission.

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

(6) Upon a vacancy in any position on the commission, a successor shall be selected and appointed to fill the unexpired term. The selection and appointment shall be concluded within thirty days of the date the position becomes vacant and shall be conducted in the same manner as originally provided. [1995 c 3 § 1; 1993 c 281 § 46; 1986 c 155 § 2.]

**Effective date—1995 c 3:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [February 10, 1995]." [1995 c 3 § 3.]

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

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

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

(2) Except as provided otherwise in RCW 43.03.305 and this section, the commission shall be solely responsible for its own organization, operation, and action and shall enjoy the fullest cooperation of all state officials, departments, and agencies.

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

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

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

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

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

(8) Salaries of the officials referred to in subsection (1) of this section that are in effect on January 12, 1987, shall continue until modified by the commission under this section. [1995 c 3 § 2; 1986 c 155 § 3.]

**Effective date—1995 c 3:** See note following RCW 43.03.305.

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

## Chapter 43.05

### TECHNICAL ASSISTANCE PROGRAMS

#### Sections

- 43.05.005 Findings.
- 43.05.010 Definitions.
- 43.05.020 Agency programs—List of technical assistance providers.

- 43.05.030 Technical assistance visit—Notice of violation.
- 43.05.040 Time to correct violations—Revisit—Issuance of penalties.
- 43.05.050 Issuance of penalty during technical assistance visit.
- 43.05.060 Department of ecology—Notice of correction.
- 43.05.070 Department of ecology—Penalty.
- 43.05.080 Application of RCW 43.05.060 and 43.05.070—Limited.
- 43.05.090 Department of labor and industries—Consultative visit, report—Compliance inspection, citation.
- 43.05.100 Departments of agriculture, fish and wildlife, health, licensing, natural resources—Notice of correction.
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- 43.05.150 Agency immunity—Enforcement authority.
- 43.05.900 Report to the governor and legislature—Expiration of section.
- 43.05.901 Conflict with federal requirements.
- 43.05.902 Resolution of conflict with federal requirements—Notification.
- 43.05.903 Part headings not law—1995 c 403.
- 43.05.904 Severability—1995 c 403.
- 43.05.905 Findings—Short title—Intent—1995 c 403.

**43.05.005 Findings.** The legislature finds that, due to the volume and complexity of laws and rules it is appropriate for regulatory agencies to adopt programs and policies that encourage voluntary compliance by those affected by specific rules. The legislature recognizes that a cooperative partnership between agencies and regulated parties that emphasizes education and assistance before the imposition of penalties will achieve greater compliance with laws and rules and that most individuals and businesses who are subject to regulation will attempt to comply with the law, particularly if they are given sufficient information. In this context, enforcement should assure that the majority of a regulated community that complies with the law are not placed at a competitive disadvantage and that a continuing failure to comply that is within the control of a party who has received technical assistance is considered by an agency when it determines the amount of any civil penalty that is issued. [1995 c 403 § 601.]

**Implementation—1995 c 403:** "Agency rules, guidelines, and procedures necessary to implement chapter 43.05 RCW shall be established and implemented expeditiously and not later than July 1, 1996." [1995 c 403 § 618.]

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

(1) "Civil penalty" means a monetary penalty administratively issued by a regulatory agency for noncompliance with state or federal law or rules. The term does not include any criminal penalty, damage assessments, wages, premiums, or taxes owed, or interest or late fees on any existing obligation.

(2) "Regulatory agency" means an agency as defined in RCW 34.05.010 that has the authority to issue civil penalties. The term does not include the state patrol or any institution of higher education as defined in RCW 28B.10.016.

(3) "Technical assistance" includes:

(a) Information on the laws, rules, and compliance methods and technologies applicable to the regulatory agency's programs;

(b) Information on methods to avoid compliance problems;

(c) Assistance in applying for permits; and

(d) Information on the mission, goals, and objectives of the program. [1995 c 403 § 602.]

**43.05.020 Agency programs—List of technical assistance providers.** All regulatory agencies shall develop programs to encourage voluntary compliance by providing technical assistance consistent with statutory requirements. The programs shall include but are not limited to technical assistance visits, printed information, information and assistance by telephone, training meetings, and other appropriate methods to provide technical assistance. In addition, all regulatory agencies shall provide upon request a list of organizations, including private companies, that provide technical assistance. This list shall be compiled by the agencies from information submitted by the organizations and shall not constitute an endorsement by an agency of any organization. [1995 c 403 § 603.]

**43.05.030 Technical assistance visit—Notice of violation.** (1) For the purposes of this chapter, a technical assistance visit is a visit by a regulatory agency to a facility, business, or other location that:

(a) Has been requested or is voluntarily accepted; and

(b) Is declared by the regulatory agency at the beginning of the visit to be a technical assistance visit.

(2) A technical assistance visit also includes a consultative visit pursuant to RCW 49.17.250.

(3) During a technical assistance visit, or within a reasonable time thereafter, a regulatory agency shall inform the owner or operator of the facility of any violations of law or agency rules identified by the agency as follows:

(a) A description of the condition that is not in compliance and a specific citation to the applicable law or rule;

(b) A statement of what is required to achieve compliance;

(c) The date by which the agency requires compliance to be achieved;

(d) Notice of the means to contact any technical assistance services provided by the agency or others; and

(e) Notice of when, where, and to whom a request to extend the time to achieve compliance for good cause may be filed with the agency. [1995 c 403 § 604.]

**43.05.040 Time to correct violations—Revisit—Issuance of penalties.** The owner and operator shall be given a reasonable period of time to correct violations identified during a technical assistance visit before any civil penalty provided for by law is imposed for those violations. A regulatory agency may revisit a facility, business, or other location after a technical assistance visit and a reasonable period of time has passed to correct violations identified by the agency in writing and issue civil penalties as provided for by law for any uncorrected violations. [1995 c 403 § 605.]

**43.05.050 Issuance of penalty during technical assistance visit.** A regulatory agency that observes a violation during a technical assistance visit may issue a civil

penalty as provided for by law if: (1) The individual or business has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule or has been given previous notice of the same or similar type of violation of the same statute or rule; or (2) the issue involves sales taxes due to the state and the individual or business is not remitting previously collected sales taxes to the state; or (3) the violation has a probability of placing a person in danger of death or bodily harm, has a probability of causing more than minor environmental harm, or has a probability of causing physical damage to the property of another in an amount exceeding one thousand dollars. [1995 c 403 § 606.]

**43.05.060 Department of ecology—Notice of correction.** (1) If in the course of any site inspection or visit that is not a technical assistance visit, the department of ecology becomes aware of conditions that are not in compliance with applicable laws and rules enforced by the department and are not subject to civil penalties as provided for in RCW 43.05.070, the department may issue a notice of correction to the responsible party that shall include:

- (a) A description of the condition that is not in compliance and a specific citation to the applicable law or rule;
- (b) A statement of what is required to achieve compliance;
- (c) The date by which the department requires compliance to be achieved;
- (d) Notice of the means to contact any technical assistance services provided by the department or others; and
- (e) Notice of when, where, and to whom a request to extend the time to achieve compliance for good cause may be filed with the department.

(2) A notice of correction is not a formal enforcement action, is not subject to appeal, and is a public record.

(3) If the department issues a notice of correction, it shall not issue a civil penalty for the violations identified in the notice of correction unless the responsible party fails to comply with the notice. [1995 c 403 § 607.]

**43.05.070 Department of ecology—Penalty.** The department of ecology may issue a civil penalty provided for by law without first issuing a notice of correction if: (1) The person has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule or has been given previous notice of the same or similar type of violation of the same statute or rule; or (2) compliance is not achieved by the date established by the department in a previously issued notice of correction, if the department has responded to any request for review of such date by reaffirming the original date or establishing a new date; or (3) the violation has a probability of placing a person in danger of death or bodily harm, has a probability of causing more than minor environmental harm, or has a probability of causing physical damage to the property of another in an amount exceeding one thousand dollars. [1995 c 403 § 608.]

**43.05.080 Application of RCW 43.05.060 and 43.05.070—Limited.** The provisions of RCW 43.05.060 and 43.05.070 affecting civil penalties issued by the department

of ecology shall not apply to civil penalties for negligent discharge of oil as authorized under RCW 90.56.330 or to civil penalties as authorized under RCW 90.03.600 for unlawful use of water in violation of RCW 90.03.250 or 90.44.050. [1995 c 403 § 609.]

**43.05.090 Department of labor and industries—Consultative visit, report—Compliance inspection, citation.** (1) Following a consultative visit pursuant to RCW 49.17.250, the department of labor and industries shall issue a report to the employer that the employer shall make available to its employees. The report shall contain:

- (a) A description of the condition that is not in compliance and a specific citation to the applicable law or rule;
- (b) A statement of what is required to achieve compliance;
- (c) The date by which the department requires compliance to be achieved;
- (d) Notice of means to contact technical assistance services provided by the department; and
- (e) Notice of when, where, and to whom a request to extend the time to achieve compliance for good cause may be filed with the department.

(2) Following a compliance inspection pursuant to RCW 49.17.120, the department of labor and industries shall issue a citation for violations of industrial safety and health standards. The citation shall not assess a penalty if the violations:

- (a) Are determined not to be of a serious nature;
- (b) Have not been previously cited;
- (c) Are not willful; and
- (d) Do not have a mandatory penalty under chapter 49.17 RCW. [1995 c 403 § 610.]

**43.05.100 Departments of agriculture, fish and wildlife, health, licensing, natural resources—Notice of correction.** (1) If in the course of any inspection or visit that is not a technical assistance visit, the department of agriculture, fish and wildlife, health, licensing, or natural resources becomes aware of conditions that are not in compliance with applicable laws and rules enforced by the department and are not subject to civil penalties as provided for in RCW 43.05.110, the department may issue a notice of correction to the responsible party that shall include:

- (a) A description of the condition that is not in compliance and a specific citation to the applicable law or rule;
- (b) A statement of what is required to achieve compliance;
- (c) The date by which the department requires compliance to be achieved;
- (d) Notice of the means to contact any technical assistance services provided by the department or others; and
- (e) Notice of when, where, and to whom a request to extend the time to achieve compliance for good cause may be filed with the department.

(2) A notice of correction is not a formal enforcement action, is not subject to appeal, and is a public record.

(3) If the department issues a notice of correction, it shall not issue a civil penalty for the violations identified in the notice of correction unless the responsible party fails to comply with the notice. [1995 c 403 § 611.]

**43.05.110 Departments of agriculture, fish and wildlife, health, licensing, natural resources—Penalty.** The department of agriculture, fish and wildlife, health, licensing, or natural resources may issue a civil penalty provided for by law without first issuing a notice of correction if: (1) The person has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule or has been given previous notice of the same or similar type of violation of the same statute or rule; or (2) compliance is not achieved by the date established by the department in a previously issued notice of correction, if the department has responded to any request for review of such date by reaffirming the original date or establishing a new date; (3) the violation has a probability of placing a person in danger of death or bodily harm, has a probability of causing more than minor environmental harm, or has a probability of causing physical damage to the property of another in an amount exceeding one thousand dollars; or (4) the violation was committed by a business that employed fifty or more employees on at least one day in each of the preceding twelve months. In addition, the department of fish and wildlife may issue a civil penalty provided for by law without first issuing a notice of correction for a violation of any rule dealing with seasons, catch or bag limits, gear types, or geographical areas for fish or wildlife removal, reporting, or disposal. [1995 c 403 § 612.]

**43.05.120 Time for compliance—Extension.** The date for compliance established by the department of ecology, labor and industries, agriculture, fish and wildlife, health, licensing, or natural resources pursuant to RCW 43.05.060, 43.05.090, or 43.05.100 respectively shall provide for a reasonable time to achieve compliance. Any person receiving a notice of correction pursuant to RCW 43.05.060 or 43.05.100 or a report or citation pursuant to RCW 43.05.090 may request an extension of time to achieve compliance for good cause from the issuing department. Requests shall be submitted to the issuing department and responded to by the issuing department in writing in accordance with procedures specified by the issuing department in the notice, report, or citation. [1995 c 403 § 613.]

**43.05.130 Educational programs.** The departments of revenue and labor and industries and the employment security department shall undertake an educational program directed at those who have the most difficulty in determining their tax or premium liability. The departments may rely on information from internal data, trade associations, and businesses to determine which entities should be selected. The educational programs may include, but not be limited to, targeted informational fact sheets, self-audits, or workshops, and may be presented individually by the agency or in conjunction with other agencies. [1995 c 403 § 614.]

**43.05.140 Pilot voluntary audit program.** The department of revenue, the department of labor and industries in respect to its duties in Title 51 RCW, and the employment security department shall develop and administer a pilot voluntary audit program. Voluntary audits can be requested by businesses from any of these agencies according to guidelines established by each agency. No penalty

assessments may be made against participants in such a program except when the agency determines that either a good faith effort has not been made by the taxpayer or premium payer to comply with the law or that the taxpayer has failed to remit previously collected sales taxes to the state. The persons conducting the voluntary audit shall provide the business undergoing the voluntary audit an audit report that describes errors or omissions found and future reporting instructions. This program does not relieve a business from past or future tax or premium obligations. [1995 c 403 § 615.]

**43.05.150 Agency immunity—Enforcement authority.** Nothing in this chapter obligates a regulatory agency to conduct a technical assistance visit. The state and officers or employees of the state shall not be liable for damages to a person to the extent that liability is asserted to arise from providing technical assistance, or if liability is asserted to arise from the failure of the state or officers or employees of the state to provide technical assistance. This chapter does not limit the authority of any regulatory agency to take any enforcement action, other than a civil penalty, authorized by law. This chapter shall not limit a regulatory agency's authority to issue a civil penalty as authorized by law based upon a person's failure to comply with specific terms and conditions of any permit or license issued by the agency to that person. [1995 c 403 § 617.]

**43.05.900 Report to the governor and legislature—Expiration of section.** (1) By January 31, 1996, and by January 31st of each even-numbered year thereafter, the office of financial management, after consulting with state regulatory agencies, counties, and cities, and business, labor, and environmental organizations, shall report to the governor and the legislature regarding the effects of this chapter on the regulatory system in this state. The report shall document:

(a) Technical assistance, including but not limited to technical assistance visits, provided by state regulatory agencies consistent with this chapter;

(b) Any rules adopted, guidelines developed, or training conducted to implement this chapter;

(c) Any changes in the appropriation, allocation, or expenditure of regulatory agency resources to implement this chapter;

(d) Any legal action against state regulatory agencies for any alleged failure to comply with this chapter, the costs to the state of the action, and the result;

(e) The extent to which this chapter has resulted in either an increase or decrease in regulatory agency use of civil penalties;

(f) The extent to which this chapter has contributed to any change in voluntary compliance with state statutes or rules;

(g) The extent to which this chapter has improved the acceptability or effectiveness of state regulatory procedures; and

(h) Any other information considered by the office of financial management to be useful in evaluating the effect of this chapter.



(2) This section shall expire June 30, 2000. [1995 c 403 § 621.]

**43.05.901 Conflict with federal requirements.** If a regulatory agency determines any part of this chapter to be in conflict with federal law or program requirements, in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, or in conflict with the requirements for eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this chapter shall be inoperative solely to the extent of the conflict. Any rules under this chapter shall meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state. [1995 c 403 § 619.]

**43.05.902 Resolution of conflict with federal requirements—Notification.** If notified by responsible federal officials of any conflict of this chapter with federal law or program requirements or with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the regulatory agency notified of the conflict shall actively seek to resolve the conflict. If the agency determines that the conflict cannot be resolved without loss of benefits or authority to the state, the agency shall notify the governor, the president of the senate, and the speaker of the house of representatives in writing within thirty days of making that determination. [1995 c 403 § 620.]

**43.05.903 Part headings not law—1995 c 403.** Part headings as used in this act do not constitute any part of the law. [1995 c 403 § 1101.]

**43.05.904 Severability—1995 c 403.** 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. [1995 c 403 § 1105.]

**43.05.905 Findings—Short title—Intent—1995 c 403.** See note following RCW 34.05.328.

**Chapter 43.06  
GOVERNOR**

Sections

43.06.115 Militarily impacted area—Declaration by governor.

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

by the federal government in that community or communities.

(2) If the governor executes an order under subsection (1) of this section, the governor shall establish a response team to coordinate state efforts to assist the military impacted community. The response team may include, but not be limited to, one member from each of the following agencies: (a) The department of community, trade, and economic development; (b) the department of social and health services; (c) the employment security department; (d) the state board for community and technical colleges; (e) the higher education coordinating board; (f) the department of transportation; and (g) the Washington energy office. The governor may appoint a response team coordinator. The governor shall seek to actively involve the impacted community or communities in planning and implementing a response to the crisis. The governor may seek input or assistance from the community diversification advisory committee, and the governor may establish task forces in the community or communities to assist in the coordination and delivery of services to the local community. The state and community response shall consider economic development, human service, and training needs of the community or communities impacted.

(3) The governor shall report at the beginning of the next legislative session to the legislature and the executive-legislative committee on economic development created by \*chapter . . . (Senate Bill No. 5300), Laws of 1993, as to the designation of a military impacted area. The report shall include recommendations regarding whether a military impacted area should become eligible for (a) funding provided by the community economic revitalization board, public facilities construction loan revolving account, Washington state development loan fund, basic health plan, the public works assistance account, department of community, trade, and economic development, employment security department, and department of transportation; (b) training for dislocated defense workers; or (c) services for dislocated defense workers. [1995 c 399 § 61; 1993 c 421 § 2.]

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

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

**Chapter 43.08  
STATE TREASURER**

Sections

43.08.250 Public safety and education account—Use.  
43.08.260 Public safety and education account to fund civil representation of indigent persons—When authorized.

**43.08.250 Public safety and education account—**

**Use.** The money received by the state treasurer from fees, fines, forfeitures, penalties, reimbursements or assessments by any court organized under Title 3 or 35 RCW, or chapter 2.08 RCW, shall be deposited in the public safety and education account which is hereby created in the state treasury. The legislature shall appropriate the funds in the account to promote traffic safety education, highway safety, criminal justice training, crime victims' compensation, judicial education, the judicial information system, civil representation of indigent persons, winter recreation parking, and state game programs. During the fiscal biennium ending June 30, 1997, the legislature may appropriate moneys from the public safety and education account for purposes of appellate indigent defense, the criminal litigation unit of the attorney general's office, the treatment alternatives to street crimes program, crime victims advocacy programs, justice information network telecommunication planning, sexual assault treatment, operations of the office of administrator for the courts, and Washington state patrol criminal justice activities. [1995 2nd sp.s. c 18 § 912; 1993 sp.s. c 24 § 917; 1992 c 54 § 3. Prior: 1991 sp.s. c 16 § 919; 1991 sp.s. c 13 § 25; 1985 c 57 § 27; 1984 c 258 § 338.]

**Severability—Effective date—1995 2nd sp.s. c 18:** See notes following RCW 19.118.110.

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

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

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

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

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

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

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

*Public safety and education assessment:* RCW 3.62.090.

**43.08.260 Public safety and education account to fund civil representation of indigent persons—When authorized.**

(1) Any money appropriated from the public safety and education account pursuant to RCW 43.08.250 for civil representation of indigent persons shall be used solely for the purpose of contracting with qualified legal aid programs for legal representation of indigent persons in matters relating to: (a) Domestic relations and family law matters, (b) public assistance, health care, and entitlement programs, (c) public housing and utilities, and (d) unemployment compensation. For purposes of this section, a "qualified legal aid program" means a not-for-profit corporation incorporated and operating exclusively in Washington which has received basic field funding for the provision of civil legal services to indigents under Public Law 101-515.

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

allocating funds for basic field services in the state of Washington.

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

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

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

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

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

(ii) "Lobbying" does not include the response of an employee of a legal aid program to a written request from a governmental agency, an elected or appointed official, or committee on a specific matter. This exception does not authorize communication with anyone other than the requesting party, or agent or employee of such agency, official, or committee. [1995 c 399 § 62; 1992 c 54 § 4.]

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

## Chapter 43.09 STATE AUDITOR

### Sections

43.09.010	Residence—Office—Bond—Oath.
43.09.025	Deputy auditors—Assistant directors.
43.09.030	Repealed.
43.09.035	Assistants—Personnel.
43.09.040	Repealed.
43.09.045	Contracts with certified public accountants.
43.09.165	Subpoenas—Compulsory process—Witnesses—Oaths— Testimony—Penalty.
43.09.170	May administer oaths.
43.09.180	Seal—Copies of documents as evidence.
43.09.185	Loss of public funds—Illegal activity—Report to state auditor's office.
43.09.190	Repealed.
43.09.200	Local government accounting—Uniform system of account- ing.
43.09.205	Local government accounting—Costs of public works— Standard form.
43.09.220	Local government accounting—Separate accounts for public service industries.
43.09.230	Local government accounting—Annual reports— Comparative statistics.
43.09.240	Local government accounting—Public officers and employ- ees—Duty to account and report—Removal from of- fice—Deposit of collections.

- 43.09.245 Local government accounting—Examination of financial affairs.
- 43.09.250 Repealed.
- 43.09.260 Local government accounting—Examination of local governments—Reports—Action by attorney general.
- 43.09.265 Local government accounting—Review of tax levies of local governments.
- 43.09.270 Local government accounting—Expense of audit, what constitutes.
- 43.09.280 Local government accounting—Expense of examination.
- 43.09.2801 Local government accounting—Expense of audit—Additional charge.
- 43.09.282 Local government accounting—Municipal revolving account—Records of auditing costs.
- 43.09.290 Post-audit of state agencies—Definitions.
- 43.09.300 Repealed.
- 43.09.310 Audit of state-wide combined financial statements—Post-audits of state agencies—Periodic audits—Reports—Filing.
- 43.09.330 Audit disclosing malfeasance or nonfeasance—Action by attorney general.
- 43.09.340 Post-audit of books of state auditor.
- 43.09.410 Auditing services revolving account—Created—Purpose.
- 43.09.412 Auditing services revolving account—Transfers and payments into account—Allotments to state auditor.
- 43.09.414 Auditing services revolving account—Disbursements.
- 43.09.416 Auditing services revolving account—Allocation of costs to funds, accounts, and agencies—Billing rate.
- 43.09.418 Auditing services revolving account—Direct payments from state agencies.

**43.09.010 Residence—Office—Bond—Oath.** The state auditor shall reside and keep his or her office at the seat of government. Before entering upon his or her duties he or she shall execute and deliver to the secretary of state a bond to the state in the sum of fifty thousand dollars, to be approved by the governor, conditioned for the faithful performance of all duties required by law. He or she shall take an oath of office before any person authorized to administer oaths, and file a copy thereof, together with the required bond, in the office of the secretary of state. [1995 c 301 § 1; 1965 c 8 § 43.09.010. Prior: 1890 p 634 § 1; RRS § 10996; prior: Code 1881 § 2566; 1871 p 96 § 1; 1854 p 409 § 2.]

**43.09.025 Deputy auditors—Assistant directors.** The state auditor may appoint deputies and assistant directors as necessary to carry out the duties of the office of the state auditor. These individuals serve at the pleasure of the state auditor and are exempt from the provisions of chapter 41.06 RCW as stated in \*RCW 41.06.070(1)(y). [1995 c 301 § 2.]

\*Reviser's note: RCW 41.06.070 was amended by 1994 c 163 § 1, changing subsection (1)(y) to subsection (1)(x).

**43.09.030 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**43.09.035 Assistants—Personnel.** The state auditor may appoint and employ other assistants and personnel necessary to carry out the work of the office of the state auditor. [1995 c 301 § 3.]

**43.09.040 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**43.09.045 Contracts with certified public accountants.** The state auditor may contract with public accountants certified in Washington to carry out those portions of the duties of auditing state agencies and local governments as the state auditor may determine. [1995 c 301 § 4.]

**43.09.165 Subpoenas—Compulsory process—Witnesses—Oaths—Testimony—Penalty.** The state auditor, his or her employees and every person legally appointed to perform such service, may issue subpoenas and compulsory process and direct the service thereof by any constable or sheriff, compel the attendance of witnesses and the production of books and papers before him or her at any designated time and place, and may administer oaths.

When any person summoned to appear and give testimony neglects or refuses to do so, or neglects or refuses to answer any question that may be put to him or her touching any matter under examination, or to produce any books or papers required, the person making such examination shall apply to a superior court judge of the proper county to issue a subpoena for the appearance of such person before him or her; and the judge shall order the issuance of a subpoena for the appearance of such person forthwith before him or her to give testimony; and if any person so summoned fails to appear, or appearing, refuses to testify, or to produce any books or papers required, he or she shall be subject to like proceedings and penalties for contempt as witnesses in the superior court. Willful false swearing in any such examination shall be perjury and punishable as such. [1995 c 301 § 5.]

**43.09.170 May administer oaths.** The state auditor may administer all oaths required by law in matters pertaining to the duties of his or her office. [1995 c 301 § 6; 1965 c 8 § 43.09.170. Prior: 1890 p 641 § 23; RRS § 11017; prior: Code 1881 § 2586.]

**43.09.180 Seal—Copies of documents as evidence.** The state auditor shall keep a seal of office for the identification of all papers, writings, and documents required by law to be certified by him or her, and copies authenticated and certified of all papers and documents lawfully deposited in his or her office shall be received in evidence with the same effect as the originals. [1995 c 301 § 7; 1965 c 8 § 43.09.180. Prior: 1890 p 641 § 24; RRS § 11018; prior: Code 1881 § 2587.]

**43.09.185 Loss of public funds—Illegal activity—Report to state auditor's office.** State agencies and local governments shall immediately report to the state auditor's office known or suspected loss of public funds or assets or other illegal activity. [1995 c 301 § 8.]

**43.09.190 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**43.09.200 Local government accounting—Uniform system of accounting.** The state auditor shall formulate, prescribe, and install a system of accounting and reporting for all local governments, which shall be uniform for every

public institution, and every public office, and every public account of the same class.

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

The accounts shall show the receipt, use, and disposition of all public property, and the income, if any, derived therefrom; all sources of public income, and the amounts due and received from each source; all receipts, vouchers, and other documents kept, or required to be kept, necessary to isolate and prove the validity of every transaction; all statements and reports made or required to be made, for the internal administration of the office to which they pertain; and all reports published or required to be published, for the information of the people regarding any and all details of the financial administration of public affairs. [1995 c 301 § 9; 1965 c 8 § 43.09.200. Prior: 1909 c 76 § 2; RRS § 9952.]  
*Electronic transfer of public funds to be in compliance with: RCW 39.58.150.*

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

**43.09.205 Local government accounting—Costs of public works—Standard form.** The state auditor shall prescribe a standard form with which the accounts and records of costs of all local governments shall be maintained as required under RCW 39.04.070. [1995 c 301 § 10; 1987 c 120 § 4.]

**43.09.220 Local government accounting—Separate accounts for public service industries.** Separate accounts shall be kept for every public service industry of every local government, which shall show the true and entire cost of the ownership and operation thereof, the amount collected annually by general or special taxation for service rendered to the public, and the amount and character of the service rendered therefor, and the amount collected annually from private users for service rendered to them, and the amount and character of the service rendered therefor. [1995 c 301 § 11; 1965 c 8 § 43.09.220. Prior: 1909 c 76 § 4; RRS § 9954.]

**43.09.230 Local government accounting—Annual reports—Comparative statistics.** The state auditor shall require from every local government financial reports covering the full period of each fiscal year, in accordance with the forms and methods prescribed by the state auditor, which shall be uniform for all accounts of the same class.

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

The reports shall contain accurate statements, in summarized form, of all collections made, or receipts received, by the officers from all sources; all accounts due the public treasury, but not collected; and all expenditures for every purpose, and by what authority authorized; and also: (1) A statement of all costs of ownership and operation, and of all income, of each and every public service industry owned and operated by a local government; (2) a statement of the entire public debt of every local government, to which power has been delegated by the state to create a public debt, showing

the purpose for which each item of the debt was created, and the provisions made for the payment thereof; (3) a classified statement of all receipts and expenditures by any public institution; and (4) a statement of all expenditures for labor relations consultants, with the identification of each consultant, compensation, and the terms and conditions of each agreement or arrangement; together with such other information as may be required by the state auditor.

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

Their substance shall be published in an annual volume of comparative statistics at the expense of the state as a public document. [1995 c 301 § 12; 1993 c 18 § 2; 1989 c 168 § 1; 1977 c 75 § 41; 1965 c 8 § 43.09.230. Prior: 1909 c 76 § 5; RRS § 9955.]

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

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

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

In case a public officer or employee collects or receives funds for the account of a local government of which he or she is an officer or employee, the treasurer shall, by Friday of each week, pay to the proper officer of the local government for the account of which the collection was made or payment received, the full amount collected or received during the current week for the account of the district. [1995 c 301 § 13; 1991 c 245 § 13; 1965 c 8 § 43.09.240. Prior: 1963 c 209 § 2; 1911 c 30 § 1; 1909 c 76 § 6; RRS § 9956; prior: 1890 p 638 § 11; Code 1881 § 2577; 1854 p 411 § 7.]

**43.09.245 Local government accounting—Examination of financial affairs.** The state auditor has the power to examine all the financial affairs of every local government and its officers and employees. [1995 c 301 § 14.]

**43.09.250 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**43.09.260 Local government accounting—Examination of local governments—Reports—Action by attorney general.** The examination of the financial affairs of all local governments shall be made at such reasonable, periodic intervals as the state auditor shall determine. However, an examination of the financial affairs of all local governments shall be made at least once in every three years, and an examination of individual local government health and welfare benefit plans and local government self-insurance programs shall be made at least once every two years. The term local governments for purposes of this chapter includes but is not limited to all counties, cities, and other political subdivisions, municipal corporations, and quasi-municipal corporations, however denominated.

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

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

A report of such examination shall be made and filed in the office of state auditor, and one copy shall be transmitted to the local government. A copy of any report containing findings of noncompliance with state law shall be transmitted to the attorney general. If any such report discloses malfeasance, misfeasance, or nonfeasance in office on the part of any public officer or employee, within thirty days from the receipt of his or her copy of the report, the attorney general shall institute, in the proper county, such legal action as is proper in the premises by civil process and prosecute the same to final determination to carry into effect the findings of the examination.

It shall be unlawful for any local government or the responsible head thereof, to make a settlement or compromise of any claim arising out of such malfeasance, misfeasance, or nonfeasance, or any action commenced therefor, or for any court to enter upon any compromise or settlement of such action, without the written approval and consent of the attorney general and the state auditor. [1995 c 301 § 15; 1991 sp.s. c 30 § 26; 1979 c 71 § 1; 1965 c 8 § 43.09.260. Prior: 1909 c 76 § 8; RRS § 9958.]

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

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

**43.09.265 Local government accounting—Review of tax levies of local governments.** The state auditor shall review the tax levies of all local governments in the regular examinations under RCW 43.09.260. [1995 c 301 § 16; 1979 ex.s. c 218 § 7.]

**43.09.270 Local government accounting—Expense of audit, what constitutes.** The expense of auditing local

governments and those expenses directly related to prescribing accounting systems, training, maintenance of working capital including reserves for late and uncollectible accounts and necessary adjustments to billings, and field audit supervision, shall be considered expenses of auditing public accounts within the meaning of RCW 43.09.280 and 43.09.282, and shall be prorated for that purpose equally among all entities directly affected by such service. [1995 c 301 § 17; 1993 c 315 § 1; 1991 sp.s. c 16 § 920; 1982 c 206 § 1; 1965 c 8 § 43.09.270. Prior: 1963 c 209 § 4; 1911 c 30 § 1; 1909 c 76 § 10; RRS § 9960.]

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

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

**43.09.280 Local government accounting—Expense of examination.** The expense of auditing public accounts shall be borne by each entity subject to such audit for the auditing of all accounts under its jurisdiction and the state auditor shall certify the expense of such audit to the fiscal or warrant-issuing officer of such entity, who shall immediately make payment to the state auditor. If the expense as certified is not paid by any local government within thirty days from the date of certification, the state auditor may certify the expense to the auditor of the county in which the local government is situated, who shall promptly issue his or her warrant on the county treasurer payable out of the current expense fund of the county, which fund, except as to auditing the financial affairs and making inspection and examination of the county, shall be reimbursed by the county auditor or chief financial officer out of the money due the local government at the next monthly settlement of the collection of taxes and shall be transferred to the current expense fund. [1995 c 301 § 18; 1979 c 71 § 2; 1965 c 8 § 43.09.280. Prior: 1963 c 209 § 5; 1911 c 30 § 1; 1909 c 76 § 11; RRS § 9961.]

**43.09.2801 Local government accounting—Expense of audit—Additional charge.** (1) From July 1, 1992, to June 30, 1995, the state auditor shall charge an entity subject to an audit an additional ten cents per hour billed under RCW 43.09.270 and 43.09.280, to be deposited in the local government administrative hearings account.

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

(3) The state auditor may exempt a local government that certifies that it is in compliance with RCW 42.41.050 from a charge added under subsection (1) or (2) of this section. [1995 c 301 § 19; 1992 c 44 § 11.]

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

*Local government administrative hearings account: RCW 42.41.060.*

**43.09.282 Local government accounting—Municipal revolving account—Records of auditing costs.** For the purposes of centralized funding, accounting, and distribution

of the costs of the audits performed on local governments by the state auditor, there is hereby created an account entitled the municipal revolving account. The state treasurer shall be custodian of the account. All moneys received by the state auditor or by any officer or employee thereof shall be deposited with the state treasurer and credited to the municipal revolving account. Only the state auditor or the auditor's designee may authorize expenditures from the account. No appropriation is required for expenditures. The state auditor shall keep such records as are necessary to detail the auditing costs attributable to the various types of local governments. [1995 c 301 § 20; 1982 c 206 § 2; 1965 c 8 § 43.09.282. Prior: 1963 c 209 § 6.]

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

**43.09.290 Post-audit of state agencies—Definitions.**

For the purposes of RCW 43.09.290 through 43.09.340 and 43.09.410 through 43.09.418, post-audit means an audit of the books, records, funds, accounts, and financial transactions of a state agency for a complete fiscal period; pre-audit means all other audits and examinations; state agency means elective officers and offices, and every other office, officer, department, board, council, committee, commission, or authority of the state government now existing or hereafter created, supported, wholly or in part, by appropriations from the state treasury or funds under its control, or by the levy, assessment, collection, or receipt of fines, penalties, fees, licenses, sales of commodities, service charges, rentals, grants-in-aid, or other income provided by law, and all state educational, penal, reformatory, charitable, eleemosynary, or other institutions, supported, wholly or in part, by appropriations from the state treasury or funds under its control. [1995 c 301 § 21; 1981 c 336 § 6; 1965 c 8 § 43.09.290. Prior: 1941 c 196 § 1; Rem. Supp. 1941 § 11018-1.]

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

*Petty cash:* RCW 42.26.080.

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

**43.09.300 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**43.09.310 Audit of state-wide combined financial statements—Post-audits of state agencies—Periodic audits—Reports—Filing.** The state auditor shall annually audit the state-wide combined financial statements prepared by the office of financial management and make post-audits of state agencies. Post-audits of state agencies shall be made at such periodic intervals as is determined by the state auditor. Audits of combined financial statements shall include determinations as to the validity and accuracy of accounting methods, procedures and standards utilized in their preparation, as well as the accuracy of the financial statements themselves. A report shall be made of each such audit and post-audit upon completion thereof, and one copy shall be transmitted to the governor, one to the director of financial management, one to the state agency audited, one to the legislative budget committee, one each to the standing committees on ways and means of the house and senate, one to the chief clerk of the house, one to the secretary of the senate, and at least one shall be kept on file in the office of

the state auditor. A copy of any report containing findings of noncompliance with state law shall be transmitted to the attorney general. [1995 c 301 § 22; 1981 c 217 § 1; 1979 c 151 § 92; 1975-'76 2nd ex.s. c 17 § 1. Prior: 1975 1st ex.s. c 293 § 1; 1975 1st ex.s. c 193 § 1; 1971 ex.s. c 170 § 2; 1965 c 8 § 43.09.310; prior: 1947 c 114 § 1; 1941 c 196 § 3; Rem. Supp. 1947 § 11018-3.]

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

**Severability—1971 ex.s. c 170:** See note following RCW 43.09.050.  
*Reports of post-audits:* RCW 43.88.160.

**43.09.330 Audit disclosing malfeasance or nonfeasance—Action by attorney general.** If any audit of a state agency discloses malfeasance, misfeasance, or nonfeasance in office on the part of any public officer or employee, within thirty days from the receipt of his or her copy of the report, the attorney general shall institute and prosecute in the proper county, appropriate legal action to carry into effect the findings of such post-audit. It shall be unlawful for any state agency or the responsible head thereof, to make a settlement or compromise of any claim arising out of such malfeasance, misfeasance, or nonfeasance, or any action commenced therefor, or for any court to enter upon any compromise or settlement of such action without the written approval and consent of the attorney general and the state auditor. [1995 c 301 § 23; 1965 c 8 § 43.09.330. Prior: 1941 c 196 § 5; Rem. Supp. 1941 § 11018-5.]

**43.09.340 Post-audit of books of state auditor.** The governor shall, at least every two years, provide for a post-audit of the books, accounts, and records of the state auditor, and the funds under his or her control, to be made either by independent qualified public accountants or the director of financial management, as he or she may determine. The expense of making such audit shall be paid from appropriations made therefor from the general fund. [1995 c 301 § 24; 1979 c 151 § 93; 1965 c 8 § 43.09.340. Prior: 1947 c 114 § 2; 1941 c 196 § 6; Rem. Supp. 1947 § 11018-6.]

**43.09.410 Auditing services revolving account—Created—Purpose.** An auditing services revolving account is hereby created in the state treasury for the purpose of a centralized funding, accounting, and distribution of the actual costs of the audits provided to state agencies by the state auditor. [1995 c 301 § 25; 1981 c 336 § 1.]

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

**43.09.412 Auditing services revolving account—Transfers and payments into account—Allotments to state auditor.** The amounts to be disbursed from the auditing services revolving account shall be paid from funds appropriated to any and all state agencies for auditing services or administrative expenses. State agencies operating in whole or in part from nonappropriated funds shall pay into the auditing services revolving account such funds as will fully reimburse funds appropriated to the state auditor for auditing services provided.

The director of financial management shall allot all such funds to the state auditor for the operation of his or her office, pursuant to appropriation, in the same manner as appropriated funds are allocated to other state agencies headed by elected officers under chapter 43.88 RCW. [1995 c 301 § 26; 1987 c 165 § 1; 1981 c 336 § 2.]

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

**43.09.414 Auditing services revolving account—Disbursements.** Disbursements from the auditing services revolving account shall be made pursuant to vouchers executed by the state auditor or his or her designee in accordance with RCW 43.09.412. [1995 c 301 § 27; 1981 c 336 § 3.]

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

**43.09.416 Auditing services revolving account—Allocation of costs to funds, accounts, and agencies—Billing rate.** The state auditor shall keep such records as are necessary to facilitate proper allocation of costs to funds and accounts and state agencies served and the director of financial management shall prescribe appropriate accounting procedures to accurately allocate costs to funds and accounts and state agencies served. The billing rate shall be established based on costs incurred in the prior biennium and anticipated costs in the new biennium. Those expenses related to training, maintenance of working capital including reserves for late and uncollectible accounts, and necessary adjustments to billings, shall be considered as expenses of auditing public accounts. Working capital shall not exceed five percent of the auditing services revolving account appropriation. [1995 c 301 § 28; 1987 c 165 § 2; 1981 c 336 § 4.]

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

**43.09.418 Auditing services revolving account—Direct payments from state agencies.** In cases where there are unanticipated demands for auditing services or where there are insufficient funds on hand or available for payment through the auditing services revolving account or in other cases of necessity, the state auditor may request payment for auditing services directly from state agencies for whom the services are performed to the extent that revenues or other funds are available. Upon approval by the director of financial management the state agency shall make the requested payment. The payment may be made on either an advance or reimbursable basis as approved by the director of financial management. [1995 c 301 § 29; 1981 c 336 § 5.]

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

## Chapter 43.10 ATTORNEY GENERAL

### Sections

43.10.101 Report to legislative transportation committee—Tort claims.

**43.10.101 Report to legislative transportation committee—Tort claims.** The attorney general shall prepare annually a report to the legislative transportation committee comprising a comprehensive summary of all cases

involving tort claims against the department of transportation involving highways which were concluded and closed in the previous calendar year. The report shall include for each case closed:

- (1) A summary of the factual background of the case;
- (2) Identification of the attorneys representing the state and the opposing parties;
- (3) A synopsis of the legal theories asserted and the defenses presented;
- (4) Whether the case was tried, settled, or dismissed, and in whose favor;
- (5) The approximate number of attorney hours expended by the state on the case, together with the corresponding dollar amount billed therefore; and

(6) Such other matters relating to the case as the attorney general deems relevant or appropriate, especially including any comments or recommendations for changes in statute law or agency practice that might effectively reduce the exposure of the state to such tort claims. [1995 2nd sp.s. c 14 § 527.]

**Effective dates—1995 2nd sp.s. c 14:** See note following RCW 43.105.017.

**Severability—1995 2nd sp.s. c 14:** See note following RCW 43.105.017.

## Chapter 43.12 COMMISSIONER OF PUBLIC LANDS

### Sections

43.12.045 Rule-making authority.  
43.12.055 Enforcement in accordance with RCW 43.05.100 and 43.05.110.

**43.12.045 Rule-making authority.** For rules adopted after July 23, 1995, the commissioner of public lands may not rely solely on a section of law stating a statute's intent or purpose, on the enabling provisions of the statute establishing the agency, or on any combination of such provisions, for statutory authority to adopt any rule. [1995 c 403 § 101.]

**Findings—Short title—Intent—1995 c 403:** See note following RCW 34.05.328.

**Part headings not law—Severability—1995 c 403:** See RCW 43.05.903 and 43.05.904.

**43.12.055 Enforcement in accordance with RCW 43.05.100 and 43.05.110.** Enforcement action taken after July 23, 1995, by the commissioner of public lands shall be in accordance with RCW 43.05.100 and 43.05.110. [1995 c 403 § 622.]

**Findings—Short title—Intent—1995 c 403:** See note following RCW 34.05.328.

**Part headings not law—Severability—1995 c 403:** See RCW 43.05.903 and 43.05.904.

## Chapter 43.17 ADMINISTRATIVE DEPARTMENTS AND AGENCIES—GENERAL PROVISIONS

## Sections

- 43.17.020 Chief executive officers—Appointment. (*Effective July 1, 1996, if Referendum Bill No. 45 is approved by the electorate at the November 1995 general election.*)
- 43.17.065 Expeditious exercise of power to issue permits, licenses, certifications, contracts, and grants—Cooperation.
- 43.17.215 Purchase of works of art—Limitation for department of corrections buildings—Report to legislature—Expiration of section.
- 43.17.260 through 43.17.300 Repealed.
- 43.17.350 Health-related state agencies—Professional health services—Fee schedules.

**43.17.020 Chief executive officers—Appointment.** (*Effective July 1, 1996, if Referendum Bill No. 45 is approved by the electorate at the November 1995 general election.*) There shall be a chief executive officer of each department to be known as: (1) The secretary of social and health services, (2) the director of ecology, (3) the director of labor and industries, (4) the director of agriculture, (5) the director of fish and wildlife, (6) the secretary of transportation, (7) the director of licensing, (8) the director of general administration, (9) the director of community, trade, and economic development, (10) the director of veterans affairs, (11) the director of revenue, (12) the director of retirement systems, (13) the secretary of corrections, and (14) the secretary of health, and (15) the director of financial institutions.

Such officers, except the secretary of transportation and the director of fish and wildlife, shall be appointed by the governor, with the consent of the senate, and hold office at the pleasure of the governor. The secretary of transportation shall be appointed by the transportation commission as prescribed by RCW 47.01.041. The director of fish and wildlife shall be appointed by the fish and wildlife commission as prescribed by RCW 77.04.055. [1995 1st sp.s. c 2 § 2. Prior: 1993 sp.s. c 2 § 17; 1993 c 472 § 18; 1993 c 280 § 19; 1989 1st ex.s. c 9 § 811; 1987 c 506 § 3; 1985 c 466 § 48; 1984 c 125 § 13; 1981 c 136 § 62; 1979 c 10 § 2; prior: 1977 ex.s. c 334 § 6; 1977 ex.s. c 151 § 21; 1977 c 7 § 2; prior: 1975-'76 2nd ex.s. c 115 § 20; 1975-'76 2nd ex.s. c 105 § 25; 1971 c 11 § 2; prior: 1970 ex.s. c 62 § 29; 1970 ex.s. c 18 § 51; 1969 c 32 § 2; prior: 1967 ex.s. c 26 § 13; 1967 c 242 § 13; 1965 c 156 § 21; 1965 c 8 § 43.17.020; prior: 1957 c 215 § 20; 1955 c 285 § 3; 1953 c 174 § 2; prior: (i) 1935 c 176 § 2; 1933 c 3 § 2; 1929 c 115 § 2; 1921 c 7 § 3; RRS § 10761. (ii) 1937 c 111 § 1, part; RRS § 10760. (iii) 1945 c 267 § 1, part; Rem. Supp. 1945 § 10459-1, part.]

**Effective date—1995 1st sp.s. c 2:** "Sections 2 through 43 of this act shall take effect July 1, 1996." [1995 1st sp.s. c 2 § 45.]

**Referral to electorate—1995 1st sp.s. c 2:** See note following RCW 75.08.013.

**Effective date—1993 sp.s. c 2 §§ 1-6, 8-59, and 61-79:** See RCW 43.300.900.

**Severability—1993 sp.s. c 2:** See RCW 43.300.901.

**Effective date—Implementation—1993 c 472:** See RCW 43.320.900 and 43.320.901.

**Effective date—Severability—1993 c 280:** See RCW 43.330.902 and 43.330.903.

**Effective date—Severability—1989 1st ex.s. c 9:** See RCW 43.70.910 and 43.70.920.

**Legislative findings and intent—1987 c 506:** See note following RCW 77.04.020.

**Effective date—Severability—1985 c 466:** See notes following RCW 43.31.085.

**Severability—Headings—Effective date—1984 c 125:** See RCW 43.63A.901 through 43.63A.903.

**Effective date—1981 c 136:** See RCW 72.09.900.

**Effective date—1977 ex.s. c 334:** See note following RCW 46.01.011.

**Federal requirements—Severability—1977 ex.s. c 151:** See RCW 47.98.070 and 47.98.080.

**Severability—1975-'76 2nd ex.s. c 105:** See note following RCW 41.04.270.

**Effective date—Severability—1970 ex.s. c 18:** See notes following RCW 43.20A.010.

**Secretary of transportation appointed by transportation commission:** RCW 47.01.041.

**43.17.065 Expeditious exercise of power to issue permits, licenses, certifications, contracts, and grants—Cooperation.** (1) Where power is vested in a department to issue permits, licenses, certifications, contracts, grants, or otherwise authorize action on the part of individuals, businesses, local governments, or public or private organizations, such power shall be exercised in an expeditious manner. All departments with such power shall cooperate with officials of the business assistance center of the department of community, trade, and economic development, and any other state officials, when such officials request timely action on the part of the issuing department.

(2) After August 1, 1991, any agency to which subsection (1) of this section applies shall, with regard to any permits or other actions that are necessary for economic development in rural natural resources impact areas, as defined in RCW 43.31.601, respond to any completed application within forty-five days of its receipt; any response, at a minimum, shall include:

(a) The specific steps that the applicant needs to take in order to have the application approved; and

(b) The assistance that will be made available to the applicant by the agency to expedite the application process.

(3) The agency rural community assistance task force established in RCW 43.31.621 shall oversee implementation of this section.

(4) Each agency shall define what constitutes a completed application and make this definition available to applicants. [1995 c 226 § 24; 1993 c 280 § 37; 1991 c 314 § 28; 1990 1st ex.s. c 17 § 77.]

**Sunset Act application:** See note following RCW 43.31.601.

**Severability—Conflict with federal requirements—Effective date—1995 c 226:** See notes following RCW 43.31.601.

**Effective date—Severability—1993 c 280:** See RCW 43.330.902 and 43.330.903.

**Findings—1991 c 314:** See note following RCW 43.31.601.

**Intent—1990 1st ex.s. c 17:** See note following RCW 43.210.010.

**Severability—Part, section headings not law—1990 1st ex.s. c 17:** See RCW 36.70A.900 and 36.70A.901.

**43.17.215 Purchase of works of art—Limitation for department of corrections buildings—Report to legislature—Expiration of section.** (1) Through June 30, 1997, moneys shall not be appropriated or expended for acquisition of works of art under this chapter to be placed integral to, attached to, or detached within or outside a building or structure owned or operated by the department of corrections



if the building or structure is not in existence or under construction as of June 15, 1995.

(2) The Washington state arts commission and the department of corrections shall prepare and deliver a report to the legislature by July 1, 1996, on the feasibility of creating class I or class II correctional industries for the creation of works of art created by resident Washington state artists and funded under this chapter for placement integral to, attached to, or detached within or outside buildings and structures owned or operated by the department of corrections.

(3) The report shall include, but not be limited to, a review of and recommendations on: (a) Whether to provide preferences or incentives to units of government other than the state to acquire works of art created by artists and produced in the department of corrections; (b) the size of a market for public and private sales of art produced in the department of corrections; (c) the appropriate process for selection of works of art to be produced in the department of corrections; and (d) the appropriate work and education skills that would be achieved by inmates engaged in the production of art.

(4) This section expires June 30, 1997. [1995 1st sp.s. c 19 § 24.]

**Findings—Purpose—Short title—Severability—Effective date—** 1995 1st sp.s. c 19: See notes following RCW 72.09.450.

**43.17.260 through 43.17.300 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**43.17.350 Health-related state agencies—Professional health services—Fee schedules.** For the purpose of accurately describing professional health services purchased by the state, health-related state agencies may develop fee schedules based on billing codes and service descriptions published by the American medical association or the United States federal health care financing administration, or develop agency unique codes and service descriptions. [1995 1st sp.s. c 6 § 20.]

**Effective date—**1995 1st sp.s. c 6: See note following RCW 28A.400.410.

## Chapter 43.19

### DEPARTMENT OF GENERAL ADMINISTRATION

#### Sections

- 43.19.190 State purchasing and material control director—Powers and duties.
- 43.19.1904 Repealed.
- 43.19.1905 State-wide policy for purchasing and material control—Establishment—Functions covered.
- 43.19.19052 Initial purchasing and material control policy—Reports—Legislative intent—Agency cooperation.
- 43.19.1906 Competitive bids—Sealed bids, exceptions.
- 43.19.1919 Surplus personal property—Sale, exchange—Authority—Procedure—Restrictions—Exemption. (*Expires June 30, 1997.*)
- 43.19.1920 Surplus personal property—Donation to emergency shelters.
- 43.19.19201 Affordable housing—Inventory of suitable property.
- 43.19.1937 Acceptance of benefits, gifts, etc., prohibited—Penalties.
- 43.19.640 through 43.19.665 Repealed.

**43.19.190 State purchasing and material control director—Powers and duties.** The director of general administration, through the state purchasing and material control director, shall:

(1) Establish and staff such administrative organizational units within the division of purchasing as may be necessary for effective administration of the provisions of RCW 43.19.190 through 43.19.1939;

(2) Purchase all material, supplies, services, and equipment needed for the support, maintenance, and use of all state institutions, colleges, community colleges, technical colleges, college districts, and universities, the offices of the elective state officers, the supreme court, the court of appeals, the administrative and other departments of state government, and the offices of all appointive officers of the state: PROVIDED, That the provisions of RCW 43.19.190 through 43.19.1937 do not apply in any manner to the operation of the state legislature except as requested by the legislature: PROVIDED, That any agency may purchase material, supplies, services, and equipment for which the agency has notified the purchasing and material control director that it is more cost-effective for the agency to make the purchase directly from the vendor: PROVIDED, That primary authority for the purchase of specialized equipment, instructional, and research material for their own use shall rest with the colleges, community colleges, and universities: PROVIDED FURTHER, That universities operating hospitals and the state purchasing and material control director, as the agent for state hospitals as defined in RCW 72.23.010, and for health care programs provided in state correctional institutions as defined in RCW 72.65.010(3) and veterans' institutions as defined in RCW 72.36.010 and 72.36.070, may make purchases for hospital operation by participating in contracts for materials, supplies, and equipment entered into by nonprofit cooperative hospital group purchasing organizations: PROVIDED FURTHER, That primary authority for the purchase of materials, supplies, and equipment for resale to other than public agencies shall rest with the state agency concerned: PROVIDED FURTHER, That authority to purchase services as included herein does not apply to personal services as defined in chapter 39.29 RCW, unless such organization specifically requests assistance from the division of purchasing in obtaining personal services and resources are available within the division to provide such assistance: PROVIDED FURTHER, That the authority for the purchase of insurance and bonds shall rest with the risk manager under RCW 43.19.1935: PROVIDED FURTHER, That, except for the authority of the risk manager to purchase insurance and bonds, the director is not required to provide purchasing services for institutions of higher education that choose to exercise independent purchasing authority under RCW 28B.10.029;

(3) Have authority to delegate to state agencies authorization to purchase or sell, which authorization shall specify restrictions as to dollar amount or to specific types of material, equipment, services, and supplies. Acceptance of the purchasing authorization by a state agency does not relieve such agency from conformance with other sections of RCW 43.19.190 through 43.19.1939, or from policies established by the director. Also, delegation of such authorization to a state agency, including an educational

institution to which this section applies, to purchase or sell material, equipment, services, and supplies shall not be granted, or otherwise continued under a previous authorization, if such agency is not in substantial compliance with overall state purchasing and material control policies as established herein;

(4) Contract for the testing of material, supplies, and equipment with public and private agencies as necessary and advisable to protect the interests of the state;

(5) Prescribe the manner of inspecting all deliveries of supplies, materials, and equipment purchased through the division;

(6) Prescribe the manner in which supplies, materials, and equipment purchased through the division shall be delivered, stored, and distributed;

(7) Provide for the maintenance of a catalogue library, manufacturers' and wholesalers' lists, and current market information;

(8) Provide for a commodity classification system and may, in addition, provide for the adoption of standard specifications;

(9) Provide for the maintenance of inventory records of supplies, materials, and other property;

(10) Prepare rules and regulations governing the relationship and procedures between the division of purchasing and state agencies and vendors;

(11) Publish procedures and guidelines for compliance by all state agencies, including those educational institutions to which this section applies, which implement overall state purchasing and material control policies;

(12) Advise state agencies, including educational institutions, regarding compliance with established purchasing and material control policies under existing statutes. [1995 c 269 § 1401; 1994 c 138 § 1; 1993 sp.s. c 10 § 2; 1993 c 379 § 102; 1991 c 238 § 135. Prior: 1987 c 414 § 10; 1987 c 70 § 1; 1980 c 103 § 1; 1979 c 88 § 1; 1977 ex.s. c 270 § 4; 1975-'76 2nd ex.s. c 21 § 2; 1971 c 81 § 110; 1969 c 32 § 3; prior: 1967 ex.s. c 104 § 2; 1967 ex.s. c 8 § 51; 1965 c 8 § 43.19.190; prior: 1959 c 178 § 1; 1957 c 187 § 1; 1955 c 285 § 12; prior: (i) 1935 c 176 § 21; RRS § 10786-20. (ii) 1921 c 7 § 42; RRS § 10800. (iii) 1955 c 285 § 12; 1921 c 7 § 37, part; RRS § 10795, part.]

**Effective date—1995 c 269:** See note following RCW 13.40.025.

**Part headings not law—Severability—1995 c 269:** See notes following RCW 13.40.005.

**Purpose—1993 sp.s. c 10:** "The legislature recognizes the need for state agencies to maximize the buying power of increasingly scarce resources for the purchase of goods and services. The legislature seeks to provide state agencies with the ability to purchase goods and services at the lowest cost." [1993 sp.s. c 10 § 1.]

**Intent—Severability—Effective date—1993 c 379:** See notes following RCW 28B.10.029.

**Effective dates—Severability—1991 c 238:** See RCW 28B.50.917 and 28B.50.918.

**Severability—1987 c 414:** See RCW 39.29.900.

**Severability—1980 c 103:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1980 c 103 § 3.]

**Construction—1977 ex.s. c 270:** See RCW 43.19.19364.

**Severability—1975-'76 2nd ex.s. c 21:** See note following RCW 43.19.180.

*Federal surplus property: Chapter 39.32 RCW.*

*Purchase of blind made products and services: Chapter 19.06 RCW.*

**43.19.1904 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**43.19.1905 State-wide policy for purchasing and material control—Establishment—Functions covered.** The director of general administration shall establish overall state policy for compliance by all state agencies, including educational institutions, regarding the following purchasing and material control functions:

(1) Development of a state commodity coding system, including common stock numbers for items maintained in stores for reissue;

(2) Determination where consolidations, closures, or additions of stores operated by state agencies and educational institutions should be initiated;

(3) Institution of standard criteria for determination of when and where an item in the state supply system should be stocked;

(4) Establishment of stock levels to be maintained in state stores, and formulation of standards for replenishment of stock;

(5) Formulation of an overall distribution and redistribution system for stock items which establishes sources of supply support for all agencies, including interagency supply support;

(6) Determination of what function data processing equipment, including remote terminals, shall perform in state-wide purchasing and material control for improvement of service and promotion of economy;

(7) Standardization of records and forms used state-wide for supply system activities involving purchasing, receiving, inspecting, storing, requisitioning, and issuing functions, including a standard notification form for state agencies to report cost-effective direct purchases, which shall at least identify the price of the goods as available through the division of purchasing, the price of the goods as available from the alternative source, the total savings, and the signature of the notifying agency's director or the director's designee;

(8) Screening of supplies, material, and equipment excess to the requirements of one agency for overall state need before sale as surplus;

(9) Establishment of warehouse operation and storage standards to achieve uniform, effective, and economical stores operations;

(10) Establishment of time limit standards for the issuing of material in store and for processing requisitions requiring purchase;

(11) Formulation of criteria for determining when centralized rather than decentralized purchasing shall be used to obtain maximum benefit of volume buying of identical or similar items, including procurement from federal supply sources;

(12) Development of criteria for use of leased, rather than state owned, warehouse space based on relative cost and accessibility;

(13) Institution of standard criteria for purchase and placement of state furnished materials, carpeting, furniture,

fixtures, and nonfixed equipment, in newly constructed or renovated state buildings;

(14) Determination of how transportation costs incurred by the state for materials, supplies, services, and equipment can be reduced by improved freight and traffic coordination and control;

(15) Establishment of a formal certification program for state employees who are authorized to perform purchasing functions as agents for the state under the provisions of chapter 43.19 RCW;

(16) Development of performance measures for the reduction of total overall expense for material, supplies, equipment, and services used each biennium by the state;

(17) Establishment of a standard system for all state organizations to record and report dollar savings and cost avoidance which are attributable to the establishment and implementation of improved purchasing and material control procedures;

(18) Development of procedures for mutual and voluntary cooperation between state agencies, including educational institutions, and political subdivisions for exchange of purchasing and material control services;

(19) Resolution of all other purchasing and material matters which require the establishment of overall state-wide policy for effective and economical supply management;

(20) Development of guidelines and criteria for the purchase of vehicles, alternate vehicle fuels and systems, equipment, and materials that reduce overall energy-related costs and energy use by the state, including the requirement that new passenger vehicles purchased by the state meet the minimum standards for passenger automobile fuel economy established by the United States secretary of transportation pursuant to the energy policy and conservation act (15 U.S.C. Sec. 2002). [1995 c 269 § 1402; 1993 sp.s. c 10 § 3; 1987 c 504 § 16; 1980 c 172 § 7; 1975-'76 2nd ex.s. c 21 § 5.]

**Effective date—1995 c 269:** See note following RCW 13.40.025.

**Part headings not law—Severability—1995 c 269:** See notes following RCW 13.40.005.

**Notification forms—1993 sp.s. c 10:** "The department of general administration shall forward copies of notification forms required under RCW 43.19.1905(7) to the office of financial management. By September 1, 1994, the department of general administration shall report to the house of representatives fiscal committees and senate ways and means committee on the volume and type of purchases made and the aggregate savings identified by state agencies making purchases as authorized by this act for fiscal year 1994." [1993 sp.s. c 10 § 4.]

**Purpose—1993 sp.s. c 10:** See note following RCW 43.19.190.

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

**Severability—1975-'76 2nd ex.s. c 21:** See note following RCW 43.19.180.

**Energy conservation—Legislative finding—Declaration—Purpose:** RCW 43.19.668 and 43.19.669.

**43.19.19052 Initial purchasing and material control policy—Reports—Legislative intent—Agency cooperation.** Initial policy determinations for the functions described in RCW 43.19.1905 shall be developed and published within the 1975-77 biennium by the director for guidance and compliance by all state agencies, including educational institutions, involved in purchasing and material control. Modifications to these initial supply management policies

established during the 1975-77 biennium shall be instituted by the director in future biennia as required to maintain an efficient and up-to-date state supply management system. The director shall transmit to the governor and the legislature in June 1976 and June 1977 a progress report which indicates the degree of accomplishment of each of these assigned duties, and which summarizes specific achievements obtained in increased effectiveness and dollar savings or cost avoidance within the overall state purchasing and material control system. The second progress report in June 1977 shall include a comprehensive supply management plan which includes the recommended organization of a state-wide purchasing and material control system and development of an orderly schedule for implementing such recommendation. In the interim between these annual progress reports, the director shall furnish periodic reports to the office of financial management for review of progress being accomplished in achieving increased efficiencies and dollar savings or cost avoidance.

It is the intention of the legislature that measurable improvements in the effectiveness and economy of supply management in state government shall be achieved during the 1975-77 biennium, and each biennium thereafter. All agencies, departments, offices, divisions, boards, and commissions and educational, correctional, and other types of institutions are required to cooperate with and support the development and implementation of improved efficiency and economy in purchasing and material control. To effectuate this legislative intention, the director, through the state purchasing and material control director, shall have the authority to direct and require the submittal of data from all state organizations concerning purchasing and material control matters. [1995 c 269 § 1403; 1986 c 158 § 9; 1979 c 151 § 98; 1975-'76 2nd ex.s. c 21 § 6.]

**Effective date—1995 c 269:** See note following RCW 13.40.025.

**Part headings not law—Severability—1995 c 269:** See notes following RCW 13.40.005.

**Severability—1975-'76 2nd ex.s. c 21:** See note following RCW 43.19.180.

**43.19.1906 Competitive bids—Sealed bids, exceptions.** Insofar as practicable, all purchases and sales shall be based on competitive bids, and a formal sealed bid procedure shall be used as standard procedure for all purchases and contracts for purchases and sales executed by the state purchasing and material control director and under the powers granted by RCW 43.19.190 through 43.19.1939. This requirement also applies to purchases and contracts for purchases and sales executed by agencies, including educational institutions, under delegated authority granted in accordance with provisions of RCW 43.19.190 or under RCW 28B.10.029. However, formal sealed bidding is not necessary for:

(1) Emergency purchases made pursuant to RCW 43.19.200 if the sealed bidding procedure would prevent or hinder the emergency from being met appropriately;

(2) Purchases not exceeding thirty-five thousand dollars, or subsequent limits as calculated by the office of financial management: PROVIDED, That the state director of general administration shall establish procedures to assure that purchases made by or on behalf of the various state agencies

shall not be made so as to avoid the thirty-five thousand dollar bid limitation, or subsequent bid limitations as calculated by the office of financial management: PROVIDED FURTHER, That the state purchasing and material control director is authorized to reduce the formal sealed bid limits of thirty-five thousand dollars, or subsequent limits as calculated by the office of financial management, to a lower dollar amount for purchases by individual state agencies if considered necessary to maintain full disclosure of competitive procurement or otherwise to achieve overall state efficiency and economy in purchasing and material control. Quotations from four hundred dollars to thirty-five thousand dollars, or subsequent limits as calculated by the office of financial management, shall be secured from at least three vendors to assure establishment of a competitive price and may be obtained by telephone or written quotations, or both. The agency shall invite at least one quotation each from a certified minority and a certified women-owned vendor who shall otherwise qualify to perform such work. Immediately after the award is made, the bid quotations obtained shall be recorded and open to public inspection and shall be available by telephone inquiry. A record of competition for all such purchases from four hundred dollars to thirty-five thousand dollars, or subsequent limits as calculated by the office of financial management, shall be documented for audit purposes. Purchases up to four hundred dollars may be made without competitive bids based on buyer experience and knowledge of the market in achieving maximum quality at minimum cost: PROVIDED, That this four hundred dollar direct buy limit without competitive bids may be increased incrementally as required to a maximum of eight hundred dollars, if warranted by increases in purchasing costs due to inflationary trends;

(3) Purchases which are clearly and legitimately limited to a single source of supply and purchases involving special facilities, services, or market conditions, in which instances the purchase price may be best established by direct negotiation;

(4) Purchases of insurance and bonds by the risk management office under RCW 43.19.1935;

(5) Purchases and contracts for vocational rehabilitation clients of the department of social and health services: PROVIDED, That this exemption is effective only when the state purchasing and material control director, after consultation with the director of the division of vocational rehabilitation and appropriate department of social and health services procurement personnel, declares that such purchases may be best executed through direct negotiation with one or more suppliers in order to expeditiously meet the special needs of the state's vocational rehabilitation clients;

(6) Purchases by universities for hospital operation or biomedical teaching or research purposes and by the state purchasing and material control director, as the agent for state hospitals as defined in RCW 72.23.010, and for health care programs provided in state correctional institutions as defined in RCW 72.65.010(3) and veterans' institutions as defined in RCW 72.36.010 and 72.36.070, made by participating in contracts for materials, supplies, and equipment entered into by nonprofit cooperative hospital group purchasing organizations;

(7) Purchases by institutions of higher education not exceeding thirty-five thousand dollars: PROVIDED, That

for purchases between two thousand five hundred dollars and thirty-five thousand dollars quotations shall be secured from at least three vendors to assure establishment of a competitive price and may be obtained by telephone or written quotations, or both. For purchases between two thousand five hundred dollars and thirty-five thousand dollars, each institution of higher education shall invite at least one quotation each from a certified minority and a certified women-owned vendor who shall otherwise qualify to perform such work. A record of competition for all such purchases made from two thousand five hundred to thirty-five thousand dollars shall be documented for audit purposes; and

(8) Beginning on July 1, 1995, and on July 1 of each succeeding odd-numbered year, the dollar limits specified in this section shall be adjusted as follows: The office of financial management shall calculate such limits by adjusting the previous biennium's limits by the appropriate federal inflationary index reflecting the rate of inflation for the previous biennium. Such amounts shall be rounded to the nearest one hundred dollars. [1995 c 269 § 1404; 1994 c 300 § 1; 1993 c 379 § 103; 1992 c 85 § 1. Prior: 1987 c 81 § 1; 1987 c 70 § 2; 1985 c 342 § 1; 1984 c 102 § 3; 1983 c 141 § 1; 1980 c 103 § 2; 1979 ex.s. c 14 § 1; 1977 ex.s. c 270 § 5; 1975-'76 2nd ex.s. c 21 § 8; 1965 c 8 § 43.19.1906; prior: 1959 c 178 § 4.]

**Effective date—1995 c 269:** See note following RCW 13.40.025.

**Part headings not law—Severability—1995 c 269:** See notes following RCW 13.40.005.

**Intent—Severability—Effective date—1993 c 379:** See notes following RCW 28B.10.029.

**Findings—1984 c 102:** See note following RCW 43.19.200.

**Severability—1980 c 103:** See note following RCW 43.19.190.

**Construction—1977 ex.s. c 270:** See RCW 43.19.19364.

**Severability—1975-'76 2nd ex.s. c 21:** See note following RCW 43.19.180.

**43.19.1919 Surplus personal property—Sale, exchange—Authority—Procedure—Restrictions—Exemption. (Expires June 30, 1997.)** Except as provided in RCW 43.19.1920, 43.105.017, and section 507, chapter 14, Laws of 1995 2nd sp. sess., the division of purchasing shall sell or exchange personal property belonging to the state for which the agency, office, department, or educational institution having custody thereof has no further use, at public or private sale, and cause the moneys realized from the sale of any such property to be paid into the fund from which such property was purchased or, if such fund no longer exists, into the state general fund: PROVIDED, Sales of capital assets may be made by the division of purchasing and a credit established in central stores for future purchases of capital items as provided for in RCW 43.19.190 through 43.19.1939, as now or hereafter amended: PROVIDED FURTHER, That personal property, excess to a state agency, including educational institutions, shall not be sold or disposed of prior to reasonable efforts by the division of purchasing to determine if other state agencies have a requirement for such personal property. Such determination shall follow sufficient notice to all state agencies to allow adequate time for them to make their needs known. Surplus items may be disposed of without prior notification to state agencies if it is determined by the director of general

administration to be in the best interest of the state. The division of purchasing shall maintain a record of disposed surplus property, including date and method of disposal, identity of any recipient, and approximate value of the property: PROVIDED, FURTHER, That this section shall not apply to personal property acquired by a state organization under federal grants and contracts if in conflict with special title provisions contained in such grants or contracts.

This section does not apply to property under RCW 27.53.045. [1995 2nd sp.s. c 14 § 513; 1991 c 216 § 2; 1989 c 144 § 1; 1988 c 124 § 8; 1975-'76 2nd ex.s. c 21 § 11; 1965 c 8 § 43.19.1919. Prior: 1959 c 178 § 10.]

**Expiration date—1995 2nd sp.s. c 14 §§ 511-523, 528-533:** See note following RCW 43.105.017.

**Effective dates—1995 2nd sp.s. c 14:** See note following RCW 43.105.017.

**Severability—1995 2nd sp.s. c 14:** See note following RCW 43.105.017.

**Findings—1991 c 216:** "The legislature finds that (1) there are an increasing number of persons who are unable to meet their basic needs relating to shelter, clothing, and nourishment; (2) there are many nonprofit organizations and units of local government that provide shelter and other assistance to these persons but that these organizations are finding it difficult to meet the increasing demand for such assistance; and (3) the numerous agencies and institutions of state government generate a significant quantity of surplus, tangible personal property that would be of great assistance to homeless persons throughout the state. Therefore, the legislature finds that it is in the best interest of the state to provide for the donation of state-owned, surplus, tangible property to assist the homeless in meeting their basic needs." [1991 c 216 § 1.]

**Severability—Intent—Application—1988 c 124:** See RCW 27.53.901 and notes following RCW 27.53.030.

**Severability—1975-'76 2nd ex.s. c 21:** See note following RCW 43.19.180.

**43.19.1920 Surplus personal property—Donation to emergency shelters.** The division of purchasing may donate state-owned, surplus, tangible personal property to shelters that are: Participants in the department of community, trade, and economic development's emergency shelter assistance program; and operated by nonprofit organizations or units of local government providing emergency or transitional housing for homeless persons. A donation may be made only if all of the following conditions have been met:

(1) The division of purchasing has made reasonable efforts to determine if any state agency has a requirement for such personal property and no such agency has been identified. Such determination shall follow sufficient notice to all state agencies to allow adequate time for them to make their needs known;

(2) The agency owning the property has authorized the division of purchasing to donate the property in accordance with this section;

(3) The nature and quantity of the property in question is directly germane to the needs of the homeless persons served by the shelter and the purpose for which the shelter exists and the shelter agrees to use the property for such needs and purposes; and

(4) The director of general administration has determined that the donation of such property is in the best interest of the state. [1995 c 399 § 63; 1991 c 216 § 3.]

**Findings—1991 c 216:** See note following RCW 43.19.1919.

*Emergency shelter assistance program: Chapter 365-120 WAC.*

**43.19.19201 Affordable housing—Inventory of suitable property.** (1) The department of general administration shall identify and catalog real property that is no longer required for department purposes and is suitable for the development of affordable housing for very low-income, low-income, and moderate-income households as defined in RCW 43.63A.510. The inventory shall include the location, approximate size, and current zoning classification of the property. The department of general administration shall provide a copy of the inventory to the department of community, trade, and economic development by November 1, 1993, and every November 1 thereafter.

(2) By November 1 of each year, beginning in 1994, the department of general administration shall purge the inventory of real property of sites that are no longer available for the development of affordable housing. The department shall include an updated listing of real property that has become available since the last update. As used in this section, "real property" means buildings, land, or buildings and land. [1995 c 399 § 64; 1993 c 461 § 7.]

**Finding—1993 c 461:** See note following RCW 43.63A.510.

**43.19.1937 Acceptance of benefits, gifts, etc., prohibited—Penalties.** No state employee whose duties performed for the state include:

(1) Advising on or drawing specifications for supplies, equipment, commodities, or services;

(2) Suggesting or determining vendors to be placed upon a bid list;

(3) Drawing requisitions for supplies, equipment, commodities, or services;

(4) Evaluating specifications or bids and suggesting or determining awards; or

(5) Accepting the receipt of supplies, equipment, and commodities or approving the performance of services or contracts;

shall accept or receive, directly or indirectly, a personal financial benefit, or accept any gift, token, membership, or service, as a result of a purchase entered into by the state, from any person, firm, or corporation engaged in the sale, lease, or rental of property, material, supplies, equipment, commodities, or services to the state of Washington.

Violation of this section shall be considered a malfeasance and may cause loss of position, and the violator shall be liable to the state upon his official bond for all damages sustained by the state. Contracts involved may be canceled at the option of the state. Penalties provided in this section are not exclusive, and shall not bar action under any other statute penalizing the same act or omission. [1995 c 269 § 1405; 1975-'76 2nd ex.s. c 21 § 13; 1965 c 8 § 43.19.1937. Prior: 1959 c 178 § 19.]

**Effective date—1995 c 269:** See note following RCW 13.40.025.

**Part headings not law—Severability—1995 c 269:** See notes following RCW 13.40.005.

**Severability—1975-'76 2nd ex.s. c 21:** See note following RCW 43.19.180.

*Public officers*

*code of ethics: Chapters 42.23 and 42.52 RCW.*

*misconduct: Chapter 42.20 RCW.*

**43.19.640 through 43.19.665 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

### Chapter 43.19A

#### RECYCLED PRODUCT PROCUREMENT

##### Sections

43.19A.020 Recycled content standards.

**43.19A.020 Recycled content standards.** (1) The director shall adopt standards specifying the minimum content of recycled materials in products or product categories. The standards shall:

(a) Be consistent with the USEPA product standards, unless the director finds that a different standard would significantly increase recycled product availability or competition;

(b) Consider the standards of other states, to encourage consistency of manufacturing standards;

(c) Consider regional product manufacturing capability;

(d) Address specific products or classes of products; and

(e) Consider postconsumer waste content and the recyclability of the product.

(2) The director shall consult with the department of ecology prior to adopting the recycled content standards.

(3) The director shall adopt recycled content standards for at least the following products by the dates indicated:

(a) By July 1, 1992:

(i) Paper and paper products;

(ii) Organic recovered materials; and

(iii) Latex paint products;

(b) By July 1, 1993:

(i) Products for lower value uses containing recycled plastics;

(ii) Retread and remanufactured tires;

(iii) Lubricating oils;

(iv) Automotive batteries; and

(v) Building insulation.

(4) The standards required by this section shall be applied to recycled product purchasing by the department and other state agencies. The standards may be adopted or applied by any other local government in product procurement. The standards shall provide for exceptions under appropriate circumstances to allow purchases of recycled products that do not meet the minimum content requirements of the standards. [1995 c 269 § 1406; 1991 c 297 § 3.]

**Effective date—1995 c 269:** See note following RCW 13.40.025.

**Part headings not law—Severability—1995 c 269:** See notes following RCW 13.40.005.

### Chapter 43.20A

#### DEPARTMENT OF SOCIAL AND HEALTH SERVICES

##### Sections

43.20A.037 Affordable housing—Inventory of suitable housing.

43.20A.075 Rule-making authority.

43.20A.730 Repealed.

43.20A.750 Grants for services in rural natural resources impact areas—Funding—Family support centers—Rural natural resources impact area defined.

43.20A.860 Requirement to seek federal waivers and state law changes to medical assistance program.

**43.20A.037 Affordable housing—Inventory of suitable housing.** (1) The department shall identify and catalog real property that is no longer required for department purposes and is suitable for the development of affordable housing for very low-income, and moderate-income households as defined in RCW 43.63A.510. The inventory shall include the location, approximate size, and current zoning classification of the property. The department shall provide a copy of the inventory to the department of community, trade, and economic development by November 1, 1993, and every November 1 thereafter.

(2) By November 1 of each year, beginning in 1994, the department shall purge the inventory of real property of sites that are no longer available for the development of affordable housing. The department shall include an updated listing of real property that has become available since the last update. As used in this section, "real property" means buildings, land, or buildings and land. [1995 c 399 § 65; 1993 c 461 § 8.]

**Finding—1993 c 461:** See note following RCW 43.63A.510.

**43.20A.075 Rule-making authority.** For rules adopted after July 23, 1995, the secretary may not rely solely on a section of law stating a statute's intent or purpose, on the enabling provisions of the statute establishing the agency, or on any combination of such provisions, for statutory authority to adopt any rule. [1995 c 403 § 102.]

**Findings—Short title—Intent—1995 c 403:** See note following RCW 34.05.328.

**Part headings not law—Severability—1995 c 403:** See RCW 43.05.903 and 43.05.904.

**43.20A.730 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**43.20A.750 Grants for services in rural natural resources impact areas—Funding—Family support centers—Rural natural resources impact area defined.**

(1) The department of social and health services shall help families and workers in rural natural resources impact areas make the transition through economic difficulties and shall provide services to assist workers to gain marketable skills. The department, as a member of the agency rural community assistance task force and, where appropriate, under an interagency agreement with the department of community, trade, and economic development, shall provide grants through the office of the secretary for services to the unemployed in rural natural resources impact areas, including providing direct or referral services, establishing and operating service delivery programs, and coordinating delivery programs and delivery of services. These grants may be awarded for family support centers, reemployment centers, or other local service agencies.

(2) The services provided through the grants may include, but need not be limited to: Credit counseling; social services including marital counseling; psychotherapy or

psychological counseling; mortgage foreclosures and utilities problems counseling; drug and alcohol abuse services; medical services; and residential heating and food acquisition.

(3) Funding for these services shall be coordinated through the agency rural community assistance task force which will establish a fund to provide child care assistance, mortgage assistance, and counseling which cannot be met through current programs. No funds shall be used for additional full-time equivalents for administering this section.

(4)(a) Grants for family support centers are intended to provide support to families by responding to needs identified by the families and communities served by the centers. Services provided by family support centers may include parenting education, child development assessments, health and nutrition education, counseling, and information and referral services. Such services may be provided directly by the center or through referral to other agencies participating in the interagency team.

(b) The department shall consult with the council on child abuse or neglect regarding grants for family support centers.

(5) "Rural natural resources impact area" means:

(a) A nonmetropolitan county, as defined by the 1990 decennial census, that meets two of the five criteria set forth in subsection (6) of this section; or

(b) A nonurbanized area, as defined by the 1990 decennial census, that is located in a metropolitan county that meets two of the five criteria set forth in subsection (6) of this section.

(6) For the purposes of designating rural natural resources impact areas, the following criteria shall be considered:

(a) A lumber and wood products employment location quotient at or above the state average;

(b) A commercial salmon fishing employment location quotient at or above the state average;

(c) Projected or actual direct lumber and wood products job losses of one hundred positions or more;

(d) Projected or actual direct commercial salmon fishing job losses of one hundred positions or more; and

(e) An unemployment rate twenty percent or more above the state average. The counties that meet these criteria shall be determined by the employment security department for the most recent year for which data is available. For the purposes of administration of programs under this chapter, the United States post office five-digit zip code delivery areas will be used to determine residence status for eligibility purposes. For the purpose of this definition, a zip code delivery area that is located wholly or partially in an urbanized area or within two miles of an urbanized area is considered urbanized. The office of financial management shall make available a zip code listing of the areas to all agencies and organizations providing services under this chapter. [1995 c 269 § 1901; 1995 c 226 § 25; 1993 c 280 § 38; 1992 c 21 § 4; 1991 c 315 § 28.]

**Reviser's note:** This section was amended by 1995 c 226 § 25 and by 1995 c 269 § 1901, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Sunset Act application:** See note following RCW 43.31.601.

**Effective date—1995 c 269:** See note following RCW 13.40.025.

**Part headings not law—Severability—1995 c 269:** See notes following RCW 13.40.005.

**Severability—Conflict with federal requirements—Effective date—1995 c 226:** See notes following RCW 43.31.601.

**Effective date—Severability—1993 c 280:** See RCW 43.330.902 and 43.330.903.

**Intent—1991 c 315:** See note following RCW 50.12.270.

**Severability—Conflict with federal requirements—Effective date—1991 c 315:** See RCW 50.70.900 through 50.70.902.

### **43.20A.860 Requirement to seek federal waivers and state law changes to medical assistance program.**

The department of social and health services, in consultation with the health care authority, the office of financial management, and other appropriate state agencies, shall seek necessary federal waivers and state law changes to the medical assistance program of the department to achieve greater coordination in financing, purchasing, and delivering health services to low-income residents of Washington state in a cost-effective manner, and to expand access to care for these low-income residents. Such waivers shall include any waiver needed to require that point-of-service cost-sharing, based on recipient household income, be applied to medical assistance recipients. In negotiating the waiver, consideration shall be given to the degree to which benefits in addition to the minimum list of services should be offered to medical assistance recipients. [1995 c 265 § 26.]

**Captions not law—Effective dates—Savings—Severability—1995 c 265:** See notes following RCW 70.47.015.

## **Chapter 43.20B**

### **REVENUE RECOVERY FOR DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

#### **Sections**

43.20B.080 Recovery for paid medical assistance—Rules.

#### **43.20B.080 Recovery for paid medical assistance—**

**Rules.** (1) The department shall file liens, seek adjustment, or otherwise effect recovery for medical assistance correctly paid on behalf of an individual as required by this chapter and 42 U.S.C. Sec. 1396p.

(2) Liens may be adjusted by foreclosure in accordance with chapter 61.12 RCW.

(3) In the case of an individual who was fifty-five years of age or older when the individual received medical assistance, the department shall seek adjustment or recovery from the individual's estate, and from nonprobate assets of the individual as defined by RCW 11.02.005 except property passing through a community property agreement, but only for medical assistance consisting of nursing facility services, home and community-based services, other services that the department determines to be appropriate, and related hospital and prescription drug services. Recovery from the individual's estate, including foreclosure of liens imposed under this section, shall be undertaken as soon as practicable, consistent with the requirements of 42 U.S.C. Sec. 1396p.

(4)(a) The department shall establish procedures consistent with standards established by the federal department of health and human services and pursuant to 42

U.S.C. Sec. 1396p to waive recovery when such recovery would work an undue hardship.

(b) Recovery of medical assistance from a recipient's estate shall not include property made exempt from claims by federal law or treaty, including exemption for tribal artifacts that may be held by individual Native Americans.

(5) The department is authorized to adopt rules to effect recovery under this section. The department may adopt by rule later enactments of the federal laws referenced in this section. [1995 1st sp.s. c 18 § 67; 1994 c 21 § 3.]

**Conflict with federal requirements—Severability—Effective date—1995 1st sp.s. c 18:** See notes following RCW 74.39A.008.

**Conflict with federal requirements—1994 c 21:** "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. The rules under this act shall meet federal requirements that are a necessary condition to the receipt of federal funds by the state." [1994 c 21 § 5.]

**Effective date—1994 c 21:** "This act shall take effect July 1, 1994." [1994 c 21 § 6.]

## Chapter 43.21A

### DEPARTMENT OF ECOLOGY

#### Sections

- 43.21A.064 Powers and duties—Water resources.
- 43.21A.068 Federal power act licensees—Exemption from state requirements.
- 43.21A.080 Rule-making authority.
- 43.21A.510 State environmental profile.
- 43.21A.515 Assistance to businesses interested in locating in Washington required—Information on environmental laws and regulations to be provided.
- 43.21A.612 Steam electric generating plant—Statement of intention—Construction by public utility, operating agency, or the department, procedure—Powers of director of community, trade, and economic development.
- 43.21A.705 Oil spill prevention and response program—Findings. (*Effective January 1, 1996, until June 30, 1997.*)
- 43.21A.710 Oil spill prevention and response division—Creation—Duties. (*Effective January 1, 1996, until June 30, 1997.*)
- 43.21A.715 Oil spill prevention and response division—Director's powers. (*Effective January 1, 1996, until June 30, 1997.*)
- 43.21A.720 Oil spill prevention and response division—Authority to administer oaths and issue subpoenas. (*Effective January 1, 1996, until June 30, 1997.*)

#### 43.21A.064 Powers and duties—Water resources.

Subject to RCW 43.21A.068, the director of the department of ecology shall have the following powers and duties:

(1) The supervision of public waters within the state and their appropriation, diversion, and use, and of the various officers connected therewith;

(2) Insofar as may be necessary to assure safety to life or property, he shall inspect the construction of all dams, canals, ditches, irrigation systems, hydraulic power plants, and all other works, systems, and plants pertaining to the use of water, and he may require such necessary changes in the construction or maintenance of said works, to be made from time to time, as will reasonably secure safety to life and property;

(3) He shall regulate and control the diversion of water in accordance with the rights thereto;

(4) He shall determine the discharge of streams and springs and other sources of water supply, and the capacities of lakes and of reservoirs whose waters are being or may be utilized for beneficial purposes;

(5) He shall keep such records as may be necessary for the recording of the financial transactions and statistical data thereof, and shall procure all necessary documents, forms, and blanks. He shall keep a seal of the office, and all certificates by him covering any of his acts or the acts of his office, or the records and files of his office, under such seal, shall be taken as evidence thereof in all courts;

(6) He shall render when required by the governor, a full written report of the work of his office with such recommendations for legislation as he may deem advisable for the better control and development of the water resources of the state;

(7) The director and duly authorized deputies may administer oaths;

(8) He shall establish and promulgate rules governing the administration of chapter 90.03 RCW;

(9) He shall perform such other duties as may be prescribed by law. [1995 c 8 § 3; 1977 c 75 § 46; 1965 c 8 § 43.21.130. Prior: 1961 c 19 § 1; prior: (i) 1951 c 57 § 3; 1921 c 7 § 72; RRS § 10830. (ii) 1951 c 57 § 3; 1917 c 117 § 8; RRS § 7358. Formerly RCW 43.21.130.]

**Findings—1995 c 8:** "The legislature finds and declares:

(1) The federal energy regulatory commission, under the federal power act, licenses hydropower projects in navigable waters and regularly and extensively inspects facilities for safety; and

(2) Nothing in this act alters or affects the department of ecology's authority to: (a) Participate in the federal process of licensing hydropower projects; or (b) ensure that hydropower projects comply with federal statutes such as the coastal zone management act and the clean water act and, subject to RCW 43.21A.068, all applicable state law." [1995 c 8 § 1.]

*Review of permit applications to divert and store water, water flow policy: RCW 75.20.050.*

*Water power development, license fees: RCW 90.16.050, 90.16.060, 90.16.090.*

**43.21A.068 Federal power act licensees—Exemption from state requirements.** (1) With respect to the safety of any dam, canal, ditch, hydraulic power plant, reservoir, project, or other work, system, or plant that requires a license under the federal power act, no licensee shall be required to:

(a) Submit proposals, plans, specifications, or other documents for approval by the department;

(b) Seek a permit, license, or other form, permission, or authorization from the department;

(c) Submit to inspection by the department; or

(d) Change the design, construction, modification, maintenance, or operation of such facilities at the demand of the department.

(2) For the purposes of this section, "licensee" means an owner or operator, or any employee thereof, of a dam, canal, ditch, hydraulic power plant, reservoir, project, or other work, system, or plant that requires a license under the federal power act. [1995 c 8 § 2.]

**Findings—1995 c 8:** See note following RCW 43.21A.064.



**43.21A.080 Rule-making authority.** The director of the department of ecology is authorized to adopt such rules and regulations as are necessary and appropriate to carry out the provisions of this chapter: PROVIDED, That the director may not adopt rules after July 23, 1995, that are based solely on a section of law stating a statute's intent or purpose, on the enabling provisions of the statute establishing the agency, or on any combination of such provisions, for statutory authority to adopt the rule. [1995 c 403 § 103; 1970 ex.s. c 62 § 8.]

**Findings—Short title—Intent—1995 c 403:** See note following RCW 34.05.328.

**Part headings not law—Severability—1995 c 403:** See RCW 43.05.903 and 43.05.904.

**43.21A.510 State environmental profile.** In order to assist the department of community, trade, and economic development in providing information to businesses interested in locating in Washington state, the department shall develop an environmental profile of the state. This profile shall identify the state's natural resources and describe how these assets are valuable to industry. Examples of information to be included are water resources and quality, air quality, and recreational opportunities related to natural resources. [1995 c 399 § 66; 1985 c 466 § 51; 1984 c 94 § 2.]

**Effective date—Severability—1985 c 466:** See notes following RCW 43.31.085.

**Findings—1984 c 94:** "The legislature finds (1) that a locality's natural environment is an important factor in determining where new businesses will locate, (2) that environmental regulations that preserve the quality of the environment can enhance economic development and the determination by new businesses where to locate and can lead to the creation of jobs and new industries, and (3) that some areas of the state have been and might be handicapped in their economic development efforts because of perceived environmental problems. Thus, the legislature declares that it is the policy of this state to recognize and emphasize the importance of the state's natural environment in its economic development efforts in attracting and maintaining businesses." [1984 c 94 § 1.]

**43.21A.515 Assistance to businesses interested in locating in Washington required—Information on environmental laws and regulations to be provided.** In order to emphasize the importance of the state's environmental laws and regulations and to facilitate compliance with them, the department of ecology shall provide assistance to businesses interested in locating in Washington state. When the department of community, trade, and economic development receives a query from an interested business through its industrial marketing activities, it shall arrange for the department of ecology to provide information on the state's environmental laws and regulations and methods of compliance. This section shall facilitate compliance with state environmental laws and regulations and shall not weaken their application or effectiveness. [1995 c 399 § 67; 1985 c 466 § 52; 1984 c 94 § 3.]

**Effective date—Severability—1985 c 466:** See notes following RCW 43.31.085.

**Findings—1984 c 94:** See note following RCW 43.21A.510.

**43.21A.612 Steam electric generating plant—Statement of intention—Construction by public utility, operating agency, or the department, procedure—Powers**

**of director of community, trade, and economic development.** Before the director shall construct said steam generating facility within the state, or make application for any permit, license or other right necessary thereto, the director shall give notice thereof by publishing once a week for four consecutive weeks in a newspaper of general circulation in the county or counties in which such project is located a statement of intention setting forth the general nature, extent and location of the project. If any public utility in the state or any operating agency desires to construct such facility, such utility or operating agency shall notify the director thereof within ten days after the last date of publication of such notice. If the director determines that it is in the best public interest that the director proceed with such construction rather than the public utility or operating agency, the director shall so notify the director of community, trade, and economic development, who shall set a date for hearing thereon. If after considering the evidence introduced the director of community, trade, and economic development finds that the public utility or operating agency making the request intends to immediately proceed with such construction and is financially capable of carrying out such construction and further finds that the plan of such utility or operating agency is equally well adapted to serve the public interest, the director shall enter an order so finding and such order shall divest the director of authority to proceed further with such construction or acquisition until such time as the other public utility or agency voluntarily causes an assignment of its right or interest in the project to the director or fails to procure any further required governmental permit, license or authority or having procured such, has the same revoked or withdrawn, in accordance with the laws and regulations of such governmental entity, in which event the director shall have the same authority to proceed as though the director had originally entered an order so authorizing the director to proceed. If, after considering the evidence introduced, the director of community, trade, and economic development finds that the public utility or agency making the request does not intend to immediately proceed with such construction or acquisition or is not financially capable of carrying out such construction or acquisition, or finds that the plan of such utility or operating agency is not equally well adapted to serve the public interest, the director shall then enter an order so finding and authorizing the director to proceed with the construction or acquisition of the facility. [1995 c 399 § 68; 1988 c 127 § 11; 1985 c 466 § 49; 1965 c 8 § 43.21.260. Prior: 1957 c 275 § 4. Formerly RCW 43.21.260.]

**Effective date—Severability—1985 c 466:** See notes following RCW 43.31.085.

**43.21A.705 Oil spill prevention and response program—Findings.** (*Effective January 1, 1996, until June 30, 1997.*) (1) The legislature declares that Washington's waters have irreplaceable value for the citizens of the state. These waters are vital habitat for numerous and diverse marine life and wildlife and the source of recreation, aesthetic pleasure, and pride for Washington's citizens. These waters are also vital for much of Washington's economic vitality.

The legislature finds that the transportation of oil on these waters creates a great potential hazard to these important natural resources.

(2) The legislature finds that the long-term environmental health of the state's waters depends upon the strength and vitality of its oil spill prevention and response program. It is the intent of this section, \*RCW 43.21A.710 through 43.21A.720, 88.46.922, 88.46.925, 90.56.515, and sections 521 through 524, chapter 14, Laws of 1995 2nd sp. sess. to create an integrated oil spill prevention and response program that fosters planning, coordination, and incidence command. To that end, the merger of the office of marine safety with the department of ecology will: Ensure coordination via streamlining the marine safety functions of two agencies into one; provide a focused prevention and response program under a single administration; generate efficient incidence command to meet challenges threatening marine safety and the environment; and increase accountability owed to the public, the executive branch, and the legislature.

(3) It is the intent of the legislature that the merger of the office of marine safety with the department of ecology be accomplished in an organizational manner that maintains a priority focus and position for the oil spill prevention and response program. The merger shall allow for ready identification of the program by the public and ensure no diminution in the state's commitment to marine safety and environmental protection. [1995 2nd sp.s. c 14 § 514; 1991 c 200 § 401. Formerly RCW 43.211.005.]

**\*Reviser's note:** 1995 2nd sp.s. c 14 § 523 recodified RCW 43.211.005, 43.211.010, 43.211.030, and 43.211.040, all as amended by 1995 2nd sp.s. c 14, as RCW 43.21A.705, 43.21A.710, 43.21A.715, and 43.21A.720, respectively. 1995 2nd sp.s. c 14 § 523, the recodification section, expires June 30, 1997, pursuant to 1995 2nd sp.s. c 14 § 536, at which time the recodified numbers will revert to their original RCW numbers, without amendment.

**Expiration date—1995 2nd sp.s. c 14 §§ 511-523, 528-533:** See note following RCW 43.105.017.

**Effective dates—1995 2nd sp.s. c 14:** See note following RCW 43.105.017.

**Severability—1995 2nd sp.s. c 14:** See note following RCW 43.105.017.

**Effective dates—Severability—1991 c 200:** See RCW 90.56.901 and 90.56.904.

**43.21A.710 Oil spill prevention and response division—Creation—Duties.** (*Effective January 1, 1996, until June 30, 1997.*) (1) There is hereby created within the department of ecology an integrated oil spill prevention and response program. The department shall establish a division for the purpose of housing the integrated oil spill prevention and response program. The division shall establish its focus and independence from the department's other authorized divisions and services. The director may establish administrative facilities in various locations within the state of Washington, if deemed necessary for the efficient operation of the office [division], and if consistent with the principles set forth in subsection (2) of this section.

(2) The department shall organize the oil spill prevention and response division consistent with the goals of providing the state with a focus in marine transportation and serving the people of this state. To the extent practical, the director shall consider the following organizational principles:

(a) Clear lines of authority which avoid functional duplication within and between subelements of the department;

(b) A clear and simplified organizational design promoting accessibility, responsiveness, and accountability to the legislature, the consumer, and the general public; and

(c) Maximum span of control without jeopardizing adequate supervision.

(3) The department shall provide leadership and coordination in identifying and resolving threats to the safety of marine transportation and the impact of marine transportation on the environment:

(a) Working with other state agencies and local governments to strengthen the state and local governmental partnership in providing public protection;

(b) Providing expert advice to the executive and legislative branches of state government;

(c) Providing active and fair enforcement of rules;

(d) Working with other federal, state, and local agencies and facilitating their involvement in planning and implementing marine safety measures;

(e) Providing information to the public; and

(f) Carrying out such other related actions as may be appropriate to this purpose.

(4) In accordance with the administrative procedure act, chapter 34.05 RCW, the department shall ensure an opportunity for consultation, review, and comment before the adoption of standards, guidelines, and rules.

(5) Consistent with the principles set forth in subsection (2) of this section, the director may create whatever organizational framework the director deems necessary to achieve the goals and objectives of this section so long as it is consistent with \*RCW 43.21A.705 through 43.21A.720 and chapter 88.46 RCW. The director shall have complete charge of and supervisory powers over the division, except where the director's authority is specifically limited by law.

(6) The director shall appoint an assistant director to carry out the duties of providing an oil spill prevention and response program consistent with \*RCW 43.21A.705 through 43.21A.720 and chapter 88.46 RCW. In addition to exemptions set forth in RCW 41.06.070(3), the director shall be exempt from the provisions of chapter 41.06 RCW. All other employees of the division shall be subject to the provisions of chapter 41.06 RCW. [1995 2nd sp.s. c 14 § 515; 1992 c 73 § 4; 1991 c 200 § 402. Formerly RCW 43.211.010.]

**\*Reviser's note:** 1995 2nd sp.s. c 14 § 523 recodified RCW 43.211.005, 43.211.010, 43.211.030, and 43.211.040, all as amended by 1995 2nd sp.s. c 14, as RCW 43.21A.705, 43.21A.710, 43.21A.715, and 43.21A.720, respectively. 1995 2nd sp.s. c 14 § 523, the recodification section, expires June 30, 1997, pursuant to 1995 2nd sp.s. c 14 § 536, at which time the recodified numbers will revert to their original RCW numbers, without amendment.

**Expiration date—1995 2nd sp.s. c 14 §§ 511-523, 528-533:** See note following RCW 43.105.017.

**Effective dates—1995 2nd sp.s. c 14:** See note following RCW 43.105.017.

**Severability—1995 2nd sp.s. c 14:** See note following RCW 43.105.017.

**Effective dates—Severability—1991 c 200:** See RCW 90.56.901 and 90.56.904.

**Effective dates—Severability—1992 c 73:** See RCW 82.23B.902 and 90.56.905.

**43.21A.715 Oil spill prevention and response division—Director's powers.** (*Effective January 1, 1996, until June 30, 1997.*) In addition to any other powers granted the director, the director, in the administration of the oil spill prevention and response division, may:

(1) Adopt, in accordance with chapter 34.05 RCW, rules necessary to carry out the provisions of this chapter and chapter 88.46 RCW;

(2) Appoint such advisory committees as may be necessary to carry out the provisions of this chapter and chapter 88.46 RCW. Members of such advisory committees are authorized to receive travel expenses in accordance with RCW 43.03.050 and 43.03.060. The director shall review each advisory committee within the jurisdiction of the department's oil spill prevention and response division and each statutory advisory committee on a biennial basis to determine if such advisory committee is needed. The criteria specified in RCW 43.131.070 shall be used to determine whether or not each advisory committee shall be continued;

(3) Undertake studies, research, and analysis necessary to carry out the provisions of this chapter and chapter 88.46 RCW;

(4) Delegate powers, duties, and functions of the department's oil spill prevention and response division to employees of the department as the director deems necessary to carry out the provisions of \*RCW 43.21A.705 through 43.21A.720 and chapter 88.46 RCW;

(5) Enter into contracts on behalf of the department's oil spill prevention and response division to carry out the purposes of \*RCW 43.21A.705 through 43.21A.720 and chapter 88.46 RCW;

(6) Act for the state in the initiation of, or the participation in, any intergovernmental program for the purposes of \*RCW 43.21A.705 through 43.21A.720 and chapter 88.46 RCW; or

(7) Accept gifts, grants, or other funds. [1995 2nd sp.s. c 14 § 516; 1992 c 73 § 11; 1991 c 200 § 405. Formerly RCW 43.211.030.]

**\*Reviser's note:** 1995 2nd sp.s. c 14 § 523 recodified RCW 43.211.005, 43.211.010, 43.211.030, and 43.211.040, all as amended by 1995 2nd sp.s. c 14, as RCW 43.21A.705, 43.21A.710, 43.21A.715, and 43.21A.720, respectively. 1995 2nd sp.s. c 14 § 523, the recodification section, expires June 30, 1997, pursuant to 1995 2nd sp.s. c 14 § 536, at which time the recodified numbers will revert to their original RCW numbers, without amendment.

**Expiration date—1995 2nd sp.s. c 14 §§ 511-523, 528-533:** See note following RCW 43.105.017.

**Effective dates—1995 2nd sp.s. c 14:** See note following RCW 43.105.017.

**Severability—1995 2nd sp.s. c 14:** See note following RCW 43.105.017.

**Effective dates—Severability—1992 c 73:** See RCW 82.23B.902 and 90.56.905.

**Effective dates—Severability—1991 c 200:** See RCW 90.56.901 and 90.56.904.

**43.21A.720 Oil spill prevention and response division—Authority to administer oaths and issue subpoenas.** (*Effective January 1, 1996, until June 30, 1997.*) (1) The director shall have full authority to administer oaths and take testimony thereunder, to issue subpoenas requiring the attendance of witnesses before the director together with all books, memoranda, papers, and other

documents, articles or instruments, and to compel the disclosure by such witnesses of all facts known to them relative to the matters under investigation.

(2) Subpoenas issued in adjudicative proceedings shall be governed by chapter 34.05 RCW.

(3) Subpoenas issued in the conduct of investigations required or authorized by other statutory provisions or necessary in the enforcement of other statutory provisions shall be governed by chapter 34.05 RCW. [1995 2nd sp.s. c 14 § 517; 1991 c 200 § 407. Formerly RCW 43.211.040.]

**Expiration date—1995 2nd sp.s. c 14 §§ 511-523, 528-533:** See note following RCW 43.105.017.

**Effective dates—1995 2nd sp.s. c 14:** See note following RCW 43.105.017.

**Severability—1995 2nd sp.s. c 14:** See note following RCW 43.105.017.

**Effective dates—Severability—1991 c 200:** See RCW 90.56.901 and 90.56.904.

## Chapter 43.21B

### ENVIRONMENTAL HEARINGS OFFICE— POLLUTION CONTROL HEARINGS BOARD

#### Sections

43.21B.140 Repealed.

43.21B.150 Repealed.

43.21B.160 Appeals—Generally.

43.21B.170 Proceedings conducted in accordance with published board rules and regulations.

43.21B.190 Judicial review—Appeal from board's order.

**43.21B.140 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**43.21B.150 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**43.21B.160 Appeals—Generally.** In all appeals, the hearings board shall have all powers relating to administration of oaths, issuance of subpoenas, and taking of depositions as are granted to agencies in chapter 34.05 RCW, the Administrative Procedure Act. The hearings board, and each member thereof, shall be subject to all duties imposed upon, and shall have all powers granted to, an agency by those provisions of chapter 34.05 RCW relating to adjudicative proceedings. In the case of appeals within the jurisdiction of the hearings board, the hearings board, or any member thereof, may obtain such assistance, including the making of field investigations, from the staff of the director as the hearings board, or any member thereof, may deem necessary or appropriate. Any communication, oral or written, from the staff of the director to the hearings board shall be presented only in an open hearing. [1995 c 382 § 2; 1990 c 65 § 5; 1989 c 175 § 103; 1974 ex.s. c 69 § 3; 1970 ex.s. c 62 § 46.]

**Effective date—1989 c 175:** See note following RCW 34.05.010.

**43.21B.170 Proceedings conducted in accordance with published board rules and regulations.** All proceedings before the hearings board or any of its members shall

be conducted in accordance with such rules of practice and procedure as the hearings board may prescribe. The hearings board shall publish such rules and arrange for the reasonable distribution thereof. [1995 c 382 § 3; 1970 ex.s. c 62 § 47.]

**43.21B.190 Judicial review—Appeal from board's order.** Within thirty days after the final decision and order of the hearings board upon such an appeal has been communicated to the interested parties, such interested party aggrieved by the decision and order of the hearings board may appeal to the superior court. [1995 c 382 § 4; 1994 c 253 § 7; 1988 c 202 § 43; 1970 ex.s. c 62 § 49.]

**Severability—1988 c 202:** See note following RCW 2.24.050.

### Chapter 43.21C

## STATE ENVIRONMENTAL POLICY

#### Sections

- 43.21C.031 Significant impacts.
- 43.21C.033 Threshold determination to be made within ninety days after application is complete.
- 43.21C.0381 Application of RCW 43.21C.030(2)(c) to decisions pertaining to air operating permits.
- 43.21C.0382 Application of RCW 43.21C.030(2)(c) to watershed restoration projects.
- 43.21C.075 Appeals.
- 43.21C.080 Notice of action by governmental agency—How publicized—Time limitation for commencing challenge to action.
- 43.21C.110 Content of state environmental policy act rules.
- 43.21C.240 Project review under the growth management act.
- 43.21C.900 Short title.

**43.21C.031 Significant impacts.** (1) An environmental impact statement (the detailed statement required by RCW 43.21C.030(2)(c)) shall be prepared on proposals for legislation and other major actions having a probable significant, adverse environmental impact. The environmental impact statement may be combined with the recommendation or report on the proposal or issued as a separate document. The substantive decisions or recommendations shall be clearly identifiable in the combined document. Actions categorically exempt under RCW 43.21C.110(1)(a) do not require environmental review or the preparation of an environmental impact statement under this chapter. In a county, city, or town planning under RCW 36.70A.040, a planned action, as provided for in subsection (2) of this section, does not require a threshold determination or the preparation of an environmental impact statement under this chapter, but is subject to environmental review and mitigation as provided in this chapter.

An environmental impact statement is required to analyze only those probable adverse environmental impacts which are significant. Beneficial environmental impacts may be discussed. The responsible official shall consult with agencies and the public to identify such impacts and limit the scope of an environmental impact statement. The subjects listed in RCW 43.21C.030(2)(c) need not be treated as separate sections of an environmental impact statement. Discussions of significant short-term and long-term environmental impacts, significant irrevocable commitments of natural resources, significant alternatives including mitigation

measures, and significant environmental impacts which cannot be mitigated should be consolidated or included, as applicable, in those sections of an environmental impact statement where the responsible official decides they logically belong.

(2)(a) For purposes of this section, a planned action means one or more types of project action that:

(i) Are designated planned actions by an ordinance or resolution adopted by a county, city, or town planning under RCW 36.70A.040;

(ii) Have had the significant impacts adequately addressed in an environmental impact statement prepared in conjunction with (A) a comprehensive plan or subarea plan adopted under chapter 36.70A RCW, or (B) a fully contained community, a master planned resort, a master planned development, or a phased project;

(iii) Are subsequent or implementing projects for the proposals listed in (a)(ii) of this subsection;

(iv) Are located within an urban growth area, as defined in RCW 36.70A.030;

(v) Are not essential public facilities, as defined in RCW 36.70A.200; and

(vi) Are consistent with a comprehensive plan adopted under chapter 36.70A RCW.

(b) A county, city, or town shall limit planned actions to certain types of development or to specific geographical areas that are less extensive than the jurisdictional boundaries of the county, city, or town and may limit a planned action to a time period identified in the environmental impact statement or the ordinance or resolution adopted under this subsection. [1995 c 347 § 203; 1983 c 117 § 1.]

**Finding—Severability—Part headings and table of contents not law—1995 c 347:** See notes following RCW 36.70A.470.

**43.21C.033 Threshold determination to be made within ninety days after application is complete.** (1) Except as provided in subsection (2) of this section, the responsible official shall make a threshold determination on a completed application within ninety days after the application and supporting documentation are complete. The applicant may request an additional thirty days for the threshold determination. The governmental entity responsible for making the threshold determination shall by rule, resolution, or ordinance adopt standards, consistent with rules adopted by the department to implement this chapter, for determining when an application and supporting documentation are complete.

(2) This section shall not apply to a city, town, or county that:

(a) By ordinance adopted prior to April 1, 1992, has adopted procedures to integrate permit and land use decisions with the requirements of this chapter; or

(b) Is planning under RCW 36.70A.040 and is subject to the requirements of RCW 36.70B.090. [1995 c 347 § 422; 1992 c 208 § 1.]

**Finding—Severability—Part headings and table of contents not law—1995 c 347:** See notes following RCW 36.70A.470.

**Effective date—1992 c 208 § 1:** "Section 1 of this act shall take effect September 1, 1992." [1992 c 208 § 2.]

**43.21C.0381 Application of RCW 43.21C.030(2)(c) to decisions pertaining to air operating permits.** Deci-

sions pertaining to the issuance, renewal, reopening, or revision of an air operating permit under RCW 70.94.161 are not subject to the requirements of RCW 43.21C.030(2)(c). [1995 c 172 § 1.]

**43.21C.0382 Application of RCW 43.21C.030(2)(c) to watershed restoration projects.** Decisions pertaining to watershed restoration projects as defined in RCW 89.08.460 are not subject to the requirements of RCW 43.21C.030(2)(c). [1995 c 378 § 12.]

**43.21C.075 Appeals.** (1) Because a major purpose of this chapter is to combine environmental considerations with public decisions, any appeal brought under this chapter shall be linked to a specific governmental action. The State Environmental Policy Act provides a basis for challenging whether governmental action is in compliance with the substantive and procedural provisions of this chapter. The State Environmental Policy Act is not intended to create a cause of action unrelated to a specific governmental action.

(2) Unless otherwise provided by this section:

(a) Appeals under this chapter shall be of the governmental action together with its accompanying environmental determinations.

(b) Appeals of environmental determinations made (or lacking) under this chapter shall be commenced within the time required to appeal the governmental action which is subject to environmental review.

(3) If an agency has a procedure for appeals of agency environmental determinations made under this chapter, such procedure:

(a) Shall not allow more than one agency appeal proceeding on a procedural determination (the adequacy of a determination of significance/nonsignificance or of a final environmental impact statement). The appeal proceeding on a determination of significance may occur before the agency's final decision on a proposed action. The appeal proceeding on a determination of nonsignificance may occur before the agency's final decision on a proposed action only if the appeal is heard at a proceeding where the hearing body or officer will render a final recommendation or decision on the proposed underlying governmental action. Such appeals shall also be allowed for a determination of significance/nonsignificance which may be issued by the agency after supplemental review;

(b) Shall consolidate an appeal of procedural issues and of substantive determinations made under this chapter (such as a decision to require particular mitigation measures or to deny a proposal) with a hearing or appeal on the underlying governmental action by providing for a single simultaneous hearing before one hearing officer or body to consider the agency decision on a proposal and any environmental determinations made under this chapter, with the exception of the appeal, if any, of a determination of significance as provided in (a) of this subsection or an appeal to the local legislative authority under RCW 43.21C.060 or other applicable state statutes;

(c) Shall provide for the preparation of a record for use in any subsequent appeal proceedings, and shall provide for any subsequent appeal proceedings to be conducted on the record, consistent with other applicable law. An adequate

record consists of findings and conclusions, testimony under oath, and taped or written transcript. An electronically recorded transcript will suffice for purposes of review under this subsection; and

(d) Shall provide that procedural determinations made by the responsible official shall be entitled to substantial weight.

(4) If a person aggrieved by an agency action has the right to judicial appeal and if an agency has an appeal procedure, such person shall, prior to seeking any judicial review, use such agency procedure if any such procedure is available, unless expressly provided otherwise by state statute.

(5) Some statutes and ordinances contain time periods for challenging governmental actions which are subject to review under this chapter, such as various local land use approvals (the "underlying governmental action"). RCW 43.21C.080 establishes an optional "notice of action" procedure which, if used, imposes a time period for appealing decisions under this chapter. This subsection does not modify any such time periods. In this subsection, the term "appeal" refers to a judicial appeal only.

(a) If there is a time period for appealing the underlying governmental action, appeals under this chapter shall be commenced within such time period. The agency shall give official notice stating the date and place for commencing an appeal.

(b) If there is no time period for appealing the underlying governmental action, and a notice of action under RCW 43.21C.080 is used, appeals shall be commenced within the time period specified by RCW 43.21C.080.

(6)(a) Judicial review under subsection (5) of this section of an appeal decision made by an agency under subsection (3) of this section shall be on the record, consistent with other applicable law.

(b) A taped or written transcript may be used. If a taped transcript is to be reviewed, a record shall identify the location on the taped transcript of testimony and evidence to be reviewed. Parties are encouraged to designate only those portions of the testimony necessary to present the issues raised on review, but if a party alleges that a finding of fact is not supported by evidence, the party should include in the record all evidence relevant to the disputed finding. Any other party may designate additional portions of the taped transcript relating to issues raised on review. A party may provide a written transcript of portions of the testimony at the party's own expense or apply to that court for an order requiring the party seeking review to pay for additional portions of the written transcript.

(c) Judicial review under this chapter shall without exception be of the governmental action together with its accompanying environmental determinations.

(7) Jurisdiction over the review of determinations under this chapter in an appeal before an agency or superior court shall upon consent of the parties be transferred in whole or part to the shorelines hearings board. The shorelines hearings board shall hear the matter and sign the final order expeditiously. The superior court shall certify the final order of the shorelines hearings board and said certified final order may only be appealed to an appellate court. In the case of an appeal under this chapter regarding a project or other

matter that is also the subject of an appeal to the shorelines hearings board under chapter 90.58 RCW, the shorelines hearings board shall have sole jurisdiction over both the appeal under this section and the appeal under chapter 90.58 RCW, shall consider them together, and shall issue a final order within one hundred eighty days as provided in RCW 90.58.180.

(8) For purposes of this section and RCW 43.21C.080, the words "action", "decision", and "determination" mean substantive agency action including any accompanying procedural determinations under this chapter (except where the word "action" means "appeal" in RCW 43.21C.080(2)). The word "action" in this section and RCW 43.21C.080 does not mean a procedural determination by itself made under this chapter. The word "determination" includes any environmental document required by this chapter and state or local implementing rules. The word "agency" refers to any state or local unit of government. Except as provided in subsection (5) of this section, the word "appeal" refers to administrative, legislative, or judicial appeals.

(9) The court in its discretion may award reasonable attorney's fees of up to one thousand dollars in the aggregate to the prevailing party, including a governmental agency, on issues arising out of this chapter if the court makes specific findings that the legal position of a party is frivolous and without reasonable basis. [1995 c 347 § 204; 1994 c 253 § 4; 1983 c 117 § 4.]

**Finding—Severability—Part headings and table of contents not law—1995 c 347:** See notes following RCW 36.70A.470.

**43.21C.080 Notice of action by governmental agency—How publicized—Time limitation for commencing challenge to action.** (1) Notice of any action taken by a governmental agency may be publicized by the acting governmental agency, the applicant for, or the proponent of such action, in substantially the form as set forth in rules adopted under RCW 43.21C.110:

(a) By publishing notice on the same day of each week for two consecutive weeks in a legal newspaper of general circulation in the area where the property which is the subject of the action is located;

(b) By filing notice of such action with the department of ecology at its main office in Olympia prior to the date of the last newspaper publication; and

(c) Except for those actions which are of a nonproject nature, by one of the following methods which shall be accomplished prior to the date of first newspaper publication:

(i) Mailing to the latest recorded real property owners, as shown by the records of the county treasurer, who share a common boundary line with the property upon which the project is proposed through United States mail, first class, postage prepaid.

(ii) Posting of the notice in a conspicuous manner on the property upon which the project is to be constructed.

(2)(a) Except as otherwise provided in RCW 43.21C.075(5)(a), any action to set aside, enjoin, review, or otherwise challenge any such governmental action or subsequent governmental action for which notice is given as provided in subsection (1) of this section on grounds of noncompliance with the provisions of this chapter shall be commenced within twenty-one days from the date of last

newspaper publication of the notice pursuant to subsection (1) of this section, or be barred.

(b) Any subsequent governmental action on the proposal for which notice has been given as provided in subsection (1) of this section shall not be set aside, enjoined, reviewed, or otherwise challenged on grounds of noncompliance with the provisions of RCW 43.21C.030(2)(a) through (h) unless there has been a substantial change in the proposal between the time of the first governmental action and the subsequent governmental action that is likely to have adverse environmental impacts beyond the range of impacts previously analyzed, or unless the action now being considered was identified in an earlier detailed statement or declaration of nonsignificance as being one which would require further environmental evaluation. [1995 c 347 § 205; 1977 ex.s. c 278 § 1; 1974 ex.s. c 179 § 2; 1973 1st ex.s. c 179 § 2.]

**Finding—Severability—Part headings and table of contents not law—1995 c 347:** See notes following RCW 36.70A.470.

**Purpose—1974 ex.s. c 179:** "The purpose of this 1974 amendatory act is to establish methods and means of providing for full implementation of chapter 43.21C RCW (the state environmental policy act of 1971) in a manner which reduces duplicative and wasteful practices, establishes effective and uniform procedures, encourages public involvement, and promotes certainty with respect to the requirements of the act." [1974 ex.s. c 179 § 1.]

**Effective date—1973 1st ex.s. c 179:** "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions and shall take effect on July 1, 1973: PROVIDED, HOWEVER, That prior thereto, the department of ecology may take such actions, including the issuing of notices and the conduct of public hearing, as are necessary to insure the implementation of section 1 of this act." [1973 1st ex.s. c 179 § 4.]

**43.21C.110 Content of state environmental policy act rules.** It shall be the duty and function of the department of ecology:

(1) To adopt and amend thereafter rules of interpretation and implementation of this chapter, subject to the requirements of chapter 34.05 RCW, for the purpose of providing uniform rules and guidelines to all branches of government including state agencies, political subdivisions, public and municipal corporations, and counties. The proposed rules shall be subject to full public hearings requirements associated with rule promulgation. Suggestions for modifications of the proposed rules shall be considered on their merits, and the department shall have the authority and responsibility for full and appropriate independent promulgation and adoption of rules, assuring consistency with this chapter as amended and with the preservation of protections afforded by this chapter. The rule making powers authorized in this section shall include, but shall not be limited to, the following phases of interpretation and implementation of this chapter:

(a) Categories of governmental actions which are not to be considered as potential major actions significantly affecting the quality of the environment, including categories pertaining to applications for water right permits pursuant to chapters 90.03 and 90.44 RCW. The types of actions included as categorical exemptions in the rules shall be limited to those types which are not major actions significantly affecting the quality of the environment. The rules shall provide for certain circumstances where actions which potentially are categorically exempt require environmental review. An action that is categorically exempt under the

rules adopted by the department may not be conditioned or denied under this chapter.

(b) Rules for criteria and procedures applicable to the determination of when an act of a branch of government is a major action significantly affecting the quality of the environment for which a detailed statement is required to be prepared pursuant to RCW 43.21C.030.

(c) Rules and procedures applicable to the preparation of detailed statements and other environmental documents, including but not limited to rules for timing of environmental review, obtaining comments, data and other information, and providing for and determining areas of public participation which shall include the scope and review of draft environmental impact statements.

(d) Scope of coverage and contents of detailed statements assuring that such statements are simple, uniform, and as short as practicable; statements are required to analyze only reasonable alternatives and probable adverse environmental impacts which are significant, and may analyze beneficial impacts.

(e) Rules and procedures for public notification of actions taken and documents prepared.

(f) Definition of terms relevant to the implementation of this chapter including the establishment of a list of elements of the environment. Analysis of environmental considerations under RCW 43.21C.030(2) may be required only for those subjects listed as elements of the environment (or portions thereof). The list of elements of the environment shall consist of the "natural" and "built" environment. The elements of the built environment shall consist of public services and utilities (such as water, sewer, schools, fire and police protection), transportation, environmental health (such as explosive materials and toxic waste), and land and shoreline use (including housing, and a description of the relationships with land use and shoreline plans and designations, including population).

(g) Rules for determining the obligations and powers under this chapter of two or more branches of government involved in the same project significantly affecting the quality of the environment.

(h) Methods to assure adequate public awareness of the preparation and issuance of detailed statements required by RCW 43.21C.030(2)(c).

(i) To prepare rules for projects setting forth the time limits within which the governmental entity responsible for the action shall comply with the provisions of this chapter.

(j) Rules for utilization of a detailed statement for more than one action and rules improving environmental analysis of nonproject proposals and encouraging better interagency coordination and integration between this chapter and other environmental laws.

(k) Rules relating to actions which shall be exempt from the provisions of this chapter in situations of emergency.

(l) Rules relating to the use of environmental documents in planning and decision making and the implementation of the substantive policies and requirements of this chapter, including procedures for appeals under this chapter.

(m) Rules and procedures that provide for the integration of environmental review with project review as provided in RCW 43.21C.240. The rules and procedures shall be jointly developed with the department of community, trade,

and economic development and shall be applicable to the preparation of environmental documents for actions in counties, cities, and towns planning under RCW 36.70A.040. The rules and procedures shall also include criteria to analyze the consistency of project actions, including planned actions under RCW 43.21C.031(2), with development regulations adopted under chapter 36.70A RCW, or in the absence of applicable development regulations, the appropriate elements of a comprehensive plan or subarea plan adopted under chapter 36.70A RCW. Ordinances or procedures adopted by a county, city, or town to implement the provisions of RCW 43.21C.240 prior to the effective date of rules adopted under this subsection (1)(m) shall continue to be effective until the adoption of any new or revised ordinances or procedures that may be required. If any revisions are required as a result of rules adopted under this subsection (1)(m), those revisions shall be made within the time limits specified in RCW 43.21C.120.

(2) In exercising its powers, functions, and duties under this section, the department may:

(a) Consult with the state agencies and with representatives of science, industry, agriculture, labor, conservation organizations, state and local governments and other groups, as it deems advisable; and

(b) Utilize, to the fullest extent possible, the services, facilities, and information (including statistical information) of public and private agencies, organizations, and individuals, in order to avoid duplication of effort and expense, overlap, or conflict with similar activities authorized by law and performed by established agencies.

(3) Rules adopted pursuant to this section shall be subject to the review procedures of chapter 34.05 RCW. [1995 c 347 § 206; 1983 c 117 § 7; 1974 ex.s. c 179 § 6.]

**Finding—Severability—Part headings and table of contents not law—1995 c 347:** See notes following RCW 36.70A.470.

**Purpose—1974 ex.s. c 179:** See note following RCW 43.21C.080.

**43.21C.240 Project review under the growth management act.** (1) If the requirements of subsection (2) of this section are satisfied, a county, city, or town reviewing a project action may determine that the requirements for environmental analysis, protection, and mitigation measures in the county, city, or town's development regulations and comprehensive plans adopted under chapter 36.70A RCW, and in other applicable local, state, or federal laws and rules provide adequate analysis of and mitigation for the specific adverse environmental impacts of the project action to which the requirements apply.

(2) A county, city, or town may make the determination provided for in subsection (1) of this section if:

(a) In the course of project review, including any required environmental analysis, the local government considers the specific probable adverse environmental impacts of the proposed action and determines that these specific impacts are adequately addressed by the development regulations or other applicable requirements of the comprehensive plan, subarea plan element of the comprehensive plan, or other local, state, or federal rules or laws; and

(b) The local government bases or conditions its approval on compliance with these requirements or mitigation measures.

(3) If a county, city, or town's comprehensive plans, subarea plans, and development regulations adequately address a project's probable specific adverse environmental impacts, as determined under subsections (1) and (2) of this section, the county, city, or town shall not impose additional mitigation under this chapter during project review. Project review shall be integrated with environmental analysis under this chapter.

(4) A comprehensive plan, subarea plan, or development regulation shall be considered to adequately address an impact if the county, city, or town, through the planning and environmental review process under chapter 36.70A RCW and this chapter, has identified the specific adverse environmental impacts and:

(a) The impacts have been avoided or otherwise mitigated; or

(b) The legislative body of the county, city, or town has designated as acceptable certain levels of service, land use designations, development standards, or other land use planning required or allowed by chapter 36.70A RCW.

(5) In deciding whether a specific adverse environmental impact has been addressed by an existing rule or law of another agency with jurisdiction with environmental expertise with regard to a specific environmental impact, the county, city, or town shall consult orally or in writing with that agency and may expressly defer to that agency. In making this deferral, the county, city, or town shall base or condition its project approval on compliance with these other existing rules or laws.

(6) Nothing in this section limits the authority of an agency in its review or mitigation of a project to adopt or otherwise rely on environmental analyses and requirements under other laws, as provided by this chapter.

(7) This section shall apply only to a county, city, or town planning under RCW 36.70A.040. [1995 c 347 § 202.]

**Findings—Intent—1995 c 347 § 202:** "(1) The legislature finds in adopting RCW 43.21C.240 that:

(a) Comprehensive plans and development regulations adopted by counties, cities, and towns under chapter 36.70A RCW and environmental laws and rules adopted by the state and federal government have addressed a wide range of environmental subjects and impacts. These plans, regulations, rules, and laws often provide environmental analysis and mitigation measures for project actions without the need for an environmental impact statement or further project mitigation.

(b) Existing plans, regulations, rules, or laws provide environmental analysis and measures that avoid or otherwise mitigate the probable specific adverse environmental impacts of proposed projects should be integrated with, and should not be duplicated by, environmental review under chapter 43.21C RCW.

(c) Proposed projects should continue to receive environmental review, which should be conducted in a manner that is integrated with and does not duplicate other requirements. Project-level environmental review should be used to: (i) Review and document consistency with comprehensive plans and development regulations; (ii) provide prompt and coordinated review by government agencies and the public on compliance with applicable environmental laws and plans, including mitigation for specific project impacts that have not been considered and addressed at the plan or development regulation level; and (iii) ensure accountability by local government to applicants and the public for requiring and implementing mitigation measures.

(d) When a project permit application is filed, an agency should analyze the proposal's environmental impacts, as required by applicable regulations and the environmental review process required by this chapter, in one project review process. The project review process should include land use, environmental, public, and governmental review, as provided by the applicable regulations and the rules adopted under this chapter, so that documents prepared under different requirements can be reviewed together by the public and other agencies. This project review will provide an

agency with the information necessary to make a decision on the proposed project.

(e) Through this project review process: (i) If the applicable regulations require studies that adequately analyze all of the project's specific probable adverse environmental impacts, additional studies under this chapter will not be necessary on those impacts; (ii) if the applicable regulations require measures that adequately address such environmental impacts, additional measures would likewise not be required under this chapter; and (iii) if the applicable regulations do not adequately analyze or address a proposal's specific probable adverse environmental impacts, this chapter provides the authority and procedures for additional review.

(2) The legislature intends that a primary role of environmental review under chapter 43.21C RCW is to focus on the gaps and overlaps that may exist in applicable laws and requirements related to a proposed action. The review of project actions conducted by counties, cities, and towns planning under RCW 36.70A.040 should integrate environmental review with project review. Chapter 43.21C RCW should not be used as a substitute for other land use planning and environmental requirements." [1995 c 347 § 201.]

**Finding—Severability—Part headings and table of contents not law—1995 c 347:** See notes following RCW 36.70A.470.

**43.21C.900 Short title.** This chapter shall be known and may be cited as the "State Environmental Policy Act" or "SEPA". [1995 c 347 § 207; 1971 ex.s. c 109 § 7.]

**Finding—Severability—Part headings and table of contents not law—1995 c 347:** See notes following RCW 36.70A.470.

## Chapter 43.21I

### OFFICE OF MARINE SAFETY

#### Sections

- 43.21I.005 Recodified as RCW 43.21A.705. (*Effective January 1, 1996, until June 30, 1997.*)
- 43.21I.010 Recodified as RCW 43.21A.710. (*Effective January 1, 1996, until June 30, 1997.*)
- 43.21I.020 Repealed. (*Effective January 1, 1996.*)
- 43.21I.030 Recodified as RCW 43.21A.715. (*Effective January 1, 1996, until June 30, 1997.*)
- 43.21I.040 Recodified as RCW 43.21A.720. (*Effective January 1, 1996, until June 30, 1997.*)

**43.21I.005 Recodified as RCW 43.21A.705. (*Effective January 1, 1996, until June 30, 1997.*)** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**43.21I.010 Recodified as RCW 43.21A.710. (*Effective January 1, 1996, until June 30, 1997.*)** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**43.21I.020 Repealed. (*Effective January 1, 1996.*)** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**43.21I.030 Recodified as RCW 43.21A.715. (*Effective January 1, 1996, until June 30, 1997.*)** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**43.21I.040 Recodified as RCW 43.21A.720. (*Effective January 1, 1996, until June 30, 1997.*)** See Supplementary Table of Disposition of Former RCW Sections, this volume.



## Chapter 43.21J

ENVIRONMENTAL AND FOREST RESTORATION  
PROJECTS

## Sections

43.21J.010 Intent—Purpose—Definitions.

**43.21J.010 Intent—Purpose—Definitions.** (1) It is the intent of this chapter to provide financial resources to make substantial progress toward: (a) Implementing the Puget Sound water quality management plan and other watershed-based management strategies and plans; (b) ameliorating degradation to watersheds; and (c) keeping and creating stable, environmentally sound, good wage employment in Washington state. The legislature intends that employment under this chapter is not to result in the displacement or partial displacement, whether by the reduction of hours of nonovertime work, wages, or other employment benefits, of currently employed workers, including but not limited to state civil service employees, or of currently or normally contracted services.

(2) It is the purpose of this chapter to:

(a) Implement clean water, forest, and habitat restoration projects that will produce measurable improvements in water and habitat quality, that rate highly when existing environmental ranking systems are applied, and that provide economic stability.

(b) Facilitate the coordination and consistency of federal, state, tribal, local, and private water and habitat protection and enhancement programs in the state's watersheds.

(c) Fund necessary projects for which a public planning process has been completed.

(d) Provide immediate funding to create jobs and training for environmental restoration and enhancement jobs for unemployed workers and displaced workers in impact areas, especially rural natural resources-dependent communities.

(3) For purposes of this chapter "impact areas" means: (a) Distressed counties as defined in RCW 43.165.010(3)(a); (b) subcounty areas in those counties not covered under (a) of this subsection that are rural natural resources impact areas as defined in RCW 43.31.601; (c) urban subcounty areas as defined in RCW 43.165.010(3)(c); and (d) areas that the task force determines are likely to experience dislocations in the near future from downturns in natural resource-based industries.

(4) For purposes of this chapter, "high-risk youth" means youth eligible for Washington conservation corps programs under chapter 43.220 RCW or Washington service corps programs under chapter 50.65 RCW.

(5) For purposes of this chapter, "dislocated forest products worker" has the meaning set forth in RCW 50.70.010.

(6) For purposes of this chapter, "task force" means the environmental enhancement and job creation task force created under RCW 43.21J.030. [1995 c 226 § 26; 1993 c 516 § 2.]

**Severability—Conflict with federal requirements—Effective date—**1995 c 226: See notes following RCW 43.31.601.

## Chapter 43.22

## DEPARTMENT OF LABOR AND INDUSTRIES

## Sections

- 43.22.331 Annual report on workers' compensation fraud.
- 43.22.335 Mobile homes, commercial coaches, recreational vehicles, and park trailers—Definitions.
- 43.22.340 Mobile homes, commercial coaches, recreational vehicles, and park trailers—Rules and regulations governing safety of body and frame design and plumbing, heating and electrical equipment—Compliance.
- 43.22.345 Mobile homes, commercial coaches, recreational vehicles, and park trailers—Penalty.
- 43.22.350 Mobile homes, commercial coaches, recreational vehicles, and park trailers—Compliance insignia—Fee schedule—Out-of-state sales.
- 43.22.355 Mobile homes, commercial coaches, recreational vehicles, and park trailers—Self-certification for recreational vehicles and park trailers—Procedures—Performance audit of quality control programs.
- 43.22.360 Mobile homes, commercial coaches, recreational vehicles, and park trailers—Plans and specifications—Approval—Alterations—Rules.
- 43.22.370 Mobile homes, commercial coaches, recreational vehicles, and park trailers—Leased, sold, or manufactured in state prior to July 1, 1968—Compliance not required—Exception.
- 43.22.380 Mobile homes, commercial coaches, recreational vehicles, and park trailers—Manufactured for use outside state—Compliance not required—Exception.
- 43.22.390 Mobile homes, commercial coaches, recreational vehicles, and park trailers—Insigne of approval, when required.
- 43.22.400 Mobile homes, commercial coaches, recreational vehicles, and park trailers—Meeting standards of other states at least equal to this state.
- 43.22.410 Mobile homes, commercial coaches, recreational vehicles, and park trailers—Meeting requirements of chapter deemed compliance with county or city ordinances.
- 43.22.420 Factory assembled structures advisory board.
- 43.22.434 Inspections and investigations necessary to promulgate or enforce mobile home, commercial coach, recreational vehicle, park trailer, factory built housing, and factory built structure rules—Director's duties.
- 43.22.480 Factory built housing and commercial structures, installation—Rules—Enforcement—Standards—Fees.
- 43.22.495 Manufactured housing—Department of community, trade, and economic development duties.

**43.22.331 Annual report on workers' compensation fraud.** The department shall annually compile a comprehensive report on workers' compensation fraud in Washington. The report shall include the department's activities related to the prevention, detection, and prosecution of worker, employer, and provider fraud and the cost of such activities, as well as the actual and estimated cost savings of such activities. The report shall be submitted to the appropriate committees of the legislature prior to the start of the legislative session in January. [1995 c 160 § 7.]

**43.22.335 Mobile homes, commercial coaches, recreational vehicles, and park trailers—Definitions.** Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.22.340 through 43.22.420.

(1) "Park trailer" means a park trailer as defined in the American National Standards Institute A119.5 standard for park trailers.

(2) "Recreational vehicle" means a vehicular-type unit primarily designed for recreational camping or travel use that

has its own motive power or is mounted on or towed by another vehicle. The units include travel trailers, fifth-wheel trailers, folding camping trailers, truck campers, and motor homes. [1995 c 280 § 1.]

**43.22.340 Mobile homes, commercial coaches, recreational vehicles, and park trailers—Rules and regulations governing safety of body and frame design and plumbing, heating and electrical equipment—Compliance.** The director of labor and industries shall prescribe and enforce rules and regulations governing safety of body and frame design, and the installation of plumbing, heating, and electrical equipment in mobile homes, commercial coaches, recreational vehicles, and/or park trailers: PROVIDED, That the director shall not prescribe or enforce rules and regulations governing the body and frame design of recreational vehicles and park trailers until after the American National Standards Institute shall have published standards and specifications upon this subject. Such rules and regulations shall be reasonably consistent with recognized and accepted principles of safety for body and frame design and plumbing, heating, and electrical installations, in order to protect the health and safety of the people of this state from dangers inherent in the use of substandard and unsafe body and frame design, construction, plumbing, heating, electrical, and other equipment and shall correlate with and, so far as practicable, conform to the then current standards and specifications of the American National Standards Institute standards A119.1 for mobile homes and commercial coaches, A119.2 for recreational vehicles, and A119.5 for park trailers. It shall be unlawful for any person to lease, sell or offer for sale, within this state, any mobile homes, commercial coaches, recreational vehicles, and/or park trailers manufactured after January 1, 1968, containing plumbing, heating, electrical, or other equipment, and after July 1, 1970 body and frame design or construction unless such equipment meets the requirements of the rules and regulations provided for herein. [1995 c 280 § 2; 1970 ex.s. c 27 § 1; 1969 ex.s. c 229 § 1; 1967 c 157 § 1.]

**43.22.345 Mobile homes, commercial coaches, recreational vehicles, and park trailers—Penalty.** Any person violating the provisions of RCW 43.22.340 shall be guilty of a misdemeanor. Each day upon which a violation occurs shall constitute a separate violation. [1995 c 280 § 3; 1969 ex.s. c 229 § 4.]

**43.22.350 Mobile homes, commercial coaches, recreational vehicles, and park trailers—Compliance insignia—Fee schedule—Out-of-state sales.** (1) In compliance with any applicable provisions of this chapter, the director of the department of labor and industries shall establish a schedule of fees, whether on the basis of plan approval or inspection, for the issuance of an insigne which indicates that the mobile home, commercial coach, recreational vehicle, and/or park trailer complies with the provisions of RCW 43.22.340 through 43.22.410 or for any other purpose specifically authorized by any applicable provision of this chapter.

(2) Insignia are not required on mobile homes, commercial coaches, recreational vehicles, and/or park trailers

manufactured within this state for sale outside this state which are sold to persons outside this state. [1995 c 280 § 4; 1977 ex.s. c 21 § 6; 1970 ex.s. c 27 § 2; 1967 c 157 § 2.]

Construction—1977 ex.s. c 21: See note following RCW 43.22.431.

**43.22.355 Mobile homes, commercial coaches, recreational vehicles, and park trailers—Self-certification for recreational vehicles and park trailers—Procedures—Performance audit of quality control programs.** The director or the director's authorized representative may allow qualifying recreational vehicle and/or park trailer manufacturers to be self-certified as to compliance with the American National Standards Institute A119.2 standard for recreational vehicles and the American National Standards Institute A119.5 standard for park trailers. Except as provided in subsection (4) of this section, a manufacturer approved for the department's self-certification is exempt from the requirements under RCW 43.22.434 and 43.22.360. The director shall adopt rules to implement the self-certification program. The director may establish fees at a sufficient level to cover the costs of administering this program.

(1) Before a manufacturer becomes self-certified, the department shall make an initial audit of the manufacturer making self-certification application. The audit must review and report on the following:

(a) The manufacturer's quality control program;

(b) The manufacturer's demonstrated ability to manufacture products in conformance with either or both of the American National Standards Institute standards A119.2 and A119.5; and

(c) The availability on site of comprehensive plans for each model being manufactured.

(2) At the sole discretion of the director, a manufacturer currently being audited by the department that is deemed to meet the criteria for an initial self-certification audit may become a self-certified manufacturer without an additional self-certification audit.

(3) If the department denies an application to allow a manufacturer to be self-certified, the manufacturer shall be notified in writing including the reasons for denial. A copy of the initial self-certification audit shall be provided to the manufacturer. A manufacturer who is denied self-certification may appeal the denial under chapter 34.05 RCW.

(4) If the department has reason to believe that the manufacturer is no longer meeting the criteria established in subsection (1) of this section, the department may make an audit of the manufacturer. For purposes of enforcement of this subsection, the department retains inspection and investigation authority under RCW 43.22.434. At the conclusion of this audit, the director or the director's authorized representative may continue the manufacturer's self-certification or require the manufacturer to meet all of the requirements of this chapter from which the manufacturer was once exempted.

(5) The manufacturer to whom the authorization is given shall pay all of the costs of the initial self-certification audit and any subsequent audit that the department has the authority to perform.

(6) The department shall conduct a performance audit of additional industry association quality control programs

utilized by self-certified manufacturers at least once every two years. [1995 c 280 § 6.]

**43.22.360 Mobile homes, commercial coaches, recreational vehicles, and park trailers—Plans and specifications—Approval—Alterations—Rules.** (1) Plans and specifications of each model or production prototype of a mobile home, commercial coach, recreational vehicle, and/or park trailer showing body and frame design, construction, plumbing, heating and electrical specifications and data shall be submitted to the department of labor and industries for approval and recommendations with respect to compliance with the regulations and standards of each of such agencies. When plans have been submitted and approved as aforesaid, no changes or alterations shall be made to body and frame design, construction, plumbing, heating or electrical installations or specifications shown thereon in any mobile home, commercial coach, recreational vehicle, or park trailer without prior written approval of the department of labor and industries.

(2) The director may adopt rules that provide for approval of a plan that is certified as meeting state requirements or the equivalent by a professional who is licensed or certified in a state whose licensure or certification requirements meet or exceed Washington requirements. [1995 c 289 § 1; 1995 c 280 § 7; 1970 ex.s. c 27 § 3; 1967 c 157 § 3.]

**Reviser's note:** This section was amended by 1995 c 280 § 7 and by 1995 c 289 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**43.22.370 Mobile homes, commercial coaches, recreational vehicles, and park trailers—Leased, sold, or manufactured in state prior to July 1, 1968—Compliance not required—Exception.** Any mobile home, commercial coach, recreational vehicle, and/or park trailer leased or sold in Washington and manufactured prior to July 1, 1968, which has not been inspected prior to its sale and which does not meet the requirements prescribed will not be required to comply with said requirements except for alterations or installations referred to in RCW 43.22.360. [1995 c 280 § 8; 1970 ex.s. c 27 § 4; 1969 ex.s. c 229 § 2; 1967 c 157 § 4.]

**43.22.380 Mobile homes, commercial coaches, recreational vehicles, and park trailers—Manufactured for use outside state—Compliance not required—Exception.** Used mobile homes, commercial coaches, recreational vehicles, and/or park trailers manufactured for use outside this state which do not meet the requirements prescribed and have been used for six months or more will not be required to comply with said requirements except for alterations or installations referred to in RCW 43.22.360. [1995 c 280 § 9; 1970 ex.s. c 27 § 5; 1967 c 157 § 5.]

**43.22.390 Mobile homes, commercial coaches, recreational vehicles, and park trailers—Insigne of approval, when required.** Mobile homes, commercial coaches, recreational vehicles, and/or park trailers subject to the provisions of RCW 43.22.340 through 43.22.410, and

mobile homes, commercial coaches, recreational vehicles, and/or park trailers upon which alterations of body and frame design, construction or installations of plumbing, heating or electrical equipment referred to in RCW 43.22.360 are made after July 1, 1968, shall have affixed thereto such insigne of approval. [1995 c 280 § 10; 1970 ex.s. c 27 § 6; 1967 c 157 § 6.]

**43.22.400 Mobile homes, commercial coaches, recreational vehicles, and park trailers—Meeting standards of other states at least equal to this state.** If the director of the department of labor and industries determines that the standards for body and frame design, construction and the plumbing, heating and electrical equipment installed in mobile homes, commercial coaches, recreational vehicles, and/or park trailers by the statutes or rules and regulations of other states are at least equal to the standards prescribed by this state, he may so provide by regulation. Any mobile home, commercial coach, recreational vehicle, and/or park trailer which a state listed in such regulations has approved as meeting its standards for body and frame design, construction and plumbing, heating and electrical equipment shall be deemed to meet the standards of the director of the department of labor and industries, if he determines that the standards of such state are actually being enforced. [1995 c 280 § 11; 1970 ex.s. c 27 § 7; 1967 c 157 § 7.]

**43.22.410 Mobile homes, commercial coaches, recreational vehicles, and park trailers—Meeting requirements of chapter deemed compliance with county or city ordinances.** Any mobile home, commercial coach, recreational vehicle, and/or park trailer that meets the requirements prescribed under RCW 43.22.340 shall not be required to comply with any ordinances of a city or county prescribing requirements for body and frame design, construction or plumbing, heating and electrical equipment installed in mobile homes, commercial coaches, recreational vehicles, and/or park trailers. [1995 c 280 § 12; 1970 ex.s. c 27 § 8; 1967 c 157 § 8.]

**43.22.420 Factory assembled structures advisory board.** There is hereby created a factory assembled structures advisory board consisting of nine members to be appointed by the director of labor and industries. It shall be the purpose and function of the board to advise the director on all matters pertaining to the enforcement of this chapter including but not limited to standards of body and frame design, construction and plumbing, heating and electrical installations, minimum inspection procedures, the adoption of rules and regulations pertaining to the manufacture of factory assembled structures, mobile homes, commercial coaches, recreational vehicles, and park trailers. The advisory board shall periodically review the rules promulgated under RCW 43.22.450 through 43.22.490 and shall recommend changes of such rules to the department if it deems changes advisable.

The members of the advisory board shall be representative of consumers, the regulated industries, and allied professionals. The term of each member shall be four years. However, the director may appoint the initial members of the advisory board to staggered terms not exceeding four years.

The chief inspector or any person acting as chief inspector for the factory assembled structures, mobile home, commercial coach, recreational vehicle, and park trailer section shall serve as secretary of the board during his tenure as chief. Meetings of the board shall be called at the discretion of the director of labor and industries, but at least quarterly. Each member of the board shall be paid travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended which shall be paid out of the appropriation to the department of labor and industries, upon vouchers approved by the director of labor and industries or his or her designee. [1995 c 280 § 13; 1987 c 330 § 601; 1975-'76 2nd ex.s. c 34 § 103; 1971 ex.s. c 82 § 1; 1970 ex.s. c 27 § 9; 1969 ex.s. c 229 § 3.]

**Construction—Application of rules—Severability—1987 c 330:** See notes following RCW 28B.12.050.

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

**43.22.434 Inspections and investigations necessary to promulgate or enforce mobile home, commercial coach, recreational vehicle, park trailer, factory built housing, and factory built structure rules—Director's duties.** (1) The director or the director's authorized representative may conduct such inspections and investigations as may be necessary to promulgate or enforce mobile home, commercial coach, recreational vehicle, park trailer, factory built housing, and factory built commercial structure rules adopted under the authority of this chapter or to carry out the director's duties under this chapter.

(2) For purposes of enforcement of this chapter, persons duly designated by the director upon presenting appropriate credentials to the owner, operator, or agent in charge may:

(a) At reasonable times and without advance notice enter any factory, warehouse, or establishment in which mobile homes, commercial coaches, recreational vehicles, park trailers, factory built housing, and factory built commercial structures are manufactured, stored, or held for sale; and

(b) At reasonable times, within reasonable limits, and in a reasonable manner inspect any factory, warehouse, or establishment as required to comply with the standards adopted by the secretary of housing and urban development under the National Mobile Home Construction and Safety Standards Act of 1974. Each inspection shall be commenced and completed with reasonable promptness.

(3) In carrying out the inspections authorized by this section the director may establish, by rule, and impose on mobile home manufacturers, distributors, and dealers such reasonable fees as may be necessary to offset the expenses incurred by the director in conducting the inspections. [1995 c 280 § 5; 1977 ex.s. c 21 § 5.]

**Construction—1977 ex.s. c 21:** See note following RCW 43.22.431.

**43.22.480 Factory built housing and commercial structures, installation—Rules—Enforcement—Standards—Fees.** (1) The department shall adopt and enforce rules that protect the health, safety, and property of the people of this state by assuring that all factory built housing or factory built commercial structures are structurally sound and that the plumbing, heating, electrical, and other components thereof are reasonably safe. The rules

shall be reasonably consistent with recognized and accepted principles of safety and structural soundness, and in adopting the rules the department shall consider, so far as practicable, the standards and specifications contained in the uniform building, plumbing, and mechanical codes, including the barrier free code and the Washington energy code as adopted by the state building code council pursuant to chapter 19.27A RCW, and the national electrical code, including the state rules as adopted pursuant to chapter 19.28 RCW and published by the national fire protection association.

(2) The department shall set a schedule of fees which will cover the costs incurred by the department in the administration and enforcement of RCW 43.22.450 through 43.22.490.

(3) The director may adopt rules that provide for approval of a plan that is certified as meeting state requirements or the equivalent by a professional who is licensed or certified in a state whose licensure or certification requirements meet or exceed Washington requirements. [1995 c 289 § 2; 1989 c 134 § 1; 1979 ex.s. c 76 § 2; 1973 1st ex.s. c 22 § 5; 1970 ex.s. c 44 § 7.]

**43.22.495 Manufactured housing—Department of community, trade, and economic development duties.** Beginning on July 1, 1991, the department of community, trade, and economic development shall be responsible for performing all the consumer complaint and related functions of the state administrative agency that are required for purposes of complying with the regulations established by the federal department of housing and urban development for manufactured housing, including the preparation and submission of the state administrative plan.

The department of community, trade, and economic development may enter into state or local interagency agreements to coordinate site inspection activities with record monitoring and complaint handling. The interagency agreement may also provide for the reimbursement for cost of work that an agency performs. The department may include other related areas in any interagency agreements which are necessary for the efficient provision of services.

The directors of the department of community, trade, and economic development and the department of labor and industries shall immediately take such steps as are necessary to ensure that chapter 176, Laws of 1990 is implemented on June 7, 1990. [1995 c 399 § 69; 1990 c 176 § 1.]

*Department of community, trade, and economic development duties: RCW 43.63A.460.*

## Chapter 43.23

### DEPARTMENT OF AGRICULTURE

#### Sections

- 43.23.001 Definitions.
- 43.23.025 Rule-making authority.
- 43.23.035 Powers and duties—State agricultural market development programs and activities.
- 43.23.170 Enforcement in accordance with RCW 43.05.100 and 43.05.110.
- 43.23.250 Collection of unpaid penalties, assessments, and debts—Use of collection agencies.
- 43.23.255 Assessments levied by director—Personal debt—Costs of collecting—Civil actions authorized—Attorneys' fees.
- 43.23.260 Interest on unpaid balances.

43.23.265 Dishonored check or negotiable instrument.

**43.23.001 Definitions.** For purposes of this chapter:

- (1) "Department" means department of agriculture;
- (2) "Person" means any individual, partnership, association, corporation, or organized group of persons whether or not incorporated. [1995 c 374 § 61.]

**Effective date—1995 c 374 §§ 1-47, 50-53, and 59-68:** See note following RCW 15.36.012.

**43.23.025 Rule-making authority.** For rules adopted after July 23, 1995, the director of agriculture may not rely solely on a section of law stating a statute's intent or purpose, on the enabling provisions of the statute establishing the agency, or on any combination of such provisions, for statutory authority to adopt any rule. [1995 c 403 § 104.]

**Findings—Short title—Intent—1995 c 403:** See note following RCW 34.05.328.

**Part headings not law—Severability—1995 c 403:** See RCW 43.05.903 and 43.05.904.

**43.23.035 Powers and duties—State agricultural market development programs and activities.** The department of agriculture is hereby designated as the agency of state government for the administration and implementation of state agricultural market development programs and activities, both domestic and foreign, and shall, in addition to the powers and duties otherwise imposed by law, have the following powers and duties:

- (1) To study the potential marketability of various agricultural commodities of this state in foreign and domestic trade;

- (2) To collect, prepare, and analyze foreign and domestic market data;

- (3) To establish a program to promote and assist in the marketing of Washington-bred horses: PROVIDED, That the department shall present a proposal to the legislature no later than December 1, 1986, that provides for the elimination of all state funding for the program after June 30, 1989;

- (4) To encourage and promote the sale of Washington's agricultural commodities and products at the site of their production through the development and dissemination of referral maps and other means;

- (5) To encourage and promote those agricultural industries, such as the wine industry, which attract visitors to rural areas in which other agricultural commodities and products are produced and are, or could be, made available for sale;

- (6) To encourage and promote the establishment and use of public markets in this state for the sale of Washington's agricultural products;

- (7) To maintain close contact with foreign firms and governmental agencies and to act as an effective intermediary between foreign nations and Washington traders;

- (8) To publish and disseminate to interested citizens and others information which will aid in carrying out the purposes of chapters 43.23, 15.64, 15.65, and 15.66 RCW;

- (9) To encourage and promote the movement of foreign and domestic agricultural goods through the ports of Washington;

- (10) To conduct an active program by sending representatives to, or engaging representatives in, foreign countries to promote the state's agricultural commodities and products;

- (11) To assist and to make Washington agricultural concerns more aware of the potentials of foreign trade and to encourage production of those commodities that will have high export potential and appeal;

- (12) To coordinate the trade promotional activities of appropriate federal, state, and local public agencies, as well as civic organizations; and

- (13) To develop a coordinated marketing program with the department of community, trade, and economic development, utilizing existing trade offices and participating in mutual trade missions and activities.

As used in this section, "agricultural commodities" includes products of both terrestrial and aquatic farming. [1995 c 399 § 70; 1986 c 202 § 1; 1985 c 159 § 3.]

**Severability—1986 c 202:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1986 c 202 § 7.]

**Legislative declaration and intent—1985 c 159:** "The legislature declares that:

- (1) Marketing is a dynamic and changing part of Washington agriculture and a vital element in expanding the state economy.

- (2) The export of agricultural products produced in Washington state contributes substantial benefits to the economic base of the state, provides a large number of jobs and sizeable tax revenues to state and local governments, provides an important stabilizing effect on prices received by agricultural producers, and contributes to the United States balance of trade.

- (3) State government should play a significant role in the development and expansion of markets for Washington grown and processed agricultural and food products.

- (4) In order for state government to serve the best interests of agriculture in the area of market development, the role of state government in this area must be clearly defined.

- (5) The department of agriculture, the department of commerce and economic development, and the IMPACT center at Washington State University, each possesses its own unique body of knowledge, expertise, and relationships that, when combined and applied in a logical and cooperative manner, will benefit the agricultural industry and the overall state economy and will provide a powerful force to seek aggressively new domestic and international markets for Washington's agricultural products.

It is the intent of the legislature to establish an organized agricultural market development function within state government with clearly defined areas of responsibility which will be responsive to the state's agricultural and food products industries' needs, without duplicating established private sector marketing efforts." [1985 c 159 § 1.]

**43.23.170 Enforcement in accordance with RCW 43.05.100 and 43.05.110.** Enforcement action taken after July 23, 1995, by the director or the department of agriculture shall be in accordance with RCW 43.05.100 and 43.05.110. [1995 c 403 § 623.]

**Findings—Short title—Intent—1995 c 403:** See note following RCW 34.05.328.

**Part headings not law—Severability—1995 c 403:** See RCW 43.05.903 and 43.05.904.

**43.23.250 Collection of unpaid penalties, assessments, and debts—Use of collection agencies.** Except as otherwise specified by law, the director or his or her designee has the authority to retain collection agencies licensed under chapter 19.16 RCW for the purposes of collecting unpaid penalties, assessments, and other debts owed to the department.

The director or his or her designee may also collect as costs moneys paid to the collection agency as charges, or in the case of credit cards or financial instruments, such as checks returned for nonpayment, moneys paid to financial institutions. [1995 c 374 § 62.]

**Effective date—1995 c 374 §§ 1-47, 50-53, and 59-68:** See note following RCW 15.36.012.

**43.23.255 Assessments levied by director—Personal debt—Costs of collecting—Civil actions authorized—Attorneys' fees.** Except as otherwise specified by law, any due and payable assessment levied under the authority of the director or his or her designee in such specified amount as may be determined by the department shall constitute a personal debt of every person so assessed or who otherwise owes the same, and the same shall be due and payable to the department when payment is called for by the department. In the event any person fails to pay the department the full amount of such assessment or such other sum on or before the date due, the department may, and is hereby authorized to, add to such unpaid assessment or other sum an amount not exceeding ten percent of the same to defray the cost of enforcing the collecting of the same. In the event of failure of such person or persons to pay any such due and payable assessment or other sum, the department may bring a civil action against such person or persons in a court of competent jurisdiction for the collections thereof, including all costs and reasonable attorneys' fees together with the above specified ten percent, and such action shall be tried and judgment rendered as in any other cause of action for debt due and payable. [1995 c 374 § 63.]

**Effective date—1995 c 374 §§ 1-47, 50-53, and 59-68:** See note following RCW 15.36.012.

**43.23.260 Interest on unpaid balances.** Except as otherwise specified by law, the department is authorized to charge interest at the rate authorized under RCW 43.17.240 for all unpaid balances for moneys owed to the department. [1995 c 374 § 64.]

**Effective date—1995 c 374 §§ 1-47, 50-53, and 59-68:** See note following RCW 15.36.012.

**43.23.265 Dishonored check or negotiable instrument.** Except as otherwise specified by law, in the event a check or negotiable instrument as defined by RCW 62A.3-104 is dishonored by nonacceptance or nonpayment, the department is entitled to collect a reasonable handling fee for each instrument. If the check or instrument is not paid within fifteen days and proper notice is sent, the department is authorized to recover the assessment, the handling fee, and any other charges allowed by RCW 62A.3-515. [1995 c 374 § 65.]

**Effective date—1995 c 374 §§ 1-47, 50-53, and 59-68:** See note following RCW 15.36.012.

### Chapter 43.24

#### DEPARTMENT OF LICENSING

##### Sections

43.24.023 Rule-making authority.

43.24.125 Enforcement in accordance with RCW 43.05.100 and 43.05.110.

**43.24.023 Rule-making authority.** For rules adopted after July 23, 1995, the director of the department of licensing may not rely solely on a section of law stating a statute's intent or purpose, on the enabling provisions of the statute establishing the agency, or on any combination of such provisions, for statutory authority to adopt any rule, except rules defining or clarifying terms in, or procedures necessary to the implementation of, a statute. [1995 c 403 § 107.]

**Findings—Short title—Intent—1995 c 403:** See note following RCW 34.05.328.

**Part headings not law—Severability—1995 c 403:** See RCW 43.05.903 and 43.05.904.

**43.24.125 Enforcement in accordance with RCW 43.05.100 and 43.05.110.** Enforcement action taken after July 23, 1995, by the director or the department of licensing shall be in accordance with RCW 43.05.100 and 43.05.110. [1995 c 403 § 624.]

**Findings—Short title—Intent—1995 c 403:** See note following RCW 34.05.328.

**Part headings not law—Severability—1995 c 403:** See RCW 43.05.903 and 43.05.904.

### Chapter 43.30

#### DEPARTMENT OF NATURAL RESOURCES

##### Sections

43.30.095 Enforcement in accordance with RCW 43.05.100 and 43.05.110.

43.30.115 Park land trust revolving fund.

43.30.410 Watershed restoration projects—Permit processing.

**43.30.095 Enforcement in accordance with RCW 43.05.100 and 43.05.110** Enforcement action taken after July 23, 1995, by the commissioner or supervisor of public lands shall be in accordance with RCW 43.05.100 and 43.05.110. [1995 c 403 § 625.]

**Findings—Short title—Intent—1995 c 403:** See note following RCW 34.05.328.

**Part headings not law—Severability—1995 c 403:** See RCW 43.05.903 and 43.05.904.

**43.30.115 Park land trust revolving fund.** The park land trust revolving fund is to be utilized by the department of natural resources for the exclusive purpose of acquiring real property, including all reasonable costs associated with these acquisitions, as a replacement for the property transferred to the state parks and recreation commission or as directed by the legislature in order to maintain the land base of the affected trusts. Proceeds from transfers of real property to the state parks and recreation commission or other proceeds identified from transfers of real property as directed by the legislature shall be deposited in this fund. Disbursement from the park land trust revolving fund to acquire replacement property shall be on the authorization of the department of natural resources. In order to maintain an effective expenditure and revenue control, the park land trust revolving fund is subject in all respects to chapter 43.88

RCW, but no appropriation is required to permit expenditures and payment of obligations from the fund. [1995 c 211 § 5.]

**Reviser's note:** 1995 c 211 directed that this section be added to chapter 43.85 RCW. This section has been codified in chapter 43.30 RCW, which relates more directly to the department of natural resources.

**Findings—Intent—Effective date—Severability—1995 c 211:** See notes following RCW 43.51.060.

**43.30.410 Watershed restoration projects—Permit processing.** A permit required by the department for a watershed restoration project as defined in RCW 89.08.460 shall be processed in compliance with RCW 89.08.450 through 89.08.510. [1995 c 378 § 13.]

### Chapter 43.31

#### DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

(Formerly: Department of trade and economic development)

##### Sections

43.31.093	Minority and women-owned small businesses—Entrepreneurial training courses.
43.31.601	Definitions.
43.31.611	Rural community assistance coordinator—Expiration of section.
43.31.621	Agency rural community assistance task force—Expiration of section.
43.31.631	Repealed.
43.31.641	Department duties—Extension programs—Value-added production—Industrial diversification.
43.31.651	Sustainable economic development efforts—Community assistance.
43.31.661	Repealed.
43.31.960	Administration of proceeds.

**43.31.093 Minority and women-owned small businesses—Entrepreneurial training courses.** The department of community, trade, and economic development shall contract with public and private agencies, institutions, and organizations to conduct entrepreneurial training courses for minority and women-owned small businesses. The instruction shall be intensive, practical training courses in financing, marketing, managing, accounting, and recordkeeping for a small business, with an emphasis on federal, state, local, or private programs available to assist small businesses. The business assistance center may recommend professional instructors, with practical knowledge and experience on how to start and operate a business, to teach the courses. Instruction shall be offered in major population centers throughout the state at times and locations which are convenient for minority and women small business owners and entrepreneurs. [1995 c 399 § 71; 1993 c 512 § 6.]

**Short title—Part headings and section captions—Severability—Effective date—1993 c 512:** See RCW 43.172.900 through 43.172.903.

**43.31.601 Definitions.** For the purposes of RCW 43.31.601 through \*43.31.661:

(1) "Timber impact area" means a county having a population of less than five hundred thousand, or a city or town located within a county having a population of less than five hundred thousand, and meeting two of the follow-

ing three criteria, as determined by the employment security department, for the most recent year such data is available: (a) A lumber and wood products employment location quotient at or above the state average; (b) projected or actual direct lumber and wood products job losses of one hundred positions or more, except counties having a population greater than two hundred thousand but less than five hundred thousand must have direct lumber and wood products job losses of one thousand positions or more; or (c) an annual unemployment rate twenty percent or more above the state average.

(2)(a) "Rural natural resources impact area" means:

(i) A nonmetropolitan county, as defined by the 1990 decennial census, that meets two of the five criteria set forth in (b) of this subsection; or

(ii) A nonurbanized area, as defined by the 1990 decennial census, that is located in a metropolitan county that meets two of the five criteria set forth in (b) of this subsection.

(b) For the purposes of designating rural natural resources impact areas; the following criteria shall be considered:

(i) A lumber and wood products employment location quotient at or above the state average;

(ii) A commercial salmon fishing employment location quotient at or above the state average;

(iii) Projected or actual direct lumber and wood products job losses of one hundred positions or more;

(iv) Projected or actual direct commercial salmon fishing job losses of one hundred positions or more; and

(v) An unemployment rate twenty percent or more above the state average.

The counties that meet these criteria shall be determined by the employment security department for the most recent year for which data is available. For the purposes of administration of programs under this chapter, the United States post office five-digit zip code delivery areas will be used to determine residence status for eligibility purposes. For the purpose of this definition, a zip code delivery area that is located wholly or partially in an urbanized area or within two miles of an urbanized area is considered urbanized. The office of financial management shall make available a zip code listing of the areas to all agencies and organizations providing services under this chapter. [1995 c 226 § 1; 1992 c 21 § 2; 1991 c 314 § 2.]

**\*Reviser's note:** RCW 43.31.661 was repealed by 1995 c 226 § 33, effective July 1, 1995.

**Reviser's note—Sunset Act application:** The rural natural resources impact area programs are subject to review, termination, and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.385, RCW 28B.50.258, 28B.50.262, 28B.80.570, 28B.80.575, 28B.80.580, 28B.80.585, 43.17.065, 43.20A.750, 43.31.601, 43.31.641, 43.31.651, 43.63A.021, 43.63A.440, 43.63A.600, 43.160.200, 43.160.212, 43.168.140, 50.12.270, 50.22.090, 50.70.010, and 50.70.020 are scheduled for future repeal under RCW 43.131.386.

**Severability—1995 c 226:** "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." [1995 c 226 § 37.]

**Conflict with federal requirements—1995 c 226:** "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not

affect the operation of the remainder of this act in its application to the agencies concerned. The rules under this act shall meet federal requirements that are a necessary condition to the receipt of federal funds by the state." [1995 c 226 § 38.]

**Effective date—1995 c 226:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995." [1995 c 226 § 39.]

**Findings—1991 c 314:** "The legislature finds that:

(1) Cutbacks in allowable sales of old growth timber in Washington state pose a substantial threat to the region and the state with massive layoffs, loss of personal income, and declines in state revenues;

(2) The timber impact areas are of critical significance to the state because of their leading role in the overall economic well-being of the state and their importance to the quality of life to all residents of Washington, and that these regions require a special state effort to diversify the local economy;

(3) There are key opportunities to broaden the economic base in the timber impact areas including agriculture, high-technology, tourism, and regional exports; and

(4) A coordinated state, local, and private sector effort offers the greatest potential to promote economic diversification and to provide support for new projects within the region.

The legislature further finds that if a special state effort does not take place the decline in allowable timber sales may result in a loss of six thousand logging and milling jobs; two hundred million dollars in direct wages and benefits; twelve thousand indirect jobs; and three hundred million dollars in indirect wages and benefits.

It is the intent of the legislature to develop comprehensive programs to provide diversified economic development and promote job creation and employment opportunities for the citizens of the timber impact areas." [1991 c 314 § 1.]

**43.31.611 Rural community assistance coordinator—Expiration of section.** (1) The governor shall appoint a rural community assistance coordinator. The coordinator shall coordinate the state and federal economic and social programs targeted to rural natural resources impact areas.

(2) The coordinator's responsibilities shall include but not be limited to:

(a) Chairing the agency rural community assistance task force and directing staff associated with the task force.

(b) Coordinating and maximizing the impact of state and federal assistance to rural natural resources impact areas.

(c) Coordinating and expediting programs to assist rural natural resources impact areas.

(d) Providing the legislature with a status and impact report on the rural community assistance program in January 1996.

(3) To assist in carrying out the duties set out under this section, the coordinator shall consult with the Washington state rural development council and may appoint an advisory body that has representation from local governments and natural resources interest groups representing impacted rural communities.

(4) This section shall expire June 30, 1997. [1995 c 226 § 2; 1993 c 316 § 1; 1991 c 314 § 3.]

**Severability—Conflict with federal requirements—Effective date—1995 c 226:** See notes following RCW 43.31.601.

**Effective date—1993 c 316:** "Sections 1 through 9 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect June 30, 1993." [1993 c 316 § 12.]

**Findings—1991 c 314:** See note following RCW 43.31.601.

**43.31.621 Agency rural community assistance task force—Expiration of section.** (1) There is established the

agency rural community assistance task force. The task force shall be chaired by the rural community assistance coordinator. It shall be the responsibility of the coordinator that all directives of chapter 314, Laws of 1991 are carried out expeditiously by the agencies represented in the task force. The task force shall consist of the directors, or representatives of the directors, of the following agencies: The department of community, trade, and economic development, employment security department, department of social and health services, state board for community and technical colleges, work force training and education coordinating board, department of natural resources, department of transportation, state energy office, department of fish and wildlife, University of Washington center for international trade in forest products, department of agriculture, and department of ecology. The task force shall solicit and consider input from the rural development council in coordinating agency programs targeted to rural natural resources impacted communities. The task force may consult and enlist the assistance of the following: The higher education coordinating board, University of Washington college of forest resources, University of Washington school of fisheries, Washington State University school of forestry, Northwest policy center, state superintendent of public instruction, Washington state labor council, the Evergreen partnership, Washington state association of counties, and others as needed.

(2) The task force, in conjunction with the rural development council, shall undertake a study to determine whether additional communities and industries are impacted, or are likely to be impacted, by salmon preservation and recovery efforts. The task force shall consider possible impacts in the following industries and associated communities: Barge transportation, irrigation dependent agriculture, food processing, aluminum, charter recreational fishing, boatbuilding, and other sectors suggested by the task force. The task force shall report its findings and recommendations to the legislature by January 1996.

(3) This section shall expire June 30, 1997. [1995 c 226 § 3; 1994 c 264 § 18. Prior: 1993 c 316 § 2; 1993 c 280 § 49; 1991 c 314 § 4.]

**Severability—Conflict with federal requirements—Effective date—1995 c 226:** See notes following RCW 43.31.601.

**Effective date—1993 c 316:** See note following RCW 43.31.611.

**Effective date—Severability—1993 c 280:** See RCW 43.330.902 and 43.330.903.

**Findings—1991 c 314:** See note following RCW 43.31.601.

**43.31.631 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**43.31.641 Department duties—Extension programs—Value-added production—Industrial diversification.** The department of community, trade, and economic development, as a member of the agency rural community assistance task force, shall:

(1) Implement an expanded value-added forest products development industrial extension program. The department shall provide technical assistance to small and medium-sized forest products companies to include:

(a) Secondary manufacturing product development;



(b) Plant and equipment maintenance;  
 (c) Identification and development of domestic market opportunities;

- (d) Building products export development assistance;
- (e) At-risk business development assistance;
- (f) Business network development; and
- (g) Timber impact area industrial diversification.

(2) Provide local contracts for small and medium-sized forest product companies, start-ups, and business organizations for business feasibility, market development, and business network contracts that will benefit value-added production efforts in the industry.

(3) Contract with local business organizations in timber impact areas for development of programs to promote industrial diversification. The department shall provide local capacity-building grants to local governments and community-based organizations in timber impact areas, which may include long-range planning and needs assessments.

For the 1991-93 biennium, the department of community, trade, and economic development shall use funds appropriated for this section for contracts and for no more than two additional staff positions. [1995 c 226 § 4; 1993 c 280 § 50; 1991 c 314 § 7.]

**Sunset Act application:** See note following RCW 43.31.601.

**Severability—Conflict with federal requirements—Effective date—1995 c 226:** See notes following RCW 43.31.601.

**Effective date—Severability—1993 c 280:** See RCW 43.330.902 and 43.330.903.

**Findings—1991 c 314:** See note following RCW 43.31.601.

**43.31.651 Sustainable economic development efforts—Community assistance.** The department of community, trade, and economic development as a part of the agency rural community assistance task force shall implement a community assistance program to enable communities to build local capacity for sustainable economic development efforts. The program shall provide resources and technical assistance to rural natural resources impact areas. [1995 c 226 § 10; 1993 c 280 § 51; 1991 c 314 § 9.]

**Sunset Act application:** See note following RCW 43.31.601.

**Severability—Conflict with federal requirements—Effective date—1995 c 226:** See notes following RCW 43.31.601.

**Effective date—Severability—1993 c 280:** See RCW 43.330.902 and 43.330.903.

**Findings—1991 c 314:** See note following RCW 43.31.601.

**43.31.661 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**43.31.960 Administration of proceeds.** The principal proceeds from the sale of the bonds authorized in RCW 43.31.956 shall be administered by the director of community, trade, and economic development. [1995 c 399 § 72; 1987 c 195 § 10; 1979 ex.s. c 260 § 3.]

**Severability—1979 ex.s. c 260:** See note following RCW 43.31.956.

**Chapter 43.33A**

**STATE INVESTMENT BOARD**

Sections

43.33A.190 Self-directed investment—Board may offer options. (*Effective July 1, 1996.*)

**43.33A.190 Self-directed investment—Board may offer options.** (*Effective July 1, 1996.*) Pursuant to RCW 41.50.088, the state investment board, at the request of the employee retirement benefits board, is authorized to offer investment options for self-directed investment under plan III. [1995 c 239 § 321.]

**Intent—Purpose—1995 c 239:** See note following RCW 41.32.831.

**Effective date—Part and subchapter headings not law—1995 c 239:** See notes following RCW 41.32.005.

*Benefits not contractual right until July 1, 1996: RCW 41.34.100.*

**Chapter 43.41**

**OFFICE OF FINANCIAL MANAGEMENT**

Sections

43.41.260 Monitoring enrollee level in basic health plan and medicaid caseload of children—Funding levels adjustment.

**43.41.260 Monitoring enrollee level in basic health plan and medicaid caseload of children—Funding levels adjustment.** The health care authority, the office of financial management, and the department of social and health services shall together monitor the enrollee level in the basic health plan and the medicaid caseload of children funded from the health services account. The office of financial management shall adjust the funding levels by interagency reimbursement of funds between the basic health plan and medicaid and adjust the funding levels between the health care authority and the medical assistance administration of the department of social and health services to maximize combined enrollment. [1995 c 265 § 21.]

**Captions not law—Effective dates—Savings—Severability—1995 c 265:** See notes following RCW 70.47.015.

**Chapter 43.43**

**WASHINGTON STATE PATROL**

Sections

- 43.43.264 Benefit calculation—Limitation.
- 43.43.510 Crime information center—Files listing stolen vehicles, outstanding warrants, runaway children, etc., to be established.
- 43.43.670 Crime laboratory created—Powers—Priorities.
- 43.43.710 Availability of information.
- 43.43.815 Conviction record furnished to employer—Purposes—Notification to subject of record—Fees—Limitations—Injunctive relief, damages, attorneys' fees—Disclaimer of liability—Rules.
- 43.43.830 Background checks—Access to children or vulnerable persons—Definitions.
- 43.43.832 Background checks—Disclosure of child abuse or financial exploitation activity.
- 43.43.838 Record checks—Transcript of conviction record, disciplinary board decision, criminal charges, or civil adjudication—Finding of no evidence, identification document—Immunity—Rules.
- 43.43.839 Fingerprint identification account.
- 43.43.930 State fire protection services—Intent.
- 43.43.932 State fire protection policy board—Created—Members.

- 43.43.934 State fire protection policy board—Duties (*as amended by 1995 c 243*).
- 43.43.934 State fire protection policy board—Duties—Fire training and education master plan—Fire protection master plan (*as amended by 1995 c 369*).
- 43.43.936 State fire protection policy board—Advisory duties.
- 43.43.938 Director of fire protection—Appointment—Duties.
- 43.43.940 Fire service training program—Grants and bequests.
- 43.43.942 Fire service training—Fees and fee schedules.
- 43.43.944 Fire service training account.
- 43.43.946 Fire services trust fund.
- 43.43.948 Fire services trust fund—Expenditures.
- 43.43.950 Fire service training center bond retirement account of 1977.
- 43.43.952 Arson investigation information system—Findings—Intent.

**43.43.264 Benefit calculation—Limitation.** (1) The annual compensation taken into account in calculating retiree benefits under this system shall not exceed the limits imposed by section 401(a)(17) of the federal internal revenue code for qualified trusts.

(2) The department shall adopt rules as necessary to implement this section. [1995 c 145 § 4.]

**43.43.510 Crime information center—Files listing stolen vehicles, outstanding warrants, runaway children, etc., to be established.** As soon as is practical and feasible there shall be established, by means of data processing, files listing stolen and wanted vehicles, outstanding warrants, identifying children whose parents, custodians, or legal guardians have reported as having run away from home or the custodial residence, identifiable stolen property, and such other files as may be of general assistance to law enforcement agencies. [1995 c 312 § 45; 1967 ex.s. c 27 § 2.]

**Short title—1995 c 312:** See note following RCW 13.32A.010.

**43.43.670 Crime laboratory created—Powers—Priorities.** There is created in the Washington state patrol a crime laboratory system which is authorized to:

(1) Provide laboratory services for the purpose of analyzing and scientifically handling any physical evidence relating to any crime.

(2) Provide training assistance for local law enforcement personnel.

The crime laboratory system shall assign priority to a request for services with due regard to whether the case involves criminal activity against persons. The Washington state forensic investigations council shall assist the crime laboratory system in devising policies to promote the most efficient use of laboratory resources consistent with this section. The forensic investigations council shall be actively involved in the preparation of the crime laboratory budget and shall approve the crime laboratory budget prior to its formal submission by the state patrol to the office of financial management pursuant to RCW 43.88.030. [1995 c 398 § 1; 1980 c 69 § 2.]

**43.43.710 Availability of information.** Information contained in the files and records of the section relative to the commission of any crime by any person shall be considered privileged and shall not be made public or disclosed for any personal purpose or in any civil court proceedings except upon a written order of the judge of a court wherein such civil proceedings are had. All information contained in

the files of the section relative to criminal records and personal histories of persons arrested for the commission of a crime shall be available to all criminal justice agencies upon the filing of an application as provided in RCW 43.43.705.

Although no application for information has been made to the section as provided in RCW 43.43.705, the section may transmit such information in the chief's discretion, to such agencies as are authorized by RCW 43.43.705 to make application for it. [1995 c 369 § 13; 1987 c 486 § 11; 1986 c 266 § 87; 1985 c 201 § 9; 1979 ex.s. c 36 § 7. Prior: 1977 ex.s. c 314 § 15; 1977 ex.s. c 30 § 1; 1972 ex.s. c 152 § 3.]

**Effective date—1995 c 369:** See note following RCW 43.43.930.

**Severability—1986 c 266:** See note following RCW 38.52.005.

**43.43.815 Conviction record furnished to employer—Purposes—Notification to subject of record—Fees—Limitations—Injunctive relief, damages, attorneys' fees—Disclaimer of liability—Rules.** (1) Notwithstanding any provision of RCW 43.43.700 through 43.43.810 to the contrary, the Washington state patrol shall furnish a conviction record, as defined in RCW 10.97.030, pertaining to any person of whom the Washington state patrol has a record upon the written or electronic request of any employer for the purpose of:

(a) Securing a bond required for any employment;

(b) Conducting preemployment and postemployment evaluations of employees and prospective employees who, in the course of employment, may have access to information affecting national security, trade secrets, confidential or proprietary business information, money, or items of value; or

(c) Assisting an investigation of suspected employee misconduct where such misconduct may also constitute a penal offense under the laws of the United States or any state.

(2) When an employer has received a conviction record under subsection (1) of this section, the employer shall notify the subject of the record of such receipt within thirty days after receipt of the record, or upon completion of an investigation under subsection (1)(c) of this section. The employer shall make the record available for examination by its subject and shall notify the subject of such availability.

(3) The Washington state patrol shall charge fees for disseminating records pursuant to this section which will cover, as nearly as practicable, the direct and indirect costs to the Washington state patrol of disseminating such records.

(4) Information disseminated pursuant to this section or RCW 43.43.760 shall be available only to persons involved in the hiring, background investigation, or job assignment of the person whose record is disseminated and shall be used only as necessary for those purposes enumerated in subsection (1) of this section.

(5) Any person may maintain an action to enjoin a continuance of any act or acts in violation of any of the provisions of this section, and if injured thereby, for the recovery of damages and for the recovery of reasonable attorneys' fees. If, in such action, the court finds that the defendant is violating or has violated any of the provisions of this section, it shall enjoin the defendant from a continu-

ance thereof, and it shall not be necessary that actual damages to the plaintiff be alleged or proved. In addition to such injunctive relief, the plaintiff in the action is entitled to recover from the defendant the amount of the actual damages, if any, sustained by him if actual damages to the plaintiff are alleged and proved. In any suit brought to enjoin a violation of this chapter, the prevailing party may be awarded reasonable attorneys' fees, including fees incurred upon appeal. Commencement, pendency, or conclusion of a civil action for injunction or damages shall not affect the liability of a person or agency to criminal prosecution for a violation of chapter 10.97 RCW.

(6) Neither the section, its employees, nor any other agency or employee of the state is liable for defamation, invasion of privacy, negligence, or any other claim in connection with any dissemination of information pursuant to this section or RCW 43.43.760.

(7) The Washington state patrol may adopt rules and forms to implement this section and to provide for security and privacy of information disseminated pursuant hereto, giving first priority to the criminal justice requirements of chapter 43.43 RCW. Such rules may include requirements for users, audits of users, and other procedures to prevent use of criminal history record information inconsistent with this section.

(8) Nothing in this section shall authorize an employer to make an inquiry not otherwise authorized by law, or be construed to affect the policy of the state declared in RCW 9.96A.010, encouraging the employment of ex-offenders. [1995 c 169 § 1; 1982 c 202 § 1.]

**43.43.830 Background checks—Access to children or vulnerable persons—Definitions.** Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.43.830 through 43.43.840.

(1) "Applicant" means:

(a) Any prospective employee who will or may have unsupervised access to children under sixteen years of age or developmentally disabled persons or vulnerable adults during the course of his or her employment or involvement with the business or organization;

(b) Any prospective volunteer who will have regularly scheduled unsupervised access to children under sixteen years of age, developmentally disabled persons, or vulnerable adults during the course of his or her employment or involvement with the business or organization under circumstances where such access will or may involve groups of (i) five or fewer children under twelve years of age, (ii) three or fewer children between twelve and sixteen years of age, (iii) developmentally disabled persons, or (iv) vulnerable adults; or

(c) Any prospective adoptive parent, as defined in RCW 26.33.020.

(2) "Business or organization" means a business or organization licensed in this state, any agency of the state, or other governmental entity, that educates, trains, treats, supervises, houses, or provides recreation to developmentally disabled persons, vulnerable adults, or children under sixteen years of age, including but not limited to public housing authorities, school districts, and educational service districts.

(3) "Civil adjudication" means a specific court finding of sexual abuse or exploitation or physical abuse in a dependency action under RCW 13.34.040 or in a domestic relations action under Title 26 RCW. In the case of vulnerable adults, civil adjudication means a specific court finding of abuse or financial exploitation in a protection proceeding under chapter 74.34 RCW. It does not include administrative proceedings. The term "civil adjudication" is further limited to court findings that identify as the perpetrator of the abuse a named individual, over the age of eighteen years, who was a party to the dependency or dissolution proceeding or was a respondent in a protection proceeding in which the finding was made and who contested the allegation of abuse or exploitation.

(4) "Conviction record" means "conviction record" information as defined in RCW 10.97.030(3) relating to a crime against children or other persons committed by either an adult or a juvenile. It does not include a conviction for an offense that has been the subject of an expungement, pardon, annulment, certificate of rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted, or a conviction that has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence. It does include convictions for offenses for which the defendant received a deferred or suspended sentence, unless the record has been expunged according to law.

(5) "Crime against children or other persons" means a conviction of any of the following offenses: Aggravated murder; first or second degree murder; first or second degree kidnaping; first, second, or third degree assault; first, second, or third degree assault of a child; first, second, or third degree rape; first, second, or third degree rape of a child; first or second degree robbery; first degree arson; first degree burglary; first or second degree manslaughter; first or second degree extortion; indecent liberties; incest; vehicular homicide; first degree promoting prostitution; communication with a minor; unlawful imprisonment; simple assault; sexual exploitation of minors; first or second degree criminal mistreatment; child abuse or neglect as defined in RCW 26.44.020; first or second degree custodial interference; malicious harassment; first, second, or third degree child molestation; first or second degree sexual misconduct with a minor; first or second degree rape of a child; patronizing a juvenile prostitute; child abandonment; promoting pornography; selling or distributing erotic material to a minor; custodial assault; violation of child abuse restraining order; child buying or selling; prostitution; felony indecent exposure; criminal abandonment; or any of these crimes as they may be renamed in the future.

(6) "Crimes relating to financial exploitation" means a conviction for first, second, or third degree extortion; first, second, or third degree theft; first or second degree robbery; forgery; or any of these crimes as they may be renamed in the future.

(7) "Disciplinary board final decision" means any final decision issued by a disciplining authority under chapter 18.130 RCW or the secretary of the department of health for the following businesses or professions:

(a) Chiropractic;

(b) Dentistry;

- (c) Dental hygiene;
- (d) Massage;
- (e) Midwifery;
- (f) Naturopathy;
- (g) Osteopathy;
- (h) Physical therapy;
- (i) Physicians;
- (j) Practical nursing;
- (k) Registered nursing; and
- (l) Psychology.

"Disciplinary board final decision," for real estate brokers and salespersons, means any final decision issued by the director of the department of licensing for real estate brokers and salespersons.

(8) "Unsupervised" means not in the presence of:

- (a) Another employee or volunteer from the same business or organization as the applicant; or
- (b) Any relative or guardian of any of the children or developmentally disabled persons or vulnerable adults to which the applicant has access during the course of his or her employment or involvement with the business or organization.

(9) "Vulnerable adult" means "vulnerable adult" as defined in chapter 74.34 RCW, except that for the purposes of requesting and receiving background checks pursuant to RCW 43.43.832, it shall also include adults of any age who lack the functional, mental, or physical ability to care for themselves.

(10) "Financial exploitation" means the illegal or improper use of a vulnerable adult or that adult's resources for another person's profit or advantage.

(11) "Agency" means any person, firm, partnership, association, corporation, or facility which receives, provides services to, houses or otherwise cares for vulnerable adults. [1995 c 250 § 1; 1994 c 108 § 1; 1992 c 145 § 16. Prior: 1990 c 146 § 8; 1990 c 3 § 1101; prior: 1989 c 334 § 1; 1989 c 90 § 1; 1987 c 486 § 1.]

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3:** See RCW 18.155.900 through 18.155.902.

*At-risk children volunteer program:* RCW 43.150.080.

*Developmentally disabled persons:* RCW 41.06.475.

*State hospitals:* RCW 72.23.035.

**43.43.832 Background checks—Disclosure of child abuse or financial exploitation activity.** (1) The legislature finds that businesses and organizations providing services to children, developmentally disabled persons, and vulnerable adults need adequate information to determine which employees or licensees to hire or engage. The legislature further finds that many developmentally disabled individuals and vulnerable adults desire to hire their own employees directly and also need adequate information to determine which employees or licensees to hire or engage. Therefore, the Washington state patrol criminal identification system may disclose, upon the request of a business or organization as defined in RCW 43.43.830, a developmentally disabled person, or a vulnerable adult as defined in RCW 43.43.830 or his or her guardian, an applicant's record for convictions of offenses against children or other persons, convictions for crimes relating to financial exploitation, but only if the victim was a vulnerable adult, adjudications of child abuse

in a civil action, the issuance of a protection order against the respondent under chapter 74.34 RCW, and disciplinary board final decisions and any subsequent criminal charges associated with the conduct that is the subject of the disciplinary board final decision. When necessary, applicants may be employed on a conditional basis pending completion of such a background investigation.

(2) The legislature also finds that the state board of education may request of the Washington state patrol criminal identification system information regarding a certificate applicant's record for convictions under subsection (1) of this section.

(3) The legislature also finds that law enforcement agencies, the office of the attorney general, prosecuting authorities, and the department of social and health services may request this same information to aid in the investigation and prosecution of child, developmentally disabled person, and vulnerable adult abuse cases and to protect children and adults from further incidents of abuse.

(4) The legislature further finds that the department of social and health services, when considering persons for state positions directly responsible for the care, supervision, or treatment of children, developmentally disabled persons, or vulnerable adults or when licensing or authorizing such persons or agencies pursuant to its authority under chapter 74.15, 18.51, 18.20, or 72.23 RCW, or any later-enacted statute which purpose is to license or regulate a facility which handles vulnerable adults, must consider the information listed in subsection (1) of this section. However, when necessary, persons may be employed on a conditional basis pending completion of the background investigation. The Washington personnel resources board shall adopt rules to accomplish the purposes of this subsection as it applies to state employees. [1995 c 250 § 2; 1993 c 281 § 51; 1990 c 3 § 1102. Prior: 1989 c 334 § 2; 1989 c 90 § 2; 1987 c 486 § 2.]

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

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3:** See RCW 18.155.900 through 18.155.902.

**43.43.838 Record checks—Transcript of conviction record, disciplinary board decision, criminal charges, or civil adjudication—Finding of no evidence, identification document—Immunity—Rules.** (1) After January 1, 1988, and notwithstanding any provision of RCW 43.43.700 through 43.43.810 to the contrary, the state patrol shall furnish a transcript of the conviction record, disciplinary board final decision and any subsequent criminal charges associated with the conduct that is the subject of the disciplinary board final decision, or civil adjudication record pertaining to any person for whom the state patrol or the federal bureau of investigation has a record upon the written request of:

- (a) The subject of the inquiry;
- (b) Any business or organization for the purpose of conducting evaluations under RCW 43.43.832;
- (c) The department of social and health services;
- (d) Any law enforcement agency, prosecuting authority, or the office of the attorney general; or
- (e) The department of social and health services for the purpose of meeting responsibilities set forth in chapter 74.15,

18.51, 18.20, or 72.23 RCW, or any later-enacted statute which purpose is to regulate or license a facility which handles vulnerable adults. However, access to conviction records pursuant to this subsection (1)(e) does not limit or restrict the ability of the department to obtain additional information regarding conviction records and pending charges as set forth in RCW 74.15.030(2)(b).

After processing the request, if the conviction record, disciplinary board final decision and any subsequent criminal charges associated with the conduct that is the subject of the disciplinary board final decision, or adjudication record shows no evidence of a crime against children or other persons or, in the case of vulnerable adults, no evidence of crimes relating to financial exploitation in which the victim was a vulnerable adult, an identification declaring the showing of no evidence shall be issued to the business or organization by the state patrol and shall be issued within fourteen working days of the request. The business or organization shall provide a copy of the identification declaring the showing of no evidence to the applicant. Possession of such identification shall satisfy future record check requirements for the applicant for a two-year period unless the prospective employee is any current school district employee who has applied for a position in another school district.

(2) The state patrol shall by rule establish fees for disseminating records under this section to recipients identified in subsection (1)(a) and (b) of this section. The state patrol shall also by rule establish fees for disseminating records in the custody of the national crime information center. The revenue from the fees shall cover, as nearly as practicable, the direct and indirect costs to the state patrol of disseminating the records: PROVIDED, That no fee shall be charged to a nonprofit organization for the records check: PROVIDED FURTHER, That in the case of record checks using fingerprints requested by school districts and educational service districts, the state patrol shall charge only for the incremental costs associated with checking fingerprints in addition to name and date of birth. Record checks requested by school districts and educational service districts using only name and date of birth shall continue to be provided free of charge.

(3) No employee of the state, employee of a business or organization, or the business or organization is liable for defamation, invasion of privacy, negligence, or any other claim in connection with any lawful dissemination of information under RCW 43.43.830 through 43.43.840 or 43.43.760.

(4) Before July 26, 1987, the state patrol shall adopt rules and forms to implement this section and to provide for security and privacy of information disseminated under this section, giving first priority to the criminal justice requirements of this chapter. The rules may include requirements for users, audits of users, and other procedures to prevent use of civil adjudication record information or criminal history record information inconsistent with this chapter.

(5) Nothing in RCW 43.43.830 through 43.43.840 shall authorize an employer to make an inquiry not specifically authorized by this chapter, or be construed to affect the policy of the state declared in chapter 9.96A RCW. [1995

c 29 § 1; 1992 c 159 § 7; 1990 c 3 § 1104. Prior: 1989 c 334 § 4; 1989 c 90 § 4; 1987 c 486 § 5.]

**Findings—1992 c 159:** See note following RCW 28A.400.303.

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3:** See RCW 18.155.900 through 18.155.902.

**43.43.839 Fingerprint identification account.** The fingerprint identification account is created in the custody of the state treasurer. All receipts from incremental charges of fingerprint checks requested for noncriminal justice purposes and electronic background requests shall be deposited in the account. Receipts for fingerprint checks by the federal bureau of investigation may also be deposited in the account. Expenditures from the account may be used only for the cost of record checks. Only the chief of the state patrol or the chief's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW. No appropriation is required for expenditures prior to July 1, 1997. After June 30, 1997, the account shall be subject to appropriation. [1995 c 169 § 2; 1992 c 159 § 8.]

**Findings—1992 c 159:** See note following RCW 28A.400.303.

**43.43.930 State fire protection services—Intent.** The legislature finds that fire protection services at the state level are provided by different, independent state agencies. This has resulted in a lack of a comprehensive state-level focus for state fire protection services, funding, and policy. The legislature further finds that the paramount duty of the state in fire protection services is to enhance the capacity of all local jurisdictions to assure that their personnel with fire suppression, prevention, inspection, origin and cause, and arson investigation responsibilities are adequately trained to discharge their responsibilities. It is the intent of the legislature to consolidate fire protection services into a single state agency and to create a state board with the responsibility of (1) establishing a comprehensive state policy regarding fire protection services and (2) advising the chief of the Washington state patrol and the director of fire protection on matters relating to their duties under state law. It is also the intent of the legislature that the fire protection services program created herein will assist local fire protection agencies in program development without encroaching upon their historic autonomy. It is the further intent of the legislature that the fire protection services program be implemented incrementally to assure a smooth transition, to build local, regional, and state capacity, and to avoid undue burdens on jurisdictions with limited resources. [1995 c 369 § 14; 1993 c 280 § 68; 1986 c 266 § 54. Formerly RCW 43.63A.300.]

**Application—1995 c 369:** "This act does not apply to forest fire service personnel and programs." [1995 c 369 § 70.]

**Effective date—1995 c 369:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995." [1995 c 369 § 72.]

**Effective date—Severability—1993 c 280:** See RCW 43.330.902 and 43.330.903.

**Severability—1986 c 266:** See note following RCW 38.52.005.  
*State fire protection: Chapter 48.48 RCW.*

**43.43.932 State fire protection policy board—Created—Members.** There is created the state fire protection policy board consisting of eight members appointed by the governor:

- (1) One representative of fire chiefs;
- (2) One insurance industry representative;
- (3) One representative of cities and towns;
- (4) One representative of counties;
- (5) One full-time, paid, career fire fighter;
- (6) One volunteer fire fighter;
- (7) One representative of fire commissioners; and
- (8) One representative of fire control programs of the department of natural resources.

In making the appointments required under subsections (1) through (7) [(8)] of this section, the governor shall (a) seek the advice of and consult with organizations involved in fire protection; and (b) ensure that racial minorities, women, and persons with disabilities are represented.

The terms of the appointed members of the board shall be three years and until a successor is appointed and qualified. However, initial board members shall be appointed as follows: Three members to terms of one year, three members to terms of two years, and four members to terms of three years. In the case of a vacancy of a member appointed under subsections (1) through (7) [(8)] of this section, the governor shall appoint a new representative to fill the unexpired term of the member whose office has become vacant. A vacancy shall occur whenever an appointed member ceases to be employed in the occupation the member was appointed to represent. The members of the board appointed pursuant to subsections (1) and (5) of this section and holding office on July 1, 1995, shall serve the remainder of their terms, and the reduction of the board required by section 15, chapter 369, Laws of 1995, shall occur upon the expiration of their terms.

The appointed members of the board shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060.

The board shall select its own chairperson and shall meet at the request of the governor or the chairperson and at least four times per year. [1995 c 369 § 15; 1986 c 266 § 55. Formerly RCW 43.63A.310.]

**Application—Effective date—1995 c 369:** See notes following RCW 43.43.930.

**Severability—1986 c 266:** See note following RCW 38.52.005.

**43.43.934 State fire protection policy board—Duties (as amended by 1995 c 243).** Except for matters relating to the statutory duties of the director of community, trade, and economic development which are to be carried out through the director of fire protection, the board shall have the responsibility of developing a comprehensive state policy regarding fire protection services. In carrying out its duties, the board shall:

- (1) Adopt a state fire protection master plan;
- (2) Monitor fire protection in the state and develop objectives and priorities to improve fire protection for the state's citizens;
- (3) Establish and promote state arson control programs and ensure development of local arson control programs;
- (4) Provide representation for local fire protection services to the governor in state-level fire protection planning matters such as, but not limited to, hazardous materials;
- (5) Recommend to the director of community, trade, and economic development rules on minimum information requirements of automatic location identification for the purposes of enhanced 911 emergency service;

(6) Seek and solicit grants, gifts, bequests, devices, and matching funds for use in furthering the objectives and duties of the board, and establish procedures for administering them;

~~((6))~~ (7) Promote mutual aid and disaster planning for fire services in this state;

~~((7))~~ (8) Assure the dissemination of information concerning the amount of fire damage including that damage caused by arson, and its causes and prevention;

~~((8))~~ (9) Submit annually a report to the governor containing a statement of its official acts pursuant to this chapter, and make such studies, reports, and recommendations to the governor and the legislature as are requested;

~~((9))~~ (10) Adopt a state fire training and education master plan;

~~((10))~~ (11) Develop and adopt a master plan for the construction, equipping, maintaining, and operation of necessary fire service training and education facilities, but the authority to construct, equip, and maintain such facilities is subject to chapter 43.19 RCW;

~~((11))~~ (12) Develop and adopt a master plan for the purchase, lease, or other acquisition of real estate necessary to establish and operate fire service training and education facilities in a manner provided by law;

~~((12))~~ (13) Adopt standards for state-wide fire service training and education courses including courses in arson detection and investigation for personnel of fire, police, and prosecutor's departments;

~~((13))~~ (14) Assure the administration of any legislation enacted by the legislature in pursuance of the aims and purposes of any acts of Congress insofar as the provisions thereof may apply;

~~((14))~~ (15) Cooperate with the common schools, community colleges, institutions of higher education, and any department or division of the state, or of any county or municipal corporation in establishing and maintaining instruction in fire service training and education in accordance with any act of Congress and legislation enacted by the legislature in pursuance thereof and in establishing, building, and operating training and education facilities.

This section does not apply to forest fire service personnel and programs. Industrial fire departments and private fire investigators may participate in training and education programs under this chapter for a reasonable fee established by rule. [1995 c 243 § 11; 1993 c 280 § 69; 1986 c 266 § 56. Formerly RCW 43.63A.320.]

**Effective date—1995 c 243 § 11:** "Section 11 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995." [1995 c 243 § 13.]

**Findings—Severability—1995 c 243:** See notes following RCW 80.36.555.

**43.43.934 State fire protection policy board—Duties—Fire training and education master plan—Fire protection master plan (as amended by 1995 c 369).** Except for matters relating to the statutory duties of the ~~((director of community, trade, and economic development which))~~ chief of the Washington state patrol that are to be carried out through the director of fire protection, the board shall have the responsibility of developing a comprehensive state policy regarding fire protection services. In carrying out its duties, the board shall:

(1)(a) Adopt a state fire training and education master plan that allows to the maximum feasible extent for negotiated agreements: (i) With the state board for community and technical colleges to provide academic, vocational, and field training programs for the fire service and (ii) with the higher education coordinating board and the state colleges and universities to provide instructional programs requiring advanced training, especially in command and management skills;

(b) Adopt minimum standards for each level of responsibility among personnel with fire suppression, prevention, inspection, and investigation responsibilities that assure continuing assessment of skills and are flexible enough to meet emerging technologies. With particular respect to training for fire investigations, the master plan shall encourage cross training in appropriate law enforcement skills. To meet special local needs, fire agencies may adopt more stringent requirements than those adopted by the state;

(c) Cooperate with the common schools, technical and community colleges, institutions of higher education, and any department or division of the state, or of any county or municipal corporation in establishing and maintaining instruction in fire service training and education in accordance with any act of congress and legislation enacted by the legislature in pursuance thereof and in establishing, building, and operating training and education facilities.

Industrial fire departments and private fire investigators may participate in training and education programs under this chapter for a reasonable fee established by rule;

(d) Develop and adopt a master plan for constructing, equipping, maintaining, and operating necessary fire service training and education facilities subject to the provisions of chapter 43.19 RCW; and

(e) Develop and adopt a master plan for the purchase, lease, or other acquisition of real estate necessary for fire service training and education facilities in a manner provided by law.

(2) In addition to its responsibilities for fire service training, the board shall:

(a) Adopt a state fire protection master plan;

~~((2))~~ (b) Monitor fire protection in the state and develop objectives and priorities to improve fire protection for the state's citizens including: (i) The comprehensiveness of state and local inspections required by law for fire and life safety; (ii) the level of skills and training of inspectors, as well as needs for additional training; and (iii) the efforts of local, regional, and state inspection agencies to improve coordination and reduce duplication among inspection efforts;

~~((3))~~ (c) Establish and promote state arson control programs and ensure development of local arson control programs;

~~((4))~~ (d) Provide representation for local fire protection services to the governor in state-level fire protection planning matters such as, but not limited to, hazardous materials control;

~~((5))~~ (e) Seek and solicit grants, gifts, bequests, ~~((devices))~~ devices, and matching funds for use in furthering the objectives and duties of the board, and establish procedures for administering them;

~~((6))~~ (f) Promote mutual aid and disaster planning for fire services in this state;

~~((7))~~ (g) Assure the dissemination of information concerning the amount of fire damage including that damage caused by arson, and its causes and prevention;

~~((8))~~ (h) Submit ~~((annually a))~~ an annual report to the governor ~~((containing a statement of))~~ describing its ~~((official acts))~~ activities undertaken pursuant to this chapter, and make such studies, reports, and recommendations to the governor and the legislature as are requested; and

~~((9) Adopt a state fire training and education master plan;~~

~~(10) Develop and adopt a master plan for the construction, equipping, maintaining, and operation of necessary fire service training and education facilities, but the authority to construct, equip, and maintain such facilities is subject to chapter 43.19 RCW;~~

~~(11) Develop and adopt a master plan for the purchase, lease, or other acquisition of real estate necessary to establish and operate fire service training and education facilities in a manner provided by law;~~

~~(12) Adopt standards for state-wide fire service training and education courses including courses in arson detection and investigation for personnel of fire, police, and prosecutor's departments;~~

~~(13) Assure the administration of)~~ (i) Implement any legislation enacted by the legislature ~~((in pursuance of the aims and purposes))~~ to meet the requirements of any acts of congress ~~((insofar as the provisions thereof may))~~ that apply;

~~(14) Cooperate with the common schools, community colleges, institutions of higher education, and any department or division of the state, or of any county or municipal corporation in establishing and maintaining instruction in fire service training and education in accordance with any act of Congress and legislation enacted by the legislature in pursuance thereof and in establishing, building, and operating training and education facilities.~~

~~This section does not apply to forest fire service personnel and programs. Industrial fire departments and private fire investigators may participate in training and education programs under this chapter for a reasonable fee established by rule) to this section.~~

(3) In carrying out its statutory duties, the board shall give particular consideration to the appropriate roles to be played by the state and by local jurisdictions with fire protection responsibilities. Any determinations on the division of responsibility shall be made in consultation with local fire officials and their representatives.

To the extent possible, the board shall encourage development of regional units along compatible geographic, population, economic, and fire risk dimensions. Such regional units may serve to: (a) Reinforce coordination among state and local activities in fire service training, reporting, inspections, and investigations; (b) identify areas of special need, particularly in smaller jurisdictions with inadequate resources; (c) assist the state in its oversight responsibilities; (d) identify funding needs and options at both the state and local levels; and (e) provide models for building local capacity in fire protection programs. [1995 c 369 § 16; 1993 c 280 § 69; 1986 c 266 § 56. Formerly RCW 43.63A.320.]

**Reviser's note:** RCW 43.63A.320, recodified as RCW 43.43.934, was amended twice during the 1995 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

**Application—Effective date—1995 c 369:** See notes following RCW 43.43.930.

**Effective date—Severability—1993 c 280:** See RCW 43.330.902 and 43.330.903.

**Severability—1986 c 266:** See note following RCW 38.52.005.

**43.43.936 State fire protection policy board—Advisory duties.** In regards to the statutory duties of the chief of the Washington state patrol that are to be carried out through the director of fire protection, the board shall serve in an advisory capacity in order to enhance the continuity of state fire protection services. In this capacity, the board shall:

(1) Advise the chief of the Washington state patrol and the director of fire protection on matters pertaining to their duties under law; and

(2) Advise the chief of the Washington state patrol and the director of fire protection on all budgeting and fiscal matters pertaining to the duties of the director of fire protection and the board. [1995 c 369 § 17; 1993 c 280 § 70; 1986 c 266 § 57. Formerly RCW 43.63A.330.]

**Application—Effective date—1995 c 369:** See notes following RCW 43.43.930.

**Effective date—Severability—1993 c 280:** See RCW 43.330.902 and 43.330.903.

**Severability—1986 c 266:** See note following RCW 38.52.005.

**43.43.938 Director of fire protection—Appointment—Duties.** (1) Wherever the term state fire marshal appears in the Revised Code of Washington or the Washington Administrative Code it shall mean the director of fire protection.

(2) The chief of the Washington state patrol shall appoint an officer who shall be known as the director of fire protection. The board, after consulting with the chief of the Washington state patrol, shall prescribe qualifications for the position of director of fire protection. The board shall submit to the chief of the Washington state patrol a list containing the names of three persons whom the board believes meet its qualifications. If requested by the chief of the Washington state patrol, the board shall submit one additional list of three persons whom the board believes meet its qualifications. The appointment shall be from one of the lists of persons submitted by the board.

(3) The director of fire protection may designate one or more deputies and may delegate to those deputies his or her duties and authorities as deemed appropriate.

(4) The director of fire protection, in accordance with the policies, objectives, and priorities of the fire protection policy board, shall prepare a biennial budget pertaining to fire protection services. Such biennial budget shall be submitted as part of the Washington state patrol's budget request.

(5) The director of fire protection, shall implement and administer, within constraints established by budgeted resources, the policies, objectives, and priorities of the board and all duties of the chief of the Washington state patrol that

are to be carried out through the director of fire protection. Such administration shall include negotiation of agreements with the state board for community and technical colleges, the higher education coordinating board, and the state colleges and universities as provided in \*RCW 43.63A.320. Programs covered by such agreements shall include, but not be limited to, planning curricula, developing and delivering instructional programs and materials, and using existing instructional personnel and facilities. Where appropriate, such contracts shall also include planning and conducting instructional programs at the state fire service training center.

(6) The chief of the Washington state patrol, through the director of fire protection, shall seek the advice of the board in carrying out his or her duties under law. [1995 c 369 § 18; 1993 c 280 § 71; 1986 c 266 § 58. Formerly RCW 43.63A.340.]

**\*Reviser's note:** RCW 43.63A.320 was recodified as RCW 43.43.934 pursuant to 1995 c 369 § 69, effective July 1, 1995.

**Application—Effective date—1995 c 369:** See notes following RCW 43.43.930.

**Effective date—Severability—1993 c 280:** See RCW 43.330.902 and 43.330.903.

**Severability—1986 c 266:** See note following RCW 38.52.005.

**43.43.940 Fire service training program—Grants and bequests.** The Washington state patrol may accept any and all donations, grants, bequests, and devises, conditional or otherwise, or money, property, service, or other things of value which may be received from the United States or any agency thereof, any governmental agency, any institution, person, firm, or corporation, public and private, to be held, used, or applied for the purposes of the fire service training program established in RCW 43.43.934. [1995 c 369 § 19; 1986 c 266 § 59. Formerly RCW 43.63A.350.]

**Application—Effective date—1995 c 369:** See notes following RCW 43.43.930.

**Severability—1986 c 266:** See note following RCW 38.52.005.

**43.43.942 Fire service training—Fees and fee schedules.** The Washington state patrol may: (1) Impose and collect fees for fire service training; and (2) establish and set fee schedules for fire service training. [1995 c 369 § 20; 1986 c 266 § 60. Formerly RCW 43.63A.360.]

**Application—Effective date—1995 c 369:** See notes following RCW 43.43.930.

**Severability—1986 c 266:** See note following RCW 38.52.005.

**43.43.944 Fire service training account.** The fire service training account is hereby established in the state treasury. The Washington state patrol shall deposit in the account all fees received by the Washington state patrol for fire service training. Moneys in the account may be appropriated only for fire service training. [1995 c 369 § 21; 1986 c 266 § 61. Formerly RCW 43.63A.370.]

**Application—Effective date—1995 c 369:** See notes following RCW 43.43.930.

**Severability—1986 c 266:** See note following RCW 38.52.005.

**43.43.946 Fire services trust fund.** The fire services trust fund is created in the state treasury. All receipts designated by the legislature shall be deposited in the fund.

Appropriations from the fund may be made exclusively for the purposes specified in \*RCW 43.63A.377. [1991 c 135 § 2. Formerly RCW 43.63A.375.]

**\*Reviser's note:** RCW 43.63A.377 was recodified as RCW 43.43.948 pursuant to 1995 c 369 § 69, effective July 1, 1995.

**Intent—1991 c 135:** "It is necessary for the health, safety, and welfare of the people of the state of Washington that fire code enforcement, public education on fire prevention, fire training for fire and emergency response personnel, and administration of these activities be funded in a dependable manner. It is therefore the intent of the legislature to establish a fund for these purposes." [1991 c 135 § 1.]

**Effective date—1991 c 135:** "This act is necessary for the preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1991." [1991 c 135 § 8.]

**Severability—1991 c 135:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1991 c 135 § 9.]

**43.43.948 Fire services trust fund—Expenditures.** Money from the fire services trust fund may be expended for the following purposes:

(1) Training of fire service personnel, including both classroom and hands-on training at the state fire training center or other locations approved by the chief of the Washington state patrol through the director of fire protection services;

(2) Maintenance and operation at the state's fire training center near North Bend. If in the future the state builds or leases other facilities as other fire training centers, a portion of these moneys may be used for the maintenance and operation at these centers;

(3) Lease or purchase of equipment for use in the provisions of training to fire service personnel;

(4) Grants or subsidies to local jurisdictions to allow them to perform their functions under this section;

(5) Costs of administering these programs under this section;

(6) Licensing and enforcement of state laws governing the sales of fireworks; and

(7) Development with the legal fireworks industry and funding of a state-wide public education program for fireworks safety. [1995 c 369 § 22; 1991 c 135 § 3. Formerly RCW 43.63A.377.]

**Application—Effective date—1995 c 369:** See notes following RCW 43.43.930.

**Intent—Effective date—Severability—1991 c 135:** See notes following RCW 43.43.946.

**43.43.950 Fire service training center bond retirement account of 1977.** The state fire service training center bond retirement account of 1977 is hereby reestablished as an account within the treasury for the purpose of the payment of the principal of and interest on the bonds authorized to be issued pursuant to chapter 349, Laws of 1977 ex. sess., or chapter 470, Laws of 1985 or, if the legislature so determines, for any bonds and notes hereafter authorized and issued for the commission for vocational education or the statutory successor to its powers and duties involving the state fire training center.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount



required in the next succeeding twelve months for the payment of the principal of and the interest coming due on such bonds. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the state general obligation bond retirement fund such amounts and at such times as are required by the bond proceedings. [1991 sp.s. c 13 § 79. Formerly RCW 43.63A.380.]

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

**43.43.952 Arson investigation information system—Findings—Intent.** (1) The legislature finds that provisions for information systems relating to statistics and reporting for fire prevention, suppression, and damage control do not adequately address the needs of ongoing investigations of fire incidents where the cause is suspected or determined to be the result of negligence or otherwise suggestive of some criminal activity, particularly that of arson. It is the intent of the legislature to establish an information and reporting system designed specifically to assist state and local officers in conducting such investigations and, where substantiated, to undertake prosecution of individuals suspected of such activities.

(2)(a) In addition to the information provided by local officials about the cause, origin, and extent of loss in fires under chapter 48.48 RCW, there is hereby created the state arson investigation information system in the Washington state patrol.

(b) The chief of the Washington state patrol shall develop the arson investigation information system in consultation with representatives of the various state and local officials charged with investigating fires resulting from suspicious or criminal activities under chapter 48.48 RCW and of the insurance industry.

(c) The arson investigation information system shall be designed to include at least the following attributes: (i) The information gathered and reported shall meet the diverse needs of state and local investigating agencies; (ii) the forms and reports are drafted in understandable terms of common usage; and (iii) the results shall be adaptable to the varying levels of available resources, maintained in a manner to foster data sharing and mutual aid activities, and made available to other law enforcement agencies responsible for criminal investigations.

(d) All insurers required to report claim information under the provisions of chapter 48.50 RCW shall cooperate fully with any requests from the chief of the Washington state patrol in developing and maintaining the arson investigation information system. The confidentiality provisions of that chapter shall be fully enforced. [1995 c 369 § 64.]

**Reviser's note:** 1995 c 369 directed that this section be added to chapter 43.10 RCW. This section has been codified in chapter 43.43 RCW, which relates more directly to the functions of the chief of the Washington state patrol with regard to fire protection.

**Application—Effective date—1995 c 369:** See notes following RCW 43.43.930.

## Chapter 43.51

### PARKS AND RECREATION COMMISSION

#### Sections

43.51.047	Sale of timber.
43.51.060	Further powers—Director of parks and recreation—Salaries.
43.51.270	Sale of state trust lands—Terms and conditions.
43.51.275	State parks renewal and stewardship account.
43.51.280	Repealed.
43.51.685	Sale, lease, and disposal of lands within the Seashore Conservation Area.

**43.51.047 Sale of timber.** Only timber which qualifies for cutting or removal under RCW 43.51.045(2) may be sold. Timber shall be sold only when surplus to the needs of the park.

Net revenue derived from timber sales shall be deposited in the parks renewal and stewardship account created in RCW 43.51.275. [1995 c 211 § 2; 1984 c 82 § 3.]

**Findings—Intent—Effective date—Severability—1995 c 211:** See notes following RCW 43.51.060.

**43.51.060 Further powers—Director of parks and recreation—Salaries.** The commission may:

(1) Make rules and regulations for the proper administration of its duties;

(2) Accept any grants of funds made with or without a matching requirement by the United States, or any agency thereof, for purposes in keeping with the purposes of this chapter; accept gifts, bequests, devises and endowments for purposes in keeping with such purposes; enter into cooperative agreements with and provide for private nonprofit groups to use state park property and facilities to raise money to contribute gifts, grants, and support to the commission for the purposes of this chapter. The commission may assist the nonprofit group in a cooperative effort by providing necessary agency personnel and services, if available. However, none of the moneys raised may inure to the benefit of the nonprofit group, except in furtherance of its purposes to benefit the commission as provided in this chapter. The agency and the private nonprofit group shall agree on the nature of any project to be supported by such gift or grant prior to the use of any agency property or facilities for raising money. Any such gifts may be in the form of recreational facilities developed or built in part or in whole for public use on agency property, provided that the facility is consistent with the purposes of the agency;

(3) Require certification by the commission of all parks and recreation workers employed in state aided or state controlled programs;

(4) Act jointly, when advisable, with the United States, any other state agencies, institutions, departments, boards, or commissions in order to carry out the objectives and responsibilities of this chapter;

(5) Grant franchises and easements for any legitimate purpose on parks or parkways, for such terms and subject to such conditions and considerations as the commission shall specify;

(6) Charge such fees for services, utilities, and use of facilities as the commission shall deem proper;

(7) Enter into agreements whereby individuals or companies may rent undeveloped parks or parkway land for

grazing, agricultural, or mineral development purposes upon such terms and conditions as the commission shall deem proper, for a term not to exceed ten years;

(8) Determine the qualifications of and employ a director of parks and recreation who shall receive a salary as fixed by the governor in accordance with the provisions of RCW 43.03.040, and upon his recommendation, a supervisor of recreation, and determine the qualifications and salary of and employ such other persons as may be needed to carry out the provisions hereof; and

(9) Without being limited to the powers hereinbefore enumerated, the commission shall have such other powers as in the judgment of a majority of its members are deemed necessary to effectuate the purposes of this chapter: **PROVIDED**, That the commission shall not have power to supervise directly any local park or recreation district, and no funds shall be made available for such purpose. [1995 c 211 § 3; 1993 c 156 § 1; 1987 c 225 § 3; 1980 c 89 § 2; 1969 c 99 § 1; 1965 c 8 § 43.51.060. Prior: 1961 c 307 § 12; 1955 c 391 § 3; 1947 c 271 § 5; RRS § 10768-4.]

**Findings—Intent—1995 c 211:** "The legislature finds that during the past fourteen years, the Washington state parks and recreation commission has endured a steady erosion of general fund operating support, which has caused park closures, staff reductions, and growing backlog of deferred maintenance projects. The legislature also finds that the growth of parks revenue has been constrained by staff limitations and by transfers of that revenue into the general fund.

The legislature intends to reverse the decline in operating support to its state parks, stabilize the system's level of general fund support, and inspire system employees and park visitors to enhance these irreplaceable resources and ensure their continuing availability to current and future state citizens and visitors. To achieve these goals, the legislature intends to dedicate park revenues to park operations, developing and renovating park facilities, undertaking deferred maintenance, and improving park stewardship. The legislature clearly intends that such revenues shall complement, not supplant, future general fund support." [1995 c 211 § 1.]

**Effective date—1995 c 211:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995." [1995 c 211 § 8.]

**Severability—1995 c 211:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1995 c 211 § 9.]

**Effective date—1969 c 99:** "This 1969 amendatory act shall take effect July 1, 1969." [1969 c 99 § 12.] For codification of 1969 c 99, see Codification Tables, Volume 0.

**43.51.270 Sale of state trust lands—Terms and conditions.** (1) The department of natural resources and the state parks and recreation commission shall have authority to negotiate a sale to the state parks and recreation commission, for park and outdoor recreation purposes, of trust lands at fair market value.

(2) The department of natural resources and the state parks and recreation commission shall negotiate a sale to the state parks and recreation commission of the lands and timber thereon identified in the joint study under section 4, chapter 163, Laws of 1985, and commonly referred to as the Point Lawrence trust property, San Juan county — on the extreme east point of Orcas Island. Timber conservation and management practices provided for in RCW 43.51.045 and 43.51.395 shall govern the management of land and timber transferred under this subsection as of the effective date of the transfer, upon payment for the property, and nothing in

this chapter shall be construed as restricting or otherwise modifying the department of natural resources' management, control, or use of such land and timber until such date. [1995 c 211 § 4; 1992 c 185 § 1; 1988 c 79 § 1; 1987 c 466 § 1; 1985 c 163 § 1; 1981 c 271 § 1; 1980 c 4 § 1; 1971 ex.s. c 210 § 1.]

**Findings—Intent—Effective date—Severability—1995 c 211:** See notes following RCW 43.51.060.

*Withdrawal of state trust lands for park and recreational purpose: RCW 79.08.1072 through 79.08.1078.*

**43.51.275 State parks renewal and stewardship account.** The state parks renewal and stewardship account is created in the state treasury. Except as otherwise provided in this chapter, all receipts from user fees, concessions, leases, and other state park-based activities shall be deposited into the account. Expenditures from the account may be used for operating state parks, developing and renovating park facilities, undertaking deferred maintenance, enhancing park stewardship, and other state park purposes. Expenditures from the account may be made only after appropriation by the legislature. [1995 c 211 § 7.]

**Findings—Intent—Effective date—Severability—1995 c 211:** See notes following RCW 43.51.060.

**43.51.280 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**43.51.685 Sale, lease, and disposal of lands within the Seashore Conservation Area.** Lands within the Seashore Conservation Area shall not be sold, leased, or otherwise disposed of, except as herein provided. The commission may, under authority granted in RCW 43.51.210 and 43.51.215, exchange state park lands in the Seashore Conservation Area for lands of equal value to be managed by the commission consistent with this chapter. Only state park lands lying east of the Seashore Conservation Line, as it is located at the time of exchange, may be so exchanged. The department of natural resources may lease the lands within the Washington State Seashore Conservation Area as well as the accreted lands along the ocean in state ownership for the exploration and production of oil and gas: **PROVIDED**, That oil drilling rigs and equipment will not be placed on the seashore conservation area or state-owned accreted lands.

Sale of sand from accretions shall be made to supply the needs of cranberry growers for cranberry bogs in the vicinity and shall not be prohibited if found by the commission to be reasonable, and not generally harmful or destructive to the character of the land: **PROVIDED**, That the commission may grant leases and permits for the removal of sands for construction purposes from any lands within the Seashore Conservation Area if found by the commission to be reasonable and not generally harmful or destructive to the character of the land: **PROVIDED FURTHER**, That net income from such leases shall be deposited in the general fund. [1995 c 203 § 1; 1988 c 75 § 18; 1969 ex.s. c 55 § 6; 1967 c 120 § 8.]

**Effective date—1995 c 203:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 1, 1995]." [1995 c 203 § 2.]

**Effective date—1988 c 75:** See note following RCW 43.51.695.  
**Construction—1969 ex.s. c 55:** See note following RCW 43.51.655.

### Chapter 43.52 OPERATING AGENCIES

#### Sections

43.52.373 Repealed.

**43.52.373 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

### Chapter 43.60A DEPARTMENT OF VETERANS AFFAIRS

#### Sections

43.60A.080 Veterans affairs advisory committee—Created—Membership—Terms—Powers and duties.

**43.60A.080 Veterans affairs advisory committee—Created—Membership—Terms—Powers and duties.** (1) There is hereby created a veterans affairs advisory committee which shall serve in an advisory capacity to the governor and the director of the department of veterans affairs. The committee shall be composed of seventeen members to be appointed by the governor, and shall consist of the following:

(a) One representative of the Washington soldiers' home and colony at Orting and one representative of the Washington veterans' home at Retsil. Each home's resident council may nominate up to three individuals whose names are to be forwarded by the director to the governor. In making the appointments, the governor shall consider these recommendations or request additional nominations.

(b) One representative each from the three congressionally chartered or nationally recognized veterans service organizations as listed in the current "Directory of Veterans Service Organizations" published by the United States department of veterans affairs with the largest number of active members in the state of Washington as determined by the director. The organizations' state commanders may each submit a list of three names to be forwarded to the governor by the director. In making the appointments, the governor shall consider these recommendations or request additional nominations.

(c) Ten members shall be chosen to represent those congressionally chartered or nationally recognized veterans service organizations listed in the directory under (b) of this subsection and having at least one active chapter within the state of Washington. Up to three nominations may be forwarded from each organization to the governor by the director. In making the appointments, the governor shall consider these recommendations or request additional nominations.

(d) Two members shall be veterans at large. Any individual or organization may nominate a veteran for an at-large position. Organizational affiliation shall not be a prerequisite for nomination or appointment. All nominations for the at-large positions shall be forwarded by the director to the governor.

(e) No organization shall have more than one official representative on the committee at any one time.

(f) In making appointments to the committee, care shall be taken to ensure that members represent all geographical portions of the state and minority viewpoints, and that the issues and views of concern to women veterans are represented.

(2) All members shall have terms of four years. In the case of a vacancy, appointment shall be only for the remainder of the unexpired term for which the vacancy occurs. No member may serve more than two consecutive terms, with vacancy appointments to an unexpired term not considered as a term. Members appointed before June 11, 1992, shall continue to serve until the expiration of their current terms; and then, subject to the conditions contained in this section, are eligible for reappointment.

(3) The committee shall adopt an order of business for conducting its meetings.

(4) The committee shall have the following powers and duties:

(a) To serve in an advisory capacity to the governor and the director on matters pertaining to the department of veterans affairs;

(b) To acquaint themselves fully with the operations of the department and recommend such changes to the governor and the director as they deem advisable.

(5) Members of the committee shall receive no compensation for the performance of their duties but shall receive a per diem allowance and mileage expense according to the provisions of chapter 43.03 RCW. [1995 c 25 § 1; 1992 c 35 § 1; 1987 c 59 § 1; 1985 c 63 § 1; 1983 c 34 § 1; 1977 ex.s. c 285 § 1; 1975-'76 2nd ex.s. c 115 § 14.]

### Chapter 43.62 DETERMINATION OF POPULATIONS—STUDENT ENROLLMENTS

#### Sections

43.62.035 Determining population—Projections.

**43.62.035 Determining population—Projections.** The office of financial management shall determine the population of each county of the state annually as of April 1st of each year and on or before July 1st of each year shall file a certificate with the secretary of state showing its determination of the population for each county. The office of financial management also shall determine the percentage increase in population for each county over the preceding ten-year period, as of April 1st, and shall file a certificate with the secretary of state by July 1st showing its determination. At least once every ten years the office of financial management shall prepare twenty-year growth management planning population projections required by RCW 36.70A.110 for each county that adopts a comprehensive plan under RCW 36.70A.040 and shall review these projections with such counties and the cities in those counties before final adoption. The county and its cities may provide to the office such information as they deem relevant to the office's projection, and the office shall consider and comment on such information before adoption. Each projection shall be expressed as a reasonable range developed within

the standard state high and low projection. The middle range shall represent the office's estimate of the most likely population projection for the county. If any city or county believes that a projection will not accurately reflect actual population growth in a county, it may petition the office to revise the projection accordingly. The office shall complete the first set of ranges for every county by December 31, 1995.

A comprehensive plan adopted or amended before December 31, 1995, shall not be considered to be in non-compliance with the twenty-year growth management planning population projection if the projection used in the comprehensive plan is in compliance with the range later adopted under this section. [1995 c 162 § 1; 1991 sp.s. c 32 § 30; 1990 1st ex.s. c 17 § 32.]

**Effective date—1995 c 162:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [April 27, 1995]." [1995 c 162 § 2.]

**Section headings not law—1991 sp.s. c 32:** See RCW 36.70A.902.

**Severability—Part, section headings not law—1990 1st ex.s. c 17:** See RCW 36.70A.900 and 36.70A.901.

### Chapter 43.63A

#### DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

(Formerly: Department of community development)

##### Sections

43.63A.021	Definitions.
43.63A.190	Distribution of funds for border areas.
43.63A.300	Recodified as RCW 43.43.930.
43.63A.310	Recodified as RCW 43.43.932.
43.63A.320	Recodified as RCW 43.43.934.
43.63A.330	Recodified as RCW 43.43.936.
43.63A.340	Recodified as RCW 43.43.938.
43.63A.350	Recodified as RCW 43.43.940.
43.63A.360	Recodified as RCW 43.43.942.
43.63A.370	Recodified as RCW 43.43.944.
43.63A.375	Recodified as RCW 43.43.946.
43.63A.377	Recodified as RCW 43.43.948.
43.63A.380	Recodified as RCW 43.43.950.
43.63A.440	Assistance to communities adversely impacted by reductions in timber harvests and reductions in salmon fishing.
43.63A.465	Manufactured housing—Federal standards—Enforcement. ( <i>Contingent expiration date.</i> )
43.63A.4651	Manufactured housing—Contingent expiration date—RCW 43.63A.465.
43.63A.600	Emergency mortgage and rental assistance program—Rural natural resources impact areas—Grants and loans—Goals.
43.63A.720	Prostitution prevention and intervention services—Grant program.
43.63A.725	Prostitution prevention and intervention grants—Eligibility.
43.63A.730	Prostitution prevention and intervention grants—Applications, contents.
43.63A.735	Prostitution prevention and intervention grants—Award and use.
43.63A.740	Prostitution prevention and intervention account.

**43.63A.021 Definitions.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Dislocated forest products worker" means a forest products worker who: (a)(i) Has been terminated or received

notice of termination from employment and is unlikely to return to employment in the individual's principal occupation or previous industry because of a diminishing demand for his or her skills in that occupation or industry; or (ii) is self-employed and has been displaced from his or her business because of the diminishing demand for the business's services or goods; and (b) at the time of last separation from employment, resided in or was employed in a rural natural resources impact area.

(2) "Forest products worker" means a worker in the forest products industries affected by the reduction of forest fiber enhancement, transportation, or production. The workers included within this definition shall be determined by the employment security department, but shall include workers employed in the industries assigned the major group standard industrial classification codes "24" and "26" and the industries involved in the harvesting and management of logs, transportation of logs and wood products, processing of wood products, and the manufacturing and distribution of wood processing and logging equipment. The commissioner may adopt rules further interpreting these definitions. For the purposes of this subsection, "standard industrial classification code" means the code identified in RCW 50.29.025(6)(c).

(3) "Dislocated salmon fishing worker" means a salmon products worker who: (a)(i) Has been terminated or received notice of termination from employment and is unlikely to return to employment in the individual's principal occupation or previous industry because of a diminishing demand for his or her skills in that occupation or industry; or (ii) is self-employed and has been displaced from his or her business because of the diminishing demand for the business's services or goods; and (b) at the time of last separation from employment, resided in or was employed in a rural natural resources impact area.

(4) "Salmon fishing worker" means a worker in the salmon industry affected by 1994 or future salmon disasters. The workers included within this definition shall be determined by the employment security department, but shall include workers employed in the industries involved in the commercial and recreational harvesting of salmon including buying and processing salmon. The commissioner may adopt rules further interpreting these definitions. [1995 c 226 § 11.]

**Sunset Act application:** See note following RCW 43.31.601.

**Severability—Conflict with federal requirements—Effective date—1995 c 226:** See notes following RCW 43.31.601.

**43.63A.190 Distribution of funds for border areas.** Funds appropriated by the legislature as supplemental resources for border areas shall be distributed by the state treasurer pursuant to the formula for distributing funds from the liquor revolving fund to border areas, and expenditure requirements for such distributions, under RCW 66.08.196. [1995 c 159 § 5; 1984 c 125 § 11; 1981 c 269 § 2.]

**Effective date—1995 c 159:** See note following RCW 66.08.190.

**Legislative declaration—1981 c 269:** "The legislature finds and declares that certain counties and municipalities near international borders are subjected to a constant volume and flow of travelers and visitors for whom local government services must be provided. The legislature further finds that it is in the public interest and for the protection of the health, property, and welfare of the residents and visitors to provide supplemental

resources to augment and maintain existing levels of police protection in these areas." [1981 c 269 § 1.]

**43.63A.300 Recodified as RCW 43.43.930.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**43.63A.310 Recodified as RCW 43.43.932.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**43.63A.320 Recodified as RCW 43.43.934.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**43.63A.330 Recodified as RCW 43.43.936.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**43.63A.340 Recodified as RCW 43.43.938.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**43.63A.350 Recodified as RCW 43.43.940.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**43.63A.360 Recodified as RCW 43.43.942.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**43.63A.370 Recodified as RCW 43.43.944.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**43.63A.375 Recodified as RCW 43.43.946.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**43.63A.377 Recodified as RCW 43.43.948.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**43.63A.380 Recodified as RCW 43.43.950.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**43.63A.440 Assistance to communities adversely impacted by reductions in timber harvests and reductions in salmon fishing.** The department of community, trade, and economic development shall provide technical and financial assistance to communities adversely impacted by reductions in timber harvested from federal, state, and private lands and reduction of salmon fishing caused by efforts to maintain the long-term viability of salmon stocks. This assistance shall include the formation and implementation of community economic development plans. The department of community, trade, and economic development shall utilize existing state technical and financial assistance

programs, and shall aid communities in seeking private and federal financial assistance for the purposes of this section. The department may contract for services provided for under this section. [1995 c 226 § 13; 1993 c 280 § 74; 1989 c 424 § 7.]

**Sunset Act application:** See note following RCW 43.31.601.

**Severability—Conflict with federal requirements—Effective date—1995 c 226:** See notes following RCW 43.31.601.

**Effective date—Severability—1993 c 280:** See RCW 43.330.902 and 43.330.903.

**Effective date—1989 c 424:** See note following RCW 76.12.200.

**43.63A.465 Manufactured housing—Federal standards—Enforcement. (Contingent expiration date.)** The director of the department of community, trade, and economic development shall enforce manufactured housing safety and construction standards adopted by the secretary of housing and urban development under the National Manufactured Housing Construction and Safety Standards Act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426). Furthermore, the director may make agreements with the United States government, state agencies, or private inspection organizations to implement the development and enforcement of applicable provisions of this chapter and the National Manufactured Housing Construction and Safety Standards Act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426) regarding the state administrative agency program. [1995 c 399 § 74; 1993 c 124 § 1.]

**Contingent expiration date—RCW 43.63A.465 through 43.63A.490:** See RCW 43.63A.490.

**43.63A.4651 Manufactured housing—Contingent expiration date—RCW 43.63A.465.** The 1995 amendments to RCW 43.63A.465 shall expire and be of no force and effect on January 1 in any year following the failure of the United States department of housing and urban development to reimburse the state for the duties described in chapter 124, Laws of 1993. [1995 c 399 § 219.]

**43.63A.600 Emergency mortgage and rental assistance program—Rural natural resources impact areas—Grants and loans—Goals.** (1) The department of community, trade, and economic development, as a member of the agency rural community assistance task force shall establish and administer the emergency mortgage and rental assistance program. The department shall identify the communities most adversely affected by reductions in timber and salmon harvest levels and shall prioritize assistance under this program to these communities. The department shall work with the department of social and health services and the \*rural community assistance recovery coordinator to develop the program in rural natural resources impact areas. Organizations eligible to receive grant funds for distribution under the program are those organizations that are eligible to receive assistance through the Washington housing trust fund. The department shall disburse the funds to eligible local organizations as grants. The local organizations shall use the funds to make grants or loans as specified in RCW 43.63A.600 through 43.63A.640. If funds are disbursed as loans, the local organization shall establish a revolving grant and loan fund with funds received as loan repayments and

shall continue to make grants or loans or both grants and loans from funds received as loan repayments to dislocated forest products and dislocated salmon fishing workers eligible under the provisions of RCW 43.63A.600 through 43.63A.640 and to other persons residing in rural natural resources impact areas who meet the requirements of RCW 43.63A.600 through 43.63A.640.

(2) The goals of the program are to:

(a) Provide temporary emergency mortgage loans or rental assistance grants or loans on behalf of dislocated forest products and dislocated salmon fishing workers in rural natural resources impact areas who are unable to make mortgage, property tax, or rental payments on their permanent residences and are subject to immediate eviction for nonpayment of mortgage installments, property taxes, or nonpayment of rent;

(b) Prevent the dislocation of individuals and families from their permanent residences and their communities; and

(c) Maintain economic and social stability in rural natural resources impact areas. [1995 c 226 § 12; 1994 c 114 § 1; 1993 c 280 § 77; 1991 c 315 § 23.]

**\*Reviser's note:** "Timber recovery coordinators" renamed "rural community assistance coordinators" by 1995 c 226.

**Sunset Act application:** See note following RCW 43.31.601.

**Severability—Conflict with federal requirements—Effective date—1995 c 226:** See notes following RCW 43.31.601.

**Effective date—1994 c 114:** "This act shall take effect July 1, 1994." [1994 c 114 § 6.]

**Effective date—Severability—1993 c 280:** See RCW 43.330.902 and 43.330.903.

**Intent—1991 c 315:** See note following RCW 50.12.270.

**Severability—Conflict with federal requirements—Effective date—1991 c 315:** See RCW 50.70.900 through 50.70.902.

**43.63A.720 Prostitution prevention and intervention services—Grant program.** There is established in the department of community, trade, and economic development a grant program to enhance funding for prostitution prevention and intervention services. Activities that can be funded through this grant program shall provide effective prostitution prevention and intervention services, such as counseling, parenting, housing relief, education, and vocational training, that:

(1) Comprehensively address the problems of persons who are prostitutes; and

(2) Enhance the ability of persons to leave or avoid prostitution. [1995 c 353 § 7.]

**43.63A.725 Prostitution prevention and intervention grants—Eligibility.** (1) Applications for funding under this chapter must:

(a) Meet the criteria in RCW 43.63A.720; and

(b) Contain evidence of active participation of the community and its commitment to providing effective prevention and intervention services for prostitutes through the participation of local governments, tribal governments, networks under chapter 70.190 RCW, human service and health organizations, and treatment entities and through meaningful involvement of others, including citizen groups.

(2) Local governments, networks under chapter 70.190 RCW, nonprofit community groups, and nonprofit treatment providers including organizations that provide services, such

as emergency housing, counseling, and crisis intervention shall, among others, be eligible for grants established under RCW 43.63A.720. [1995 c 353 § 8.]

**43.63A.730 Prostitution prevention and intervention grants—Applications, contents.** At a minimum, grant applications must include the following:

(1) The proposed geographic service area;

(2) A description of the extent and effect of the needs for prostitution prevention and intervention within the relevant geographic area;

(3) An explanation of how the funds will be used, their relationship to existing services available within the community, and the need that they will fulfill;

(4) An explanation of what organizations were involved in the development of the proposal; and

(5) The methods that will be employed to measure the success of the program. [1995 c 353 § 9.]

**43.63A.735 Prostitution prevention and intervention grants—Award and use.** (1) Subject to funds appropriated by the legislature, including funds in the prostitution prevention and intervention account, the department of community, trade, and economic development shall make awards under the grant program established by RCW 43.63A.720.

(2) Awards shall be made competitively based on the purposes of and criteria in RCW 43.63A.720 through 43.63A.730.

(3) Activities funded under this section may be considered for funding in future years, but shall be considered under the same terms and criteria as new activities. Funding of a program or activity under this chapter shall not constitute an obligation by the state of Washington to provide ongoing funding.

(4) The department of community, trade, and economic development may receive such gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of the grant program established under RCW 43.63A.720 and expend the same or any income from these sources according to the terms of the gifts, grants, or endowments.

(5) The department of community, trade, and economic development may expend up to five percent of the funds appropriated for the grant program for administrative costs and grant supervision. [1995 c 353 § 10.]

**43.63A.740 Prostitution prevention and intervention account.** The prostitution prevention and intervention account is created in the state treasury. All designated receipts from fees under RCW 9.68A.105 and 9A.88.120 shall be deposited into the account. Expenditures from the account may be used only for funding the grant program to enhance prostitution prevention and intervention services under RCW 43.63A.720. [1995 c 353 § 11.]

**Chapter 43.70**  
**DEPARTMENT OF HEALTH**

## Sections

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**43.70.010 Definitions.** As used in this chapter, unless the context indicates otherwise:

(1) "Assessment" means the regular collection, analysis, and sharing of information about health conditions, risks, and resources in a community. Assessment activities identify trends in illness, injury, and death and the factors that may cause these events. They also identify environmental risk factors, community concerns, community health resources, and the use of health services. Assessment includes gathering statistical data as well as conducting epidemiologic and other investigations and evaluations of health emergencies and specific ongoing health problems;

(2) "Board" means the state board of health;

(3) "Department" means the department of health;

(4) "Policy development" means the establishment of social norms, organizational guidelines, operational procedures, rules, ordinances, or statutes that promote health or prevent injury, illness, or death; and

(5) "Secretary" means the secretary of health. [1995 c 269 § 2201; 1994 sp.s. c 7 § 206; 1989 1st ex.s. c 9 § 102.]

**Effective date—1995 c 269:** See note following RCW 13.40.025.

**Part headings not law—Severability—1995 c 269:** See notes following RCW 13.40.005.

**Finding—Intent—Severability—1994 sp.s. c 7:** See notes following RCW 43.70.540.

**43.70.040 Secretary's powers—Rule-making authority.** In addition to any other powers granted the secretary, the secretary may:

(1) Adopt, in accordance with chapter 34.05 RCW, rules necessary to carry out the provisions of chapter 9, Laws of 1989 1st ex. sess.: PROVIDED, That for rules adopted after

July 23, 1995, the secretary may not rely solely on a section of law stating a statute's intent or purpose, on the enabling provisions of the statute establishing the agency, or on any combination of such provisions, for statutory authority to adopt any rule;

(2) Appoint such advisory committees as may be necessary to carry out the provisions of chapter 9, Laws of 1989 1st ex. sess. Members of such advisory committees are authorized to receive travel expenses in accordance with RCW 43.03.050 and 43.03.060. The secretary and the board of health shall review each advisory committee within their jurisdiction and each statutory advisory committee on a biennial basis to determine if such advisory committee is needed. The criteria specified in RCW 43.131.070 shall be used to determine whether or not each advisory committee shall be continued;

(3) Undertake studies, research, and analysis necessary to carry out the provisions of chapter 9, Laws of 1989 1st ex. sess. in accordance with RCW 43.70.050;

(4) Delegate powers, duties, and functions of the department to employees of the department as the secretary deems necessary to carry out the provisions of chapter 9, Laws of 1989 1st ex. sess.;

(5) Enter into contracts on behalf of the department to carry out the purposes of chapter 9, Laws of 1989 1st ex. sess.;

(6) Act for the state in the initiation of, or the participation in, any intergovernmental program to the purposes of chapter 9, Laws of 1989 1st ex. sess.; or

(7) Accept gifts, grants, or other funds. [1995 c 403 § 105; 1989 1st ex.s. c 9 § 106.]

**Findings—Short title—Intent—1995 c 403:** See note following RCW 34.05.328.

**Part headings not law—Severability—1995 c 403:** See RCW 43.05.903 and 43.05.904.

**43.70.052 Hospital discharge data—Financial reports—Data retrieval—American Indian health data.**

(1) To promote the public interest consistent with the purposes of chapter 492, Laws of 1993 as amended by chapter 267, Laws of 1995, the department shall continue to require hospitals to submit hospital financial and patient discharge information, which shall be collected, maintained, analyzed, and disseminated by the department. The department shall, if deemed cost-effective and efficient, contract with a private entity for any or all parts of data collection. Data elements shall be reported in conformance with a uniform reporting system established by the department. This includes data elements identifying each hospital's revenues, expenses, contractual allowances, charity care, bad debt, other income, total units of inpatient and outpatient services, and other financial information reasonably necessary to fulfill the purposes of this section. Data elements relating to use of hospital services by patients shall be the same as those currently compiled by hospitals through inpatient discharge abstracts. The department shall encourage and permit reporting by electronic transmission or hard copy as is practical and economical to reporters.

(2) In identifying financial reporting requirements, the department may require both annual reports and condensed quarterly reports from hospitals, so as to achieve both

accuracy and timeliness in reporting, but shall craft such requirements with due regard of the data reporting burdens of hospitals.

(3) The health care data collected, maintained, and studied by the department shall only be available for retrieval in original or processed form to public and private requestors and shall be available within a reasonable period of time after the date of request. The cost of retrieving data for state officials and agencies shall be funded through the state general appropriation. The cost of retrieving data for individuals and organizations engaged in research or private use of data or studies shall be funded by a fee schedule developed by the department that reflects the direct cost of retrieving the data or study in the requested form.

(4) The department shall, in consultation and collaboration with the federally recognized tribes, urban or other Indian health service organizations, and the federal area Indian health service, design, develop, and maintain an American Indian-specific health data, statistics information system. The department rules regarding confidentiality shall apply to safeguard the information from inappropriate use or release.

(5) All persons subject to the data collection requirements of this section shall comply with departmental requirements established by rule in the acquisition of data. [1995 c 267 § 1.]

**Captions not law—1995 c 267:** "Captions as used in this act constitute no part of the law." [1995 c 267 § 16.]

**Severability—1995 c 267:** "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." [1995 c 267 § 17.]

**Effective dates—1995 c 267:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995, except sections 8 through 11 of this act which shall take effect immediately [May 8, 1995]." [1995 c 267 § 18.]

**43.70.054 Health care data standards—Submittal of standards to legislature.** (1) To promote the public interest consistent with chapter 267, Laws of 1995, the department of health, in cooperation with the health care policy board and the information services board established under RCW 43.105.032, shall develop health care data standards to be used by, and developed in collaboration with, consumers, purchasers, health carriers, providers, and state government as consistent with the intent of chapter 492, Laws of 1993 as amended by chapter 267, Laws of 1995, to promote the delivery of quality health services that improve health outcomes for state residents. The data standards shall include content, coding, confidentiality, and transmission standards for all health care data elements necessary to support the intent of this section, and to improve administrative efficiency and reduce cost. Purchasers, as allowed by federal law, health carriers, health facilities and providers as defined in chapter 48.43 RCW, and state government shall utilize the data standards. The information and data elements shall be reported as the department of health directs by rule in accordance with data standards developed under this section.

(2) The health care data collected, maintained, and studied by the department under this section, the health care policy board, or any other entity: (a) Shall include a method

of associating all information on health care costs and services with discrete cases; (b) shall not contain any means of determining the personal identity of any enrollee, provider, or facility; (c) shall only be available for retrieval in original or processed form to public and private requestors; (d) shall be available within a reasonable period of time after the date of request; and (e) shall give strong consideration to data standards that achieve national uniformity.

(3) The cost of retrieving data for state officials and agencies shall be funded through state general appropriation. The cost of retrieving data for individuals and organizations engaged in research or private use of data or studies shall be funded by a fee schedule developed by the department that reflects the direct cost of retrieving the data or study in the requested form.

(4) All persons subject to this section shall comply with departmental requirements established by rule in the acquisition of data, however, the department shall adopt no rule or effect no policy implementing the provisions of this section without an act of law.

(5) The department shall submit developed health care data standards to the appropriate committees of the legislature by December 31, 1995. [1995 c 267 § 2.]

**Captions not law—Severability—Effective dates—1995 c 267:** See notes following RCW 43.70.052.

**43.70.064 Health care quality—Findings and intent—Requirements for conducting study under RCW 43.70.066.** The legislature finds that it is difficult for consumers of health care services to determine the quality of health care prior to purchase or utilization of medical care. The legislature also finds that accountability is a key component in promoting quality assurance and quality improvement throughout the health care delivery system, including public programs. Quality assurance and improvement standards are necessary to promote the public interest, contribute to cost efficiencies, and improve the ability of consumers to ascertain quality health care purchases.

The legislature intends to have consumers, health carriers, health care providers and facilities, and public agencies participate in the development of quality assurance and improvement standards that can be used to develop a uniform quality assurance program for use by all public and private health plans, providers, and facilities. To that end, in conducting the study required under RCW 43.70.066, the department of health shall:

(1) Consider the needs of consumers, employers, health care providers and facilities, and public and private health plans;

(2) Take full advantage of existing national standards of quality assurance to extend to middle-income populations the protections required for state management of health programs for low-income populations;

(3) Consider the appropriate minimum level of quality assurance standards that should be disclosed to consumers and employers by health care providers and facilities, and public and private health plans; and

(4) Consider standards that permit health care providers and facilities to share responsibility for participation in a uniform quality assurance program. [1995 c 267 § 3.]

**Captions not law—Severability—Effective dates—1995 c 267:** See notes following RCW 43.70.052.



**43.70.066 Study—Uniform quality assurance and improvement program—Reports to legislature—Limitation on rule making.** (1) The department of health in consultation with the health policy board shall study the feasibility of a uniform quality assurance and improvement program for use by all public and private health plans and health care providers and facilities. In this study, the department shall consult with:

- (a) Public and private purchasers of health care services;
- (b) Health carriers;
- (c) Health care providers and facilities; and
- (d) Consumers of health services.

(2) In conducting the study, the department shall propose standards that meet the needs of affected persons and organizations, whether public or private, without creation of differing levels of quality assurance. All consumers of health services should be afforded the same level of quality assurance.

(3) At a minimum, the study shall include but not be limited to the following program components and indicators appropriate for consumer disclosure:

- (a) Health care provider training, credentialing, and licensure standards;
- (b) Health care facility credentialing and recredentialing;
- (c) Staff ratios in health care facilities;
- (d) Annual mortality and morbidity rates of cases based on a defined set of procedures performed or diagnoses treated in health care facilities, adjusted to fairly consider variable factors such as patient demographics and case severity;
- (e) The average total cost and average length of hospital stay for a defined set of procedures and diagnoses;
- (f) The total number of the defined set of procedures, by specialty, performed by each physician at a health care facility within the previous twelve months;
- (g) Utilization performance profiles by provider, both primary care and specialty care, that have been adjusted to fairly consider variable factors such as patient demographics and severity of case;
- (h) Health plan fiscal performance standards;
- (i) Health care provider and facility recordkeeping and reporting standards;
- (j) Health care utilization management that monitors trends in health service underutilization, as well as overutilization of services;
- (k) Health monitoring that is responsive to consumer, purchaser, and public health assessment needs; and
- (l) Assessment of consumer satisfaction and disclosure of consumer survey results.

(4) In conducting the study, the department shall develop standards that permit each health care facility, provider group, or health carrier to assume responsibility for and determine the physical method of collection, storage, and assimilation of quality indicators for consumer disclosure. The study may define the forms, frequency, and posting requirements for disclosure of information.

In developing proposed standards under this subsection, the department shall identify options that would minimize provider burden and administrative cost resulting from duplicative private sector data submission requirements.

(5) The department shall submit a preliminary report to the legislature by December 31, 1995, including recommendations for initial legislation pursuant to subsection (6) of this section, and shall submit supplementary reports and recommendations as completed, consistent with appropriated funds and staffing.

(6) The department shall not adopt any rule implementing the uniform quality assurance program or consumer disclosure provisions unless expressly directed to do so by an act of law. [1995 c 267 § 4.]

**Captions not law—Severability—Effective dates—1995 c 267:** See notes following RCW 43.70.052.

**43.70.068 Quality assurance—Interagency cooperation—Elimination and coordination of rules and programs.** No later than July 1, 1995, the health care policy board together with the department of health, the health care authority, the department of social and health services, the office of the insurance commissioner, and the department of labor and industries shall form an interagency group for coordination and consultation on quality assurance activities and collaboration on final recommendations for the study required under RCW 43.70.066. By December 31, 1996, the group shall review all state agency programs governing health service quality assurance, in light of legislative actions pursuant to RCW 43.70.066(6), and shall recommend to the legislature, the consolidation, coordination, or elimination of rules and programs that would be made unnecessary pursuant to the development of a uniform quality assurance and improvement program. [1995 c 267 § 5.]

**Captions not law—Severability—Effective dates—1995 c 267:** See notes following RCW 43.70.052.

**43.70.070 Duties of department—Analysis of health services.** The department shall evaluate and analyze readily available data and information to determine the outcome and effectiveness of health services, utilization of services, and payment methods. This section should not be construed as allowing the department access to proprietary information.

(1) The department shall make its evaluations available to the board for use in preparation of the state health report required by RCW 43.20.050, and to consumers, purchasers, and providers of health care.

(2) The department shall use the information to:

(a) Develop guidelines which may be used by consumers, purchasers, and providers of health care to encourage necessary and cost-effective services; and

(b) Make recommendations to the governor on how state government and private purchasers may be prudent purchasers of cost-effective, adequate health services. [1995 c 269 § 2202; 1989 1st ex.s. c 9 § 109.]

**Effective date—1995 c 269:** See note following RCW 13.40.025.

**Part headings not law—Severability—1995 c 269:** See notes following RCW 13.40.005.

**43.70.075 Identity of whistleblower protected—Remedy for retaliatory action—Definitions—Rules.** (1) The identity of a whistleblower who complains, in good faith, to the department of health about the improper quality of care by a health care provider, or in a health care facility, as defined in \*RCW 43.72.010, shall remain confidential.

The provisions of RCW 4.24.500 through 4.24.520, providing certain protections to persons who communicate to government agencies, shall apply to complaints filed under this section. The identity of the whistleblower shall remain confidential unless the department determines that the complaint was not made in good faith. An employee who is a whistleblower, as defined in this section, and who as a result of being a whistleblower has been subjected to workplace reprisal or retaliatory action has the remedies provided under chapter 49.60 RCW.

(2)(a) "Improper quality of care" means any practice, procedure, action, or failure to act that violates any state law or rule of the applicable state health licensing authority under Title 18 or chapters 70.41, 70.96A, 70.127, 70.175, 71.05, 71.12, and 71.24 RCW, and enforced by the department of health. Each health disciplinary authority as defined in RCW 18.130.040 may, with consultation and interdisciplinary coordination provided by the state department of health, adopt rules defining accepted standards of practice for their profession that shall further define improper quality of care. Improper quality of care shall not include good faith personnel actions related to employee performance or actions taken according to established terms and conditions of employment.

(b) "Reprisal or retaliatory action" means but is not limited to: Denial of adequate staff to perform duties; frequent staff changes; frequent and undesirable office changes; refusal to assign meaningful work; unwarranted and unsubstantiated report of misconduct pursuant to Title 18 RCW; letters of reprimand or unsatisfactory performance evaluations; demotion; reduction in pay; denial of promotion; suspension; dismissal; denial of employment; and a supervisor or superior encouraging coworkers to behave in a hostile manner toward the whistleblower.

(c) "Whistleblower" means a consumer, employee, or health care professional who in good faith reports alleged quality of care concerns to the department of health.

(3) Nothing in this section prohibits a health care facility from making any decision exercising its authority to terminate, suspend, or discipline an employee who engages in workplace reprisal or retaliatory action against a whistleblower.

(4) The department shall adopt rules to implement procedures for filing, investigation, and resolution of whistleblower complaints that are integrated with complaint procedures under Title 18 RCW for health professionals or health care facilities. [1995 c 265 § 19.]

\*Reviser's note: RCW 43.72.010 was repealed by 1995 c 265 § 27. RCW 48.43.005 was enacted by chapter 265, Laws of 1995, and includes a definition of "health care facility."

Captions not law—Effective dates—Savings—Severability—1995 c 265: See notes following RCW 70.47.015.

**43.70.097 Enforcement in accordance with RCW 43.05.100 and 43.05.110.** Enforcement action taken after July 23, 1995, by the director or the department shall be in accordance with RCW 43.05.100 and 43.05.110. [1995 c 403 § 626.]

Findings—Short title—Intent—1995 c 403: See note following RCW 34.05.328.

Part headings not law—Severability—1995 c 403: See RCW 43.05.903 and 43.05.904.

**43.70.185 Inspection of property where marine species located—Prohibitions on harvest or landing—Penalties.** (1) The department may enter and inspect any property, lands, or waters, of this state in or on which any marine species are located or from which such species are harvested, whether recreationally or for sale or barter, and any land or water of this state which may cause or contribute to the pollution of areas in or on which such species are harvested or processed. The department may take any reasonably necessary samples to determine whether such species or any lot, batch, or quantity of such species is safe for human consumption.

(2) If the department determines that any species or any lot, batch, or other quantity of such species is unsafe for human consumption because consumption is likely to cause actual harm or because consumption presents a potential risk of substantial harm, the department may, by order under chapter 34.05 RCW, prohibit or restrict the commercial or recreational harvest or landing of any marine species except the recreational harvest of shellfish as defined in chapter 69.30 RCW if taken from privately owned tidelands.

(3) It is unlawful to harvest any marine species in violation of a departmental order prohibiting or restricting such harvest under this section or to possess or sell any marine species so harvested.

(4) Any person who sells any marine species taken in violation of this section is subject to the penalties provided in RCW 69.30.140 and 69.30.150. Any person who harvests or possesses marine species taken in violation of this section is guilty of a civil infraction and is subject to the penalties provided in RCW 69.30.150. Notwithstanding this section, any person who harvests, possesses, sells, offers to sell, culls, shucks, or packs shellfish is subject to the penalty provisions of chapter 69.30 RCW. Charges shall not be brought against a person under both chapter 69.30 RCW and this section in connection with this same action, incident, or event.

(5) The criminal provisions of this section are subject to enforcement by fish and wildlife enforcement officers or ex officio fish and wildlife enforcement patrol officers as defined in \*RCW 75.08.011.

(6) As used in this section, marine species include all fish, invertebrate or plant species which are found during any portion of the life cycle of those species in the marine environment. [1995 c 147 § 7.]

\*Reviser's note: RCW 75.08.011 defines "fisheries patrol officer" and "ex officio fisheries patrol officer."

**43.70.330 Labor camps and farmworker housing—Inspector—Interagency agreement for inspections.** (1) The department of health shall be the primary inspector of labor camps and farmworker housing for the state of Washington: PROVIDED, That the department of labor and industries shall be the inspector for all farmworker housing not covered by the authority of the state board of health.

(2) The department of health, the department of labor and industries, the department of community, trade, and economic development, the state board of health, and the employment security department shall develop an interagency agreement defining the rules and responsibilities for the inspection of farmworker housing. This agreement shall recognize the department of health as the primary inspector

of labor camps for the state, and shall further be designed to provide a central information center for public information and education regarding farmworker housing. The agencies shall provide the legislature with a report on the results of this agreement by January 1, 1991. [1995 c 399 § 75; 1990 c 253 § 2.]

**Legislative finding and purpose—1990 c 253:** "The legislature finds that the demand for housing for migrant and seasonal farmworkers far exceeds the supply of adequate housing in the state of Washington. In addition, increasing numbers of these housing units are in deteriorated condition because they cannot be economically maintained and repaired.

The legislature further finds that the lack of a clear program for the regulation and inspection of farmworker housing has impeded the construction and renovation of housing units in this state.

It is the purpose of this act for the various agencies involved in the regulation of farmworker housing to coordinate and consolidate their activities to provide for efficient and effective monitoring of farmworker housing. It is intended that this action will provide greater responsiveness in dealing with public concerns over farmworker housing, and allow greater numbers of housing units to be built." [1990 c 253 § 1.]

**43.70.510 Health care services coordinated quality improvement program—Rules.** (1)(a) Health care institutions and medical facilities, other than hospitals, that are licensed by the department, professional societies or organizations, health care service contractors, health maintenance organizations, health carriers approved pursuant to chapter 48.43 RCW, and any other person or entity providing health care coverage under chapter 48.42 RCW that is subject to the jurisdiction and regulation of any state agency or any subdivision thereof may maintain a coordinated quality improvement program for the improvement of the quality of health care services rendered to patients and the identification and prevention of medical malpractice as set forth in RCW 70.41.200.

(b) All such programs shall comply with the requirements of RCW 70.41.200(1)(a), (c), (d), (e), (f), (g), and (h) as modified to reflect the structural organization of the institution, facility, professional societies or organizations, health care service contractors, health maintenance organizations, health carriers, or any other person or entity providing health care coverage under chapter 48.42 RCW that is subject to the jurisdiction and regulation of any state agency or any subdivision thereof, unless an alternative quality improvement program substantially equivalent to RCW 70.41.200(1)(a) is developed. All such programs, whether complying with the requirement set forth in RCW 70.41.200(1)(a) or in the form of an alternative program, must be approved by the department before the discovery limitations provided in subsections (3) and (4) of this section and the exemption under RCW 42.17.310(1)(hh) and subsection (5) of this section shall apply. In reviewing plans submitted by licensed entities that are associated with physicians' offices, the department shall ensure that the exemption under RCW 42.17.310(1)(hh) and the discovery limitations of this section are applied only to information and documents related specifically to quality improvement activities undertaken by the licensed entity.

(2) Health care provider groups of ten or more providers may maintain a coordinated quality improvement program for the improvement of the quality of health care services rendered to patients and the identification and prevention of medical malpractice as set forth in RCW 70.41.200. All such programs shall comply with the requirements of RCW

70.41.200(1)(a), (c), (d), (e), (f), (g), and (h) as modified to reflect the structural organization of the health care provider group. All such programs must be approved by the department before the discovery limitations provided in subsections (3) and (4) of this section and the exemption under RCW 42.17.310(1)(hh) and subsection (5) of this section shall apply.

(3) Any person who, in substantial good faith, provides information to further the purposes of the quality improvement and medical malpractice prevention program or who, in substantial good faith, participates on the quality improvement committee shall not be subject to an action for civil damages or other relief as a result of such activity.

(4) Information and documents, including complaints and incident reports, created specifically for, and collected, and maintained by a quality improvement committee are not subject to discovery or introduction into evidence in any civil action, and no person who was in attendance at a meeting of such committee or who participated in the creation, collection, or maintenance of information or documents specifically for the committee shall be permitted or required to testify in any civil action as to the content of such proceedings or the documents and information prepared specifically for the committee. This subsection does not preclude: (a) In any civil action, the discovery of the identity of persons involved in the medical care that is the basis of the civil action whose involvement was independent of any quality improvement activity; (b) in any civil action, the testimony of any person concerning the facts that form the basis for the institution of such proceedings of which the person had personal knowledge acquired independently of such proceedings; (c) in any civil action by a health care provider regarding the restriction or revocation of that individual's clinical or staff privileges, introduction into evidence information collected and maintained by quality improvement committees regarding such health care provider; (d) in any civil action challenging the termination of a contract by a state agency with any entity maintaining a coordinated quality improvement program under this section if the termination was on the basis of quality of care concerns, introduction into evidence of information created, collected, or maintained by the quality improvement committees of the subject entity, which may be under terms of a protective order as specified by the court; (e) in any civil action, disclosure of the fact that staff privileges were terminated or restricted, including the specific restrictions imposed, if any and the reasons for the restrictions; or (f) in any civil action, discovery and introduction into evidence of the patient's medical records required by rule of the department of health to be made regarding the care and treatment received.

(5) Information and documents created specifically for, and collected and maintained by a quality improvement committee are exempt from disclosure under chapter 42.17 RCW.

(6) The department of health shall adopt rules as are necessary to implement this section. [1995 c 267 § 7; 1993 c 492 § 417.]

**Captions not law—Severability—Effective dates—1995 c 267:** See notes following RCW 43.70.052.

**Findings—Intent—1993 c 492:** See notes following RCW 43.72.005.

**Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492:** See RCW 43.72.910 through 43.72.915.

**43.70.540 Data collection—Legislative finding and intent.** The legislature recognizes that the state patrol, the office of the administrator for the courts, the sheriffs' and police chiefs' association, the department of social and health services, the department of community, trade, and economic development, the sentencing guidelines commission, the department of corrections, and the superintendent of public instruction each have comprehensive data and analysis capabilities that have contributed greatly to our current understanding of crime and violence, and their causes.

The legislature finds, however, that a single health-oriented agency must be designated to provide consistent guidelines to all these groups regarding the way in which their data systems collect this important data. It is not the intent of the legislature by RCW 43.70.545 to transfer data collection requirements from existing agencies or to require the addition of major new data systems. It is rather the intent to make only the minimum required changes in existing data systems to increase compatibility and comparability, reduce duplication, and to increase the usefulness of data collected by these agencies in developing more accurate descriptions of violence. [1995 c 399 § 76; 1994 sp.s. c 7 § 201.]

**Legislative finding and intent—1994 sp.s. c 7:** "The legislature finds that the increasing violence in our society causes great concern for the immediate health and safety of our citizens and our social institutions. Youth violence is increasing at an alarming rate and young people between the ages of fifteen and twenty-four are at the highest risk of being perpetrators and victims of violence. Additionally, random violence, including homicide and the use of firearms, has dramatically increased over the last decade.

The legislature finds that violence is abhorrent to the aims of a free society and that it cannot be tolerated. State efforts at reducing violence must include changes in criminal penalties, reducing the unlawful use of and access to firearms, increasing educational efforts to encourage nonviolent means for resolving conflicts, and allowing communities to design their prevention efforts.

The legislature finds that the problem of violence can be addressed with many of the same approaches that public health programs have used to control other problems such as infectious disease, tobacco use, and traffic fatalities.

Addressing the problem of violence requires the concerted effort of all communities and all parts of state and local governments. It is the immediate purpose of chapter 7, Laws of 1994 sp. sess. to: (1) Prevent acts of violence by encouraging change in social norms and individual behaviors that have been shown to increase the risk of violence; (2) reduce the rate of at-risk children and youth, as defined in \*RCW 70.190.010; (3) increase the severity and certainty of punishment for youth and adults who commit violent acts; (4) reduce the severity of harm to individuals when violence occurs; (5) empower communities to focus their concerns and allow them to control the funds dedicated to empirically supported preventive efforts in their region; and (6) reduce the fiscal and social impact of violence on our society." [1994 sp.s. c 7 § 101.]

**\*Reviser's note:** The governor vetoed 1994 sp.s. c 7 § 302, which amended RCW 70.190.010 to define "at-risk children and youth."

**Severability—1994 sp.s. c 7:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1994 sp.s. c 7 § 913.]

**Effective dates—Contingent expiration date—1994 sp.s. c 7:** "(1) Sections 201 through 204, 302, 323, 411, 412, 417, and 418 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [April 6, 1994].

(2) Sections 904 through 908 of this act shall take effect July 1, 1995.

(3) Notwithstanding other provisions of this section, if sections 901 through 909 of this act are referred to the voters at the next succeeding general election and sections 901 through 909 of this act are rejected by the voters, then the amendments by sections 510 through 512, 519, 521, 525, and 527 of this act shall expire on July 1, 1995." [1994 sp.s. c 7 § 915 (Referendum Bill No. 43, subsection (3) approved November 8, 1994).]

**\*Reviser's note:** Sections 901 through 909, chapter 7, Laws of 1994 sp. sess. were approved and ratified by the voters on November 8, 1994, in Referendum Bill No. 43. Therefore, the amendments to sections 510 through 512, 519, 521, 525, and 527, chapter 7, Laws of 1994 sp. sess. do not expire on July 1, 1995.

**43.70.570 Intent—1995 c 43.** The legislature declares its intent to implement the recommendations of the public health improvement plan by initiating a program to provide the public health system with the necessary capacity to improve the health outcomes of the population of Washington state and establishing the methodology by which improvement in the health outcomes and delivery of public health activities will be assessed. [1995 c 43 § 1.]

**Severability—1995 c 43:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1995 c 43 § 14.]

**Effective dates—Contingent effective dates—1995 c 43:** See note following RCW 70.05.030.

**43.70.575 Definitions.** Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.70.570 through 43.70.580.

(1) "Capacity" means actions that public health jurisdictions must do as part of ongoing daily operations to adequately protect and promote health and prevent disease, injury, and premature death. The public health improvement plan identifies capacity necessary for assessment, policy development, administration, prevention, including promotion and protection, and access and quality.

(2) "Department" means the department of health.

(3) "Local health jurisdiction" means the local health agency, either county or multicounty, operated by local government, with oversight and direction from a local board of health, that provides public health services throughout a defined geographic area.

(4) "Health outcomes" means long-term objectives that define optimal, measurable, future levels of health status, maximum acceptable levels of disease, injury, or dysfunction, or prevalence of risk factors in areas such as improving the rate of immunizations for infants and children to ninety percent and controlling and reducing the spread of tuberculosis and that are stated in the public health improvement plan.

(5) "Public health improvement plan," also known as the public health services improvement plan, means the public health services improvement plan established under RCW 43.70.520, developed by the department, in consultation with local health departments and districts, the state board of health, the health services commission, area Indian health services, and other state agencies, health services providers, and residents concerned about public health, to provide a detailed accounting of deficits in the core functions of assessment, policy development, and assurance of the current public health system, how additional public health funding would be used, and to describe the benefits expected from expanded expenditures.

(6) "Public health" means activities that society does collectively to assure the conditions in which people can be healthy. This includes organized community efforts to prevent, identify, preempt, and counter threats to the public's health.

(7) "Public health system" means the department, the state board of health, and local health jurisdictions. [1995 c 43 § 2.]

**Effective dates—Contingent effective dates—1995 c 43:** See note following RCW 70.05.030.

**Severability—1995 c 43:** See note following RCW 43.70.570.

**43.70.580 Public health improvement plan—Funds—Performance-based contracts—Rules—Evaluation and report.** The primary responsibility of the public health system, is to take those actions necessary to protect, promote, and improve the health of the population. In order to accomplish this, the department shall:

(1) Identify, as part of the public health improvement plan, the key health outcomes sought for the population and the capacity needed by the public health system to fulfill its responsibilities in improving health outcomes.

(2)(a) Distribute state funds that, in conjunction with local revenues, are intended to improve the capacity of the public health system. The distribution methodology shall encourage system-wide effectiveness and efficiency and provide local health jurisdictions with the flexibility both to determine governance structures and address their unique needs.

(b) Enter into with each local health jurisdiction performance-based contracts that establish clear measures of the degree to which the local health jurisdiction is attaining the capacity necessary to improve health outcomes. The contracts negotiated between the local health jurisdictions and the department of health must identify the specific measurable progress that local health jurisdictions will make toward achieving health outcomes. A community assessment conducted by the local health jurisdiction according to the public health improvement plan, which shall include the results of the comprehensive plan prepared according to RCW 70.190.130, will be used as the basis for identifying the health outcomes. The contracts shall include provisions to encourage collaboration among local health jurisdictions. State funds shall be used solely to expand and complement, but not to supplant city and county government support for public health programs.

(3) Develop criteria to assess the degree to which capacity is being achieved and ensure compliance by public health jurisdictions.

(4) Adopt rules necessary to carry out the purposes of chapter 43, Laws of 1995.

(5) Biennially, within the public health improvement plan, evaluate the effectiveness of the public health system, assess the degree to which the public health system is attaining the capacity to improve the status of the public's health, and report progress made by each local health jurisdiction toward improving health outcomes. [1995 c 43 § 3.]

**Effective dates—Contingent effective dates—1995 c 43:** See note following RCW 70.05.030.

**Severability—1995 c 43:** See note following RCW 43.70.570.

**43.70.590 American Indian health care delivery plan.** Consistent with funds appropriated specifically for this purpose, the department shall establish in conjunction with the area Indian health services system and providers an advisory group comprised of Indian and non-Indian health care facilities and providers to formulate an American Indian health care delivery plan. The plan shall include:

(1) Recommendations to providers and facilities methods for coordinating and joint venturing with the Indian health services for service delivery;

(2) Methods to improve American Indian-specific health programming; and

(3) Creation of co-funding recommendations and opportunities for the unmet health services programming needs of American Indians. [1995 c 43 § 4; 1993 c 492 § 468. Formerly RCW 41.05.240.]

**Reviser's note:** RCW 41.05.240 was amended and recodified as RCW 43.70.590 by 1995 c 43 without cognizance of the repeal by 1995 1st sp.s. c 6 § 9. For rule of construction concerning sections amended and repealed in the same legislative session, see RCW 1.12.025.

**Effective dates—Contingent effective dates—1995 c 43:** See note following RCW 70.05.030.

**Severability—1995 c 43:** See note following RCW 43.70.570.

**Findings—Intent—1993 c 492:** See notes following RCW 43.72.005.

**Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492:** See RCW 43.72.910 through 43.72.915.

## Chapter 43.72

### HEALTH SYSTEM REFORM—HEALTH SERVICES COMMISSION

#### Sections

43.72.005	through 43.72.080 Repealed.
43.72.090	Uniform or supplemental benefits—Provision by certified health plan only—Uniform benefits package as minimum.
43.72.090	Repealed.
43.72.100	through 43.72.170 Repealed.
43.72.180	Legislative approval—Uniform benefits package and medical risk adjustment mechanisms.
43.72.180	Repealed.
43.72.190	through 43.72.240 Repealed.
43.72.310	Managed competition—Competitive oversight—Attorney general duties—Anti-trust immunity.
43.72.320	Transfer of health services commission duties to the health care policy board.
43.72.800	through 43.72.840 Repealed.
43.72.850	Workers' compensation medical benefits.
43.72.860	Managed care pilot projects.
43.72.870	Repealed.
43.72.902	Public health services account.
43.72.915	Effective dates—1993 c 492.

**43.72.005 through 43.72.080 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**43.72.090 Uniform or supplemental benefits—Provision by certified health plan only—Uniform benefits package as minimum.** (1) On and after December 31, 1995, no person or entity in this state shall provide the uniform benefits package and supplemental benefits as defined in \*RCW 43.72.010 without being certified as a certified health plan by the insurance commissioner.

(2) On and after December 31, 1995, no certified health plan may offer less than the uniform benefits package to residents of this state and no registered employer health plan may provide less than the uniform benefits package to its employees and their dependents.

(3) The health services commission may authorize renewal or continuation until December 31, 1996, of health care service contracts,

disability group insurance, or health maintenance policies in effect on December 31, 1995. [1995 c 2 § 1; 1993 c 492 § 427.]

**Reviser's note:** \*(1) RCW 43.72.010 was repealed by 1995 c 265 § 27, effective July 1, 1995.

(2) RCW 43.72.090 was also repealed by 1995 c 265 § 27 without cognizance of its amendment by 1995 c 2 § 1. For rule of construction concerning sections amended and repealed in the same legislative session, see RCW 1.12.025.

**Effective date—1995 c 2:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [February 3, 1995]." [1995 c 2 § 5.]

*Certification: Chapter 48.43 RCW.*

**43.72.090 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**Reviser's note:** This section was also amended by 1995 c 2 § 1 without cognizance of the repeal thereof. For rule of construction concerning sections amended and repealed in the same legislative session, see RCW 1.12.025.

**43.72.100 through 43.72.170 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**43.72.180 Legislative approval—Uniform benefits package and medical risk adjustment mechanisms.** The legislature may disapprove of the uniform benefits package developed under \*RCW 43.72.130 and medical risk adjustment mechanisms developed under \*\*RCW 43.72.040(7) by an act of law at any time prior to the last day of the following regular legislative session. If such disapproval action is taken, the commission shall resubmit a modified package to the legislature within fifteen days of the disapproval. If the legislature does not disapprove or modify the package by an act of law by the end of that regular session, the package is deemed approved. [1995 c 2 § 2; 1993 c 492 § 454.]

**Reviser's note:** \*(1) RCW 43.72.130 was repealed by 1995 c 265 § 27, effective July 1, 1995.

\*\* (2) RCW 43.72.040 was repealed by 1995 c 265 § 27, effective July 1, 1995.

(3) RCW 43.72.180 was also repealed by 1995 c 265 § 27 without cognizance of its amendment by 1995 c 2 § 2. For rule of construction concerning sections amended and repealed in the same legislative session, see RCW 1.12.025.

**Effective date—1995 c 2:** See note following RCW 43.72.090.

**43.72.180 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**Reviser's note:** This section was also amended by 1995 c 2 § 2 without cognizance of the repeal thereof. For rule of construction concerning sections amended and repealed in the same legislative session, see RCW 1.12.025.

**43.72.190 through 43.72.240 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**43.72.310 Managed competition—Competitive oversight—Attorney general duties—Anti-trust immunity.**

(1) Until May 8, 1995, and after June 30, 1996, a certified health plan, health care facility, health care provider, or other person involved in the development, delivery, or marketing of health care or certified health plans may request, in writing, that the commission obtain an informal opinion from the attorney general as to whether particular conduct is authorized by chapter 492, Laws of 1993. Trade secret or proprietary information contained in a request for informal opinion shall be identified as such and shall not be disclosed

other than to an authorized employee of the commission or attorney general without the consent of the party making the request, except that information in summary or aggregate form and market share data may be contained in the informal opinion issued by the attorney general. The attorney general shall issue such opinion within thirty days of receipt of a written request for an opinion or within thirty days of receipt of any additional information requested by the attorney general necessary for rendering an opinion unless extended by the attorney general for good cause shown. If the attorney general concludes that such conduct is not authorized by chapter 492, Laws of 1993, the person or organization making the request may petition the commission for review and approval of such conduct in accordance with subsection (3) of this section.

(2) After obtaining the written opinion of the attorney general and consistent with such opinion, the health services commission:

(a) May authorize conduct by a certified health plan, health care facility, health care provider, or any other person that could tend to lessen competition in the relevant market upon a strong showing that the conduct is likely to achieve the policy goals of chapter 492, Laws of 1993 and a more competitive alternative is impractical;

(b) Shall adopt rules governing conduct among providers, health care facilities, and certified health plans including rules governing provider and facility contracts with certified health plans, rules governing the use of "most favored nation" clauses and exclusive dealing clauses in such contracts, and rules providing that certified health plans in rural areas contract with a sufficient number and type of health care providers and facilities to ensure consumer access to local health care services;

(c) Shall adopt rules permitting health care providers within the service area of a plan to collectively negotiate the terms and conditions of contracts with a certified health plan including the ability of providers to meet and communicate for the purposes of these negotiations; and

(d) Shall adopt rules governing cooperative activities among health care facilities and providers.

(3) Until May 8, 1995, and after June 30, 1996, a certified health plan, health care facility, health care provider, or any other person involved in the development, delivery, and marketing of health services or certified health plans may file a written petition with the commission requesting approval of conduct that could tend to lessen competition in the relevant market. Such petition shall be filed in a form and manner prescribed by rule of the commission.

The commission shall issue a written decision approving or denying a petition filed under this section within ninety days of receipt of a properly completed written petition unless extended by the commission for good cause shown. The decision shall set forth findings as to benefits and disadvantages and conclusions as to whether the benefits outweigh the disadvantages.

(4) In authorizing conduct and adopting rules of conduct under this section, the commission with the advice of the attorney general, shall consider the benefits of such conduct in furthering the goals of health care reform including but not limited to:

(a) Enhancement of the quality of health services to consumers;

(b) Gains in cost efficiency of health services;  
 (c) Improvements in utilization of health services and equipment;

(d) Avoidance of duplication of health services resources; or

(e) And as to (b) and (c) of this subsection: (i) Facilitates the exchange of information relating to performance expectations; (ii) simplifies the negotiation of delivery arrangements and relationships; and (iii) reduces the transactions costs on the part of certified health plans and providers in negotiating more cost-effective delivery arrangements.

These benefits must outweigh disadvantages including and not limited to:

(i) Reduced competition among certified health plans, health care providers, or health care facilities;

(ii) Adverse impact on quality, availability, or price of health care services to consumers; or

(iii) The availability of arrangements less restrictive to competition that achieve the same benefits.

(5) Conduct authorized by the commission shall be deemed taken pursuant to state statute and in the furtherance of the public purposes of the state of Washington.

(6) With the assistance of the attorney general's office, the commission shall actively supervise any conduct authorized under this section to determine whether such conduct or rules permitting certain conduct should be continued and whether a more competitive alternative is practical. The commission shall periodically review petitioned conduct through, at least, annual progress reports from petitioners, annual or more frequent reviews by the commission that evaluate whether the conduct is consistent with the petition, and whether the benefits continue to outweigh any disadvantages. If the commission determines that the likely benefits of any conduct approved through rule, petition, or otherwise by the commission no longer outweigh the disadvantages attributable to potential reduction in competition, the commission shall order a modification or discontinuance of such conduct. Conduct ordered discontinued by the commission shall no longer be deemed to be taken pursuant to state statute and in the furtherance of the public purposes of the state of Washington.

(7) Nothing contained in chapter 492, Laws of 1993 is intended to in any way limit the ability of rural hospital districts to enter into cooperative agreements and contracts pursuant to RCW 70.44.450 and chapter 39.34 RCW.

(8) Only requests for informal opinions under subsection (1) of this section and petitions under subsection (3) of this section that were received prior to May 8, 1995, or after June 30, 1996, shall be considered. [1995 c 267 § 8; 1993 c 492 § 448.]

**Captions not law—Severability—Effective dates—1995 c 267:** See notes following RCW 43.70.052.

**43.72.320 Transfer of health services commission duties to the health care policy board.** (1) Effective July 1, 1995, except as provided in subsection (2) of this section, the duties of the health services commission under RCW 43.72.310 shall be carried out by the health care policy board established in section 9, chapter 265, Laws of 1995.

(2) For purposes of the transfer of duties under this section to the health care policy board, legislative members

are not appointed to the board and are not members of the board. [1995 c 267 § 10.]

**Captions not law—Severability—Effective dates—1995 c 267:** See notes following RCW 43.70.052.

**43.72.800 through 43.72.840 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**43.72.850 Workers' compensation medical benefits.** On or before January 1, 1995, and January 1, 1996, the health services commission, in coordination with the department of labor and industries and the workers' compensation advisory committee, shall study and make an interim report, and on or before January 1, 1997, a final report, to the governor and appropriate committees of the legislature on the provision of medical benefits for injured workers under a consolidated health care system. The study shall include a review of options and recommendations for modifying the industrial insurance system to provide medical services for injured workers in a more cost-effective manner under a consolidated system, and may include consideration of the purchase of industrial insurance medical benefits through the health care authority or the inclusion of industrial insurance medical benefits in the services offered by certified health plans or other appropriate options. The commission should also give consideration to at least the following issues: The use of managed care and the effect of managed care options on the injured workers' choice of health services provider; the potential cost savings or other impacts of various consolidation options; the benefit structure required under industrial insurance; the potential for consolidation to meet or exceed existing medical cost management of the medical aid fund; the impact of separating the medical management of claims from the disability management of claims; the relationship between return-to-work efforts, medical services, and disability prevention; the relationship between medical services and rehabilitation services; and the effects of the quasi-judicial system that determines industrial insurance rights and obligations. In addition, the final report shall include a proposed plan and timeline for including the medical benefits of the industrial insurance system in the services offered by certified health plans. The proposed plan shall assure that:

(1) The plan shall not take effect until at least ninety-seven percent of state residents have access to the uniform benefits package as required in chapter 492, Laws of 1993;

(2) The uniform benefits package of the certified health plan will provide benefits for injured workers that are at least equivalent to the medical benefits provided to injured workers under Title 51 RCW as determined by the department of labor and industries as of the effective date of the plan, including payments for services that are ancillary to industrial insurance medical benefits, such as but not limited to medical examinations for permanent disabilities;

(3) Other nonmedical benefits required to be provided under Title 51 RCW, such as but not limited to total or partial disability benefits or vocational rehabilitation benefits, are not affected;

(4) Employers who do not choose to become certified health plans under chapter 492, Laws of 1993, will continue

to be required to provide industrial insurance medical benefits under Title 51 RCW;

(5) Employees participating in the plan shall not be required to pay deductibles, copayments, or other point of service charges for services related to industrial insurance injuries or diseases, such costs to be paid by the department of labor and industries or self-insured employer, as applicable;

(6) The plan includes a mechanism to return to workers and employers, in equal shares, any savings that are realized in the costs of medical services for injured workers, as identified by the department of labor and industries;

(7) The majority of the employer's employees or, if the employees are represented for collective bargaining purposes, the exclusive bargaining representative voluntarily agree to the employer's participation in the plan. [1995 c 81 § 1; 1993 c 492 § 485.]

**Crime victims' compensation medical benefits—1993 c 492:** "(1) On or before January 1, 1995, the department of labor and industries in coordination with the [health services] commission, shall complete a study related to the medical services component of the crime victims' compensation program of the department of labor and industries. The goal of the study shall be to determine whether and how the medical services component of the crime victims' compensation program can be modified to provide appropriate medical services to crime victims in a more cost-effective manner. In conducting the study, consideration shall be given to at least the following factors: Required benefit design, necessary statutory changes, and the use of managed care to provide services to crime victims. The study shall evaluate at least the following options:

(a) Whether the medical services component of the crime victims' compensation program should be maintained within the department of labor and industries, and its purchasing and other practices modified to control costs and increase efficacy of health services provided to crime victims;

(b) Whether the medical services component of the crime victims' compensation program should be administered by the health care authority as the state health care purchasing agent;

(c) Whether the medical services component of the crime victims' compensation program should be included in the services offered by certified health plans.

(2) The department of labor and industries shall present the recommendations to the governor and the appropriate committees of the legislature by January 1, 1995." [1993 c 492 § 483.]

**43.72.860 Managed care pilot projects.** (1) The department of labor and industries, in consultation with the workers' compensation advisory committee, may conduct pilot projects to purchase medical services for injured workers through managed care arrangements. The projects shall assess the effects of managed care on the cost and quality of, and employer and employee satisfaction with, medical services provided to injured workers.

(2) The pilot projects may be limited to specific employers. The implementation of a pilot project shall be conditioned upon a participating employer and a majority of its employees, or, if the employees are represented for collective bargaining purposes, the exclusive bargaining representative, voluntarily agreeing to the terms of the pilot. Unless the project is terminated by the department, both the employer and employees are bound by the project agreements for the duration of the project.

(3) Solely for the purpose and duration of a pilot project, the specific requirements of Title 51 RCW that are identified by the department as otherwise prohibiting implementation of the pilot project shall not apply to the participating employers and employees to the extent necessary for conducting the project. Managed care arrangements

for the pilot projects may include the designation of doctors responsible for the care delivered to injured workers participating in the projects.

(4) The projects shall conclude no later than January 1, 1997. The department shall make an interim report on the projects to the governor and appropriate committees of the legislature on or before October 1, 1996. The department shall present the final results of the pilot projects and any final recommendations related to the projects to the governor and appropriate committees of the legislature on or before April 1, 1997. [1995 c 81 § 2; 1993 c 492 § 486.]

**43.72.870 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**43.72.902 Public health services account.** The public health services account is created in the state treasury. Moneys in the account may be spent only after appropriation. Moneys in the account may be expended only for maintaining and improving the health of Washington residents through the public health system. For purposes of this section, the public health system shall consist of the state board of health, the state department of health, and local health departments and districts. [1995 c 43 § 12; 1993 c 492 § 470.]

**Effective dates—Contingent effective dates—1995 c 43:** See note following RCW 70.05.030.

**Severability—1995 c 43:** See note following RCW 43.70.570.

**43.72.915 Effective dates—1993 c 492.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993, except for:

(1) Sections 234 through 243, 245 through 254, and 257 of this act, which shall take effect January 1, 1996, or January 1, 1998, if funding is not provided as set forth in section 17(4) of this act; and

(2) Sections 301 through 303 of this act, which shall take effect January 1, 1994. [1995 c 43 § 15; 1993 sp.s. c 25 § 603; 1993 c 492 § 495.]

**Effective dates—Contingent effective dates—1995 c 43:** See note following RCW 70.05.030.

**Severability—1995 c 43:** See note following RCW 43.70.570.

**Severability—Effective dates—Part headings, captions not law—1993 sp.s. c 25:** See notes following RCW 82.04.230.

## Chapter 43.73

### WASHINGTON HEALTH CARE POLICY BOARD

#### Sections

43.73.010 Membership—Terms—Salary.

43.73.020 Chair—Powers and duties.

43.73.030 Board—Powers and duties.

43.73.040 Legislative budget committee study and report.

*Development of health care data standards:* RCW 43.70.054.

*Study of uniform quality assurance and improvement program:* RCW 43.70.066.

**43.73.010 Membership—Terms—Salary.** (1) There is hereby created the Washington health care policy board.



The board shall consist of: (a) Five members appointed by the governor; (b) two members of the senate appointed by the president of the senate, one of whom shall be a member of the minority party; and (c) two members of the house of representatives appointed by the speaker of the house of representatives, one of whom shall be a member of the minority party. One member of the board shall be designated by the governor as chair and shall serve at the pleasure of the governor. All legislative members shall be appointed before the close of each regular or special session during an odd-numbered year.

(2) Of the members appointed by the governor, two shall be appointed to two-year terms and two shall be appointed to three-year terms. Thereafter, members shall be appointed to three-year terms. The chair shall serve at the pleasure of the governor. Vacancies shall be filled by appointment for the remainder of the unexpired term of the position being vacated. A majority of the voting members shall constitute a quorum.

(3) Members of the board appointed by the governor shall occupy their positions on a full-time basis and are exempt from the provisions of chapter 41.06 RCW. They shall be paid a salary to be fixed by the governor in accordance with RCW 43.03.040. [1995 c 265 § 9.]

**Captions not law—Effective dates—Savings—Severability—1995 c 265:** See notes following RCW 70.47.015.

**43.73.020 Chair—Powers and duties.** The chair shall be the chief administrative officer and the appointing authority of the board. The chair shall have the authority to employ personnel of the board in accordance with chapter 41.06 RCW and prescribe their duties. The chair may employ up to eight personnel exempt from the provisions of chapter 41.06 RCW. The chair shall also have the following powers and duties:

(1) Enter into contracts on behalf of the board;

(2) Accept and expend donations, grants, and other funds received by the board;

(3) Appoint advisory committees and undertake studies, research, and analysis necessary to support activities of the board. [1995 c 265 § 10.]

**Captions not law—Effective dates—Savings—Severability—1995 c 265:** See notes following RCW 70.47.015.

**43.73.030 Board—Powers and duties.** The board shall have the following powers and duties:

(1) Periodically make recommendations to the appropriate committees of the legislature and the governor on issues including, but not limited to the following:

(a) The scope, financing, and delivery of health care benefit plans including access for both the insured and uninsured population;

(b) Long-term care services including the finance and delivery of such services in conjunction with the basic health plan by 1999;

(c) The use of health care savings accounts including their impact on the health of participants and the cost of health insurance;

(d) Rural health care needs;

(e) Whether Washington is experiencing an increase in immigration as a result of health insurance reforms and the

availability of subsidized and unsubsidized health care benefits;

(f) The status of medical education and make recommendations regarding steps possible to encourage adequate availability of health care professionals to meet the needs of the state's populations with particular attention to rural areas;

(g) The implementation of community rating and its impacts on the marketplace including costs and access;

(h) The status of quality improvement programs in both the public and private sectors;

(i) Models for billing and claims processing forms, ensuring that these procedures minimize administrative burdens on health care providers, facilities, carriers, and consumers. These standards shall also apply to state-purchased health services where appropriate;

(j) Guidelines to health carriers for utilization management and review, provider selection and termination policies, and coordination of benefits and premiums; and

(k) Study the feasibility of including long-term care services in a medicare supplemental insurance policy offered according to RCW 41.05.197;

(2) Review rules prepared by the insurance commissioner, health care authority, department of social and health services, department of labor and industries, and department of health, and make recommendations where appropriate to facilitate consistency with the goals of health reform;

(3) Make recommendations on a system for managing health care services to children with special needs and report to the governor and the legislature on their findings by January 1, 1997;

(4) Conduct a comparative analysis of individual and group insurance markets addressing: Relative costs; utilization rates; adverse selection; and specific impacts upon small businesses and individuals. The analysis shall address, also, the necessity and feasibility of establishing explicit related policies, to include, but not be limited to, establishing the maximum allowable individual premium rate as a percentage of the small group premium rate. The board shall submit an interim report on its findings to the governor and appropriate committees of the legislature by December 15, 1995, and a final report on December 15, 1996;

(5) Develop sample enrollee satisfaction surveys that may be used by health carriers. [1995 c 265 § 11.]

**Captions not law—Effective dates—Savings—Severability—1995 c 265:** See notes following RCW 70.47.015.

**43.73.040 Legislative budget committee study and report.** In January 1999 the legislative budget committee shall commence a study of the necessity of the existence of the board and report its recommendations to the appropriate committees of the legislature by December 1, 1999. [1995 c 265 § 12.]

**Captions not law—Effective dates—Savings—Severability—1995 c 265:** See notes following RCW 70.47.015.

## Chapter 43.79 STATE FUNDS

## Sections

- 43.79.201 C.E.P. & R.I. account—Moneys transferred to charitable, educational, penal and reformatory institutions account—Exception.
- 43.79.445 Death investigations' account—Disbursal.

**43.79.201 C.E.P. & R.I. account—Moneys transferred to charitable, educational, penal and reformatory institutions account—Exception.** (1) The charitable, educational, penal and reformatory institutions account is hereby created, in the state treasury, into which account there shall be deposited all moneys arising from the sale, lease or transfer of the land granted by the United States government to the state for charitable, educational, penal and reformatory institutions by section 17 of the enabling act, or otherwise set apart for such institutions, except all moneys arising from the sale, lease, or transfer of that certain one hundred thousand acres of such land assigned for the support of the University of Washington by chapter 91, Laws of 1903 and section 9, chapter 122, Laws of 1893.

(2) If feasible, not less than one-half of all income to the charitable, educational, penal, and reformatory institutions account shall be appropriated for the purpose of providing housing, including repair and renovation of state institutions, for persons who are mentally ill, developmentally disabled, or youth who are blind, deaf, or otherwise disabled. If moneys are appropriated for community-based housing, the moneys shall be appropriated to the department of community, trade, and economic development for the housing assistance program under chapter 43.185 RCW. [1995 c 399 § 77; 1991 sp.s. c 13 § 39; 1991 c 204 § 3; 1985 c 57 § 37; 1965 ex.s. c 135 § 2; 1965 c 8 § 43.79.201. Prior: 1961 c 170 § 1.]

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

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

*Income potential:* RCW 79.01.007.

*Inventory of land:* RCW 79.01.006.

**43.79.445 Death investigations' account—Disbursal.** There is established an account in the state treasury referred to as the "death investigations' account" which shall exist for the purpose of receiving, holding, investing, and disbursing funds appropriated or provided in RCW 70.58.107 and any moneys appropriated or otherwise provided thereafter.

Moneys in the death investigations' account shall be disbursed by the state treasurer once every year on December 31 and at any other time determined by the treasurer. The treasurer shall make disbursements to: The state toxicology laboratory, counties for the cost of autopsies, the University of Washington to fund the state forensic pathology fellowship program, the state patrol for providing partial funding for the state dental identification system, the criminal justice training commission for training county coroners, medical examiners and their staff, and the state forensic investigations council.

The University of Washington and the Washington state forensic investigations council shall jointly determine the yearly amount for the state forensic pathology fellowship program established by RCW 28B.20.426. [1995 c 398 § 9; 1991 sp.s. c 13 § 21; 1991 c 176 § 4; 1986 c 31 § 2; 1985 c 57 § 41; 1983 1st ex.s. c 16 § 18.]

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

**Effective date—1986 c 31:** See note following RCW 28B.20.426.

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

**Severability—Effective date—1983 1st ex.s. c 16:** See RCW 43.103.900 and 43.103.901.

## Chapter 43.79A

## TREASURER'S TRUST FUND

## Sections

- 43.79A.040 Management—Income—Investment income account—Distribution.

**43.79A.040 Management—Income—Investment income account—Distribution.** (1) Money in the treasurer's trust fund may be deposited, invested and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury.

(2) All income received from investment of the treasurer's trust fund shall be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer shall distribute the earnings credited to the investment income account to the state general fund except under (b) and (c) of this subsection.

(b) The following accounts and funds shall receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The agricultural local fund, the American Indian scholarship endowment fund, the energy account, the fair fund, the game farm alternative account, the grain inspection revolving fund, the rural rehabilitation account, and the self-insurance revolving fund. However, the earnings to be distributed shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(c) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right of way revolving fund, the federal narcotics asset forfeitures account, the high occupancy vehicle account, and the local rail service assistance account.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section. [1995 c 394 § 2; 1995 c 365 § 1. Prior: 1993 sp.s. c 8 § 2; 1993 c 500 § 5; 1991 sp.s. c 13 § 82; 1973 1st ex.s. c 15 § 4.]

**Reviser's note:** This section was amended by 1995 c 365 § 1 and by 1995 c 394 § 2, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Effective date—1995 c 394:** See note following RCW 43.84.092.

**Effective date—1995 c 365:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect June 1, 1995." [1995 c 365 § 2.]

**Effective date—Application—1993 sp.s. c 8:** See note following RCW 43.84.092.

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

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

## Chapter 43.80 FISCAL AGENCIES

### Sections

43.80.125 Appointment of fiscal agencies in connection with registered bonds—Contracting of services.

**43.80.125 Appointment of fiscal agencies in connection with registered bonds—Contracting of services.** (1) The fiscal agencies designated pursuant to RCW 43.80.110 and 43.80.120 may be appointed by the state treasurer or a local treasurer to act as registrar, authenticating agent, transfer agent, paying agent, or other agent in connection with the issuance by the state or local government of registered bonds or other obligations pursuant to a system of registration as provided by RCW 39.46.030 and may establish and maintain on behalf of the state or local government a central depository system for the transfer or pledge of bonds or other obligations. The term "local government" shall be as defined in RCW 39.46.020.

(2) Whenever in the judgment of the fiscal agencies, certain services as registrar, authenticating agent, transfer agent, paying agent, or other agent in connection with the establishment and maintenance of a central depository system for the transfer or pledge of registered public obligations, or in connection with the issuance by any public entity of registered public obligations pursuant to a system of registration as provided in chapter 39.46 RCW, can be secured from private sources more economically than by carrying out such duties themselves, they may contract out all or any of such services to such private entities as such fiscal agencies deem capable of carrying out such duties in a responsible manner. [1995 c 38 § 10; 1994 c 301 § 14; 1985 c 84 § 3; 1983 c 167 § 11.]

**Acts of municipal officers ratified and confirmed—1995 c 38:** See note following RCW 3.02.045.

**Liberal construction—Severability—1983 c 167:** See RCW 39.46.010 and note following.

## Chapter 43.83 CAPITAL IMPROVEMENTS

### Sections

43.83.184 General obligation bonds—Authorized—Issuance—Appropriation required.

**43.83.184 General obligation bonds—Authorized—Issuance—Appropriation required.** For the purpose of acquiring land and providing needed capital improvements consisting of the planning, acquisition, construction, remodeling, and furnishing, together with all improvements, enhancements, fixed equipment facilities of office buildings, parking facilities, and such other buildings, facilities, and utilities as are determined to be necessary to provide space including offices, committee rooms, hearing rooms, work rooms, and industrial-related space for the legislature, for other elective officials, and such other state agencies as may be necessary, and for the purpose of land acquisitions by the department of transportation, grants and loans by the department of community, trade, and economic development, and facilities of the department of corrections and other state agencies, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of sixty-four million two hundred seventy thousand dollars, or so much thereof as may be required, to finance these projects and all costs incidental thereto. No bonds authorized in this section may be offered for sale without prior legislative appropriation. [1995 c 399 § 78; 1985 c 466 § 54; 1983 1st ex.s. c 54 § 1.]

**Effective date—Severability—1985 c 466:** See notes following RCW 43.31.085.

## Chapter 43.84 INVESTMENTS AND INTERFUND LOANS

### Sections

43.84.092 Deposit of surplus balance investment earnings—Treasury income account—Accounts and funds credited.

**43.84.092 Deposit of surplus balance investment earnings—Treasury income account—Accounts and funds credited.** (1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and

disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the common school construction fund, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of retirement systems expense account, the Eastern Washington University capital projects account, the education construction fund, the emergency reserve fund, the federal forest revolving account, the health services account, the public health services account, the health system capacity account, the personal health services account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the perpetual surveillance and maintenance account, the public employees' retirement system plan I account, the public employees' retirement system plan II account, the Puyallup tribal settlement account, the resource management cost account, the site closure account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the supplemental pension account, the teachers' retirement system plan I account, the teachers' retirement system plan II account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer fire fighters' relief and pension principal account, the volunteer fire fighters' relief and pension administrative account, the Washington judicial retirement system account, the Washington law enforcement officers' and fire fighters' system plan I retirement account, the Washington law enforcement officers' and fire fighters' system plan II retirement account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund,

the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (4)(a) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(b) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the central Puget Sound public transportation account, the city hardship assistance account, the county arterial preservation account, the department of licensing services account, the economic development account, the essential rail assistance account, the essential rail banking account, the ferry bond retirement fund, the gasohol exemption holding account, the grade crossing protective fund, the high capacity transportation account, the highway bond retirement fund, the highway construction stabilization account, the highway safety account, the marine operating fund, the motor vehicle fund, the motorcycle safety education account, the pilotage account, the public transportation systems account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the recreational vehicle account, the rural arterial trust account, the safety and education account, the small city account, the special category C account, the state patrol highway account, the transfer relief account, the transportation capital facilities account, the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation revolving loan account, and the urban arterial trust account.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section. [1995 c 394 § 1; 1995 c 122 § 12. Prior: 1994 c 2 § 6 (Initiative Measure No. 601, approved November 2, 1993); 1993 sp.s. c 25 § 511; 1993 sp.s. c 8 § 1; 1993 c 500 § 6; 1993 c 492 § 473; 1993 c 445 § 4; 1993 c 329 § 2; 1993 c 4 § 9; 1992 c 235 § 4; 1991 sp.s. c 13 § 57; 1990 2nd ex.s. c 1 § 204; 1989 c 419 § 12; 1985 c 57 § 51.]

**Reviser's note:** This section was amended by 1995 c 122 § 12 and by 1995 c 394 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Effective date—1995 c 394:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect June 1, 1995." [1995 c 394 § 3.]

**Declaration—Intent—Purpose—1995 c 122:** See RCW 59.21.006.

**Severability—Effective date—1995 c 122:** See RCW 59.21.904 and 59.21.905.

**Severability—Effective dates—1994 c 2 (Initiative Measure No. 601):** See RCW 43.135.903 and 43.135.904.

**Severability—Effective dates—Part headings, captions not law—1993 sp.s. c 25:** See notes following RCW 82.04.230.

**Findings—Intent—1993 sp.s. c 25:** See note following RCW 82.45.010.

**Effective date—Application—1993 sp.s. c 8:** "This act shall take effect July 1, 1993, but shall not be effective for earnings on balances prior to July 1, 1993." [1993 sp.s. c 8 § 3.]

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

**Findings—Intent—1993 c 492:** See notes following RCW 43.72.005.

**Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492:** See RCW 43.72.910 through 43.72.915.

**Effective date—1993 c 329:** See note following RCW 90.50A.020.

**Legislative declaration—Effective date—1993 c 4:** See notes following RCW 47.56.770.

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

**Applicability—1990 2nd ex.s. c 1:** See note following RCW 82.14.050.

**Severability—1990 2nd ex.s. c 1:** See note following RCW 82.14.300.

**Intent—Effective date—1989 c 419:** See notes following RCW 4.92.006.

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

### Chapter 43.88

#### STATE BUDGETING, ACCOUNTING, AND REPORTING SYSTEM

(Formerly: Budget and accounting)

##### Sections

43.88.020	Definitions.
43.88.067	Expenditures—Awards for judicial review of agency action—Report to legislature.
43.88.150	Priority of expenditures—Appropriated and nonappropriated funds—Matching funds, disburse state moneys proportionally.
43.88.240	Exemption of Washington state commodity commissions.

**43.88.020 Definitions.** (1) "Budget" means a proposed plan of expenditures for a given period or purpose and the proposed means for financing these expenditures.

(2) "Budget document" means a formal statement, either written or provided on any electronic media or both, offered by the governor to the legislature, as provided in RCW 43.88.030.

(3) "Director of financial management" means the official appointed by the governor to serve at the governor's pleasure and to whom the governor may delegate necessary authority to carry out the governor's duties as provided in this chapter. The director of financial management shall be head of the office of financial management which shall be in the office of the governor.

(4) "Agency" means and includes every state office, officer, each institution, whether educational, correctional or other, and every department, division, board and commission, except as otherwise provided in this chapter.

(5) "Public funds", for purposes of this chapter, means all moneys, including cash, checks, bills, notes, drafts, stocks, and bonds, whether held in trust, for operating purposes, or for capital purposes, and collected or disbursed under law, whether or not such funds are otherwise subject to legislative appropriation, including funds maintained outside the state treasury.

(6) "Regulations" means the policies, standards, and requirements, stated in writing, designed to carry out the purposes of this chapter, as issued by the governor or the governor's designated agent, and which shall have the force and effect of law.

(7) "Ensuing biennium" means the fiscal biennium beginning on July 1st of the same year in which a regular session of the legislature is held during an odd-numbered

year pursuant to Article II, section 12 of the Constitution and which biennium next succeeds the current biennium.

(8) "Dedicated fund" means a fund in the state treasury, or a separate account or fund in the general fund in the state treasury, that by law is dedicated, appropriated or set aside for a limited object or purpose; but "dedicated fund" does not include a revolving fund or a trust fund.

(9) "Revolving fund" means a fund in the state treasury, established by law, from which is paid the cost of goods or services furnished to or by a state agency, and which is replenished through charges made for such goods or services or through transfers from other accounts or funds.

(10) "Trust fund" means a fund in the state treasury in which designated persons or classes of persons have a vested beneficial interest or equitable ownership, or which was created or established by a gift, grant, contribution, devise, or bequest that limits the use of the fund to designated objects or purposes.

(11) "Administrative expenses" means expenditures for: (a) Salaries, wages, and related costs of personnel and (b) operations and maintenance including but not limited to costs of supplies, materials, services, and equipment.

(12) "Fiscal year" means the year beginning July 1st and ending the following June 30th.

(13) "Lapse" means the termination of authority to expend an appropriation.

(14) "Legislative fiscal committees" means the legislative budget committee, the legislative evaluation and accountability program committee, the ways and means committees of the senate and house of representatives, and, where appropriate, the legislative transportation committee.

(15) "Fiscal period" means the period for which an appropriation is made as specified within the act making the appropriation.

(16) "Primary budget driver" means the primary determinant of a budget level, other than a price variable, which causes or is associated with the major expenditure of an agency or budget unit within an agency, such as a caseload, enrollment, workload, or population statistic.

(17) "Stabilization account" means the budget stabilization account created under \*RCW 43.88.525 as an account in the general fund of the state treasury.

(18) "State tax revenue limit" means the limitation created by chapter 43.135 RCW.

(19) "General state revenues" means the revenues defined by Article VIII, section 1(c) of the state Constitution.

(20) "Annual growth rate in real personal income" means the estimated percentage growth in personal income for the state during the current fiscal year, expressed in constant value dollars, as published by the office of financial management or its successor agency.

(21) "Estimated revenues" means estimates of revenue in the most recent official economic and revenue forecast prepared under RCW 82.33.020, and prepared by the office of financial management for those funds, accounts, and sources for which the office of the economic and revenue forecast council does not prepare an official forecast including estimates of revenues to support financial plans under RCW 44.40.070, that are prepared by the office of financial management in consultation with the interagency task force.

(22) "Estimated receipts" means the estimated receipt of cash in the most recent official economic and revenue forecast prepared under RCW 82.33.020, and prepared by the office of financial management for those funds, accounts, and sources for which the office of the economic and revenue forecast council does not prepare an official forecast.

(23) "State budgeting, accounting, and reporting system" means a system that gathers, maintains, and communicates fiscal information. The system links fiscal information beginning with development of agency budget requests through adoption of legislative appropriations to tracking actual receipts and expenditures against approved plans.

(24) "Allotment of appropriation" means the agency's statement of proposed expenditures, the director of financial management's review of that statement, and the placement of the approved statement into the state budgeting, accounting, and reporting system.

(25) "Statement of proposed expenditures" means a plan prepared by each agency that breaks each appropriation out into monthly detail representing the best estimate of how the appropriation will be expended.

(26) "Undesignated fund balance (or deficit)" means unreserved and undesignated current assets or other resources available for expenditure over and above any current liabilities which are expected to be incurred by the close of the fiscal period.

(27) "Internal audit" means an independent appraisal activity within an agency for the review of operations as a service to management, including a systematic examination of accounting and fiscal controls to assure that human and material resources are guarded against waste, loss, or misuse; and that reliable data are gathered, maintained, and fairly disclosed in a written report of the audit findings.

(28) "Performance verification" means an analysis that (a) verifies the accuracy of data used by state agencies in quantifying intended results and measuring performance toward those results, and (b) verifies whether or not the reported results were achieved.

(29) "Program evaluation" means the use of a variety of policy and fiscal research methods to (a) determine the extent to which a program is achieving its legislative intent in terms of producing the effects expected, and (b) make an objective judgment of the implementation, outcomes, and net cost or benefit impact of programs in the context of their goals and objectives. It includes the application of systematic methods to measure the results, intended or unintended, of program activities. [1995 c 155 § 1; 1994 c 184 § 9; 1993 c 406 § 2; 1991 c 358 § 6; 1990 c 229 § 4; 1987 c 502 § 1; 1986 c 215 § 2; 1984 c 138 § 6; 1982 1st ex.s. c 36 § 1. Prior: 1981 c 280 § 6; 1981 c 270 § 2; 1980 c 87 § 25; 1979 c 151 § 135; 1975-'76 2nd ex.s. c 83 § 4; 1973 1st ex.s. c 100 § 2; 1969 ex.s. c 239 § 9; 1965 c 8 § 43.88.020; prior: 1959 c 328 § 2.]

**\*Reviser's note:** RCW 43.88.525 was repealed by 1994 c 2 § 9 (Initiative Measure No. 601, approved November 2, 1993), effective July 1, 1995.

**Purpose—Intent—1994 c 184:** See RCW 43.88B.005 and 43.88B.007.

**Captions—Effective date—1994 c 184:** See RCW 43.88B.900 and 43.88B.901.

**Short title—1993 c 406:** "This act may be known and cited as the performance-based government act of 1993." [1993 c 406 § 7.]

**Effective date—1991 c 358:** See note following RCW 43.88.030.

**Effective date—1990 c 229:** See note following RCW 41.06.087.

**Effective date—1981 c 280:** "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1981." [1981 c 280 § 10.]

**Severability—1981 c 280:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 280 § 9.]

**Effective date—Severability—1981 c 270:** See notes following RCW 43.88.010.

*Office of financial management: Chapter 43.41 RCW.*

**43.88.067 Expenditures—Awards for judicial review of agency action—Report to legislature.** The office of financial management shall report annually to the legislature on the amount of fees and other expenses awarded during the preceding fiscal year pursuant to RCW 4.84.340 through 4.84.360. The report shall describe the number, nature, and amount of the awards, the claims involved in the controversy, and other relevant information that may aid the legislature in evaluating the scope and impact of the awards. [1995 c 403 § 905.]

**Findings—1995 c 403:** See note following RCW 4.84.340.

**Findings—Short title—Intent—1995 c 403:** See note following RCW 34.05.328.

**Part headings not law—Severability—1995 c 403:** See RCW 43.05.903 and 43.05.904.

**43.88.150 Priority of expenditures—Appropriated and nonappropriated funds—Matching funds, disburse state moneys proportionally.** (1) For those agencies that make expenditures from both appropriated and nonappropriated funds for the same purpose, the governor shall direct such agencies to charge their expenditures in such ratio, as between appropriated and nonappropriated funds, as will conserve appropriated funds. This subsection does not apply to institutions of higher education, as defined in RCW 28B.10.016.

(2) Unless otherwise provided by law, if state moneys are appropriated for a capital project and matching funds or other contributions are required as a condition of the receipt of the state moneys, the state moneys shall be disbursed in proportion to and only to the extent that the matching funds or other contributions have been received and are available for expenditure.

(3) The office of financial management shall adopt guidelines for the implementation of this section. The guidelines may account for federal matching requirements or other requirements to spend other moneys in a particular manner. [1995 c 6 § 1; 1991 c 284 § 3; 1981 c 270 § 10; 1965 c 8 § 43.88.150. Prior: 1959 c 328 § 15.]

**Effective date—1995 c 6:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [April 12, 1995]." [1995 c 6 § 2.]

**Effective date—Severability—1981 c 270:** See notes following RCW 43.88.010.

**43.88.240 Exemption of Washington state commodity commissions.** Unless otherwise directed in the commodity commission enabling statute, this chapter shall not apply to the Washington state commodity commissions created either under separate statute or under the provisions of chapters 15.65 and 15.66 RCW: PROVIDED, That all such commissions shall submit estimates and such other necessary information as may be required for the development of the budget and shall also be subject to audit by the appropriate state auditing agency or officer. [1995 c 374 § 60; 1981 c 225 § 3; 1965 c 8 § 43.88.240. Prior: 1959 c 328 § 24.]

**Effective date—1995 c 374 §§ 1-47, 50-53, and 59-68:** See note following RCW 15.36.012.

### Chapter 43.99

#### MARINE RECREATION LAND—INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

##### Sections

- 43.99.030 Determination of proportion of motor vehicle fuel tax moneys derived from tax on marine fuel—Studies—Costs.
- 43.99.040 Marine fuel tax refund account—Moneys derived from tax on marine fuel—Refunding and placement in account—Exception.
- 43.99.060 Outdoor recreation account—Deposits.
- 43.99.070 Recreation resource account, motor vehicle fund—Transfers of moneys from marine fuel tax account.
- 43.99.080 Recreation resource account—Distribution of moneys transferred.
- 43.99.095 Interest on funds granted by committee to be returned to source account.
- 43.99.120 Plans for public outdoor recreation land acquisition or improvement—Contents—Submission—Recommendations.
- 43.99.144 Repealed.
- 43.99.150 Appropriations by subsequent legislatures.
- 43.99.170 Recreation resource account.

**43.99.030 Determination of proportion of motor vehicle fuel tax moneys derived from tax on marine fuel—Studies—Costs.** From time to time, but at least once each four years, the director of licensing shall determine the amount or proportion of moneys paid to him as motor vehicle fuel tax which is tax on marine fuel. The director shall make or authorize the making of studies, surveys, or investigations to assist him in making such determination, and shall hold one or more public hearings on the findings of such studies, surveys, or investigations prior to making his determination. The studies, surveys, or investigations conducted pursuant to this section shall encompass a period of twelve consecutive months each time. The final determination by the director shall be implemented as of the next biennium after the period from which the study data were collected. The director may delegate his duties and authority under this section to one or more persons of the department of licensing if he finds such delegation necessary and proper to the efficient performance of these duties. Costs of carrying out the provisions of this section shall be paid from the marine fuel tax refund account created in RCW 43.99.040, upon legislative appropriation. [1995 c 166 § 1; 1979 c 158 § 109; 1975-'76 2nd ex.s. c 50 § 1; 1969 ex.s. c 74 § 1; 1965 c 5 § 3 (Initiative Measure No. 215, approved November 3, 1964).]

**43.99.040 Marine fuel tax refund account—Moneys derived from tax on marine fuel—Refunding and placement in account—Exception.** There is created the marine fuel tax refund account in the state treasury. The director of licensing shall request the state treasurer to refund monthly from the motor vehicle fund amounts which have been determined to be tax on marine fuel. The state treasurer shall refund such amounts and place them in the marine fuel tax refund account to be held for those entitled thereto pursuant to chapter 82.36 RCW and RCW 43.99.050, except that he shall not refund and place in the marine fuel tax refund account for any period for which a determination has been made pursuant to RCW 43.99.030 more than the greater of the following amounts: (1) An amount equal to two percent of all moneys paid to him as motor vehicle fuel tax for such period, (2) an amount necessary to meet all approved claims for refund of tax on marine fuel for such period. [1995 c 166 § 2; 1991 sp.s. c 13 § 42; 1985 c 57 § 53; 1979 c 158 § 110; 1965 c 5 § 4 (Initiative Measure No. 215, approved November 3, 1964).]

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

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

**43.99.060 Outdoor recreation account—Deposits.** The outdoor recreation account is created in the state treasury. Moneys in the account are subject to legislative appropriation. The committee shall administer the account in accordance with chapter 43.98A RCW and this chapter, and shall hold it separate and apart from all other money, funds, and accounts of the committee.

Grants, gifts, or other financial assistance, proceeds received from public bodies as administrative cost contributions, and moneys made available to the state of Washington by the federal government for outdoor recreation, may be deposited into the account. [1995 c 166 § 3; 1991 sp.s. c 13 § 52; 1985 c 57 § 54; 1967 ex.s. c 62 § 1; 1965 c 5 § 6 (Initiative Measure No. 215, approved November 3, 1964).]

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

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

**43.99.070 Recreation resource account, motor vehicle fund—Transfers of moneys from marine fuel tax account.** Upon expiration of the time limited by RCW 82.36.330 for claiming of refunds of tax on marine fuel, the state of Washington shall succeed to the right to such refunds. The director of licensing, after taking into account past and anticipated claims for refunds from and deposits to the marine fuel tax refund account and the costs of carrying out the provisions of RCW 43.99.030, shall request the state treasurer to transfer monthly from the marine fuel tax refund account an amount equal to the proportion of the moneys in the account representing the motor vehicle fuel tax rate under RCW 82.36.025 in effect on January 1, 1990, to the recreation resource account and the remainder to the motor vehicle fund. [1995 c 166 § 4; 1990 c 42 § 116; 1979 c 158 § 111; 1965 c 5 § 7 (Initiative Measure No. 215, approved November 3, 1964).]

**Purpose—Headings—Severability—Effective dates—Application—Implementation—1990 c 42:** See notes following RCW 82.36.025.

**43.99.080 Recreation resource account—Distribution of moneys transferred.** Moneys transferred to the recreation resource account from the marine fuel tax refund account may be used when appropriated by the legislature, as well as any federal or other funds now or hereafter available, to pay the necessary administrative and coordinative costs of the interagency committee for outdoor recreation established by RCW 43.99.110. All moneys so transferred, except those appropriated as aforesaid, shall be divided into two equal shares and shall be used to benefit watercraft recreation in this state as follows:

(1) One share as grants to state agencies for (a) acquisition of title to, or any interests or rights in, marine recreation land, (b) capital improvement of marine recreation land, or (c) matching funds in any case where federal or other funds are made available on a matching basis for purposes described in (a) or (b) of this subsection;

(2) One share as grants to public bodies to help finance (a) acquisition of title to, or any interests or rights in, marine recreation land, or (b) capital improvement of marine recreation land. A public body is authorized to use a grant, together with its own contribution, as matching funds in any case where federal or other funds are made available for purposes described in (a) or (b) of this subsection. The committee may prescribe further terms and conditions for the making of grants in order to carry out the purposes of this chapter. [1995 c 166 § 5; 1971 ex.s. c 140 § 1; 1965 ex.s. c 136 § 1; 1965 c 5 § 8 (Initiative Measure No. 215, approved November 3, 1964).]

**43.99.095 Interest on funds granted by committee to be returned to source account.** Interest earned on funds granted or made available by the committee shall not be expended by the recipient but shall be returned to the source account for disbursement by the committee in accordance with general budget and accounting procedure. [1995 c 166 § 6; 1967 ex.s. c 62 § 7.]

**43.99.120 Plans for public outdoor recreation land acquisition or improvement—Contents—Submission—Recommendations.** Any public body or any agency of state government authorized to acquire or improve public outdoor recreation land which desires funds from the outdoor recreation account, the recreation resource account, or the nonhighway and off-road vehicle activities program account shall submit to the committee a long-range plan for developing outdoor recreation facilities within its authority and detailed plans for the projects sought to be financed from these accounts, including estimated cost and such other information as the committee may require. The committee shall analyze all proposed plans and projects, and shall recommend to the governor for inclusion in the budget such projects as it may approve and find to be consistent with an orderly plan for the acquisition and improvement of outdoor recreation lands in the state. [1995 c 166 § 7; 1983 c 3 § 114; 1965 c 5 § 12 (Initiative Measure No. 215, approved November 3, 1964).]

**43.99.144 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

**43.99.150 Appropriations by subsequent legislatures.** The 1967 and subsequent legislatures may appropriate funds requested in the budget for grants to public bodies and state agencies from the recreation resource account to the committee for allocation and disbursement. The committee shall include a list of prioritized state agency projects to be funded from the recreation resource account with its biennial budget request. [1995 c 166 § 8; 1965 c 5 § 15 (Initiative Measure No. 215, approved November 3, 1964).]

**43.99.170 Recreation resource account.** The recreation resource account is created in the state treasury. Moneys in this account are subject to legislative appropriation. The committee shall administer the account in accordance with this chapter and chapter 67.32 RCW and shall hold it separate and apart from all other money, funds, and accounts of the committee. Moneys received from the marine fuel tax refund account under RCW 43.99.070 shall be deposited into the account. Grants, gifts, or other financial assistance, proceeds received from public bodies as administrative cost contributions, and moneys made available to the state of Washington by the federal government for outdoor recreation may be deposited into the account. [1995 c 166 § 10.]

## Chapter 43.99H

### FINANCING FOR APPROPRIATIONS— 1989-1991 FISCAL BIENNIUM

#### Sections

43.99H.070 East capitol campus construction account—Additional means of reimbursement.

**43.99H.070 East capitol campus construction account—Additional means of reimbursement.** In addition to any other charges authorized by law and to assist in the reimbursement of principal and interest payments on bonds issued for the purposes of RCW 43.99H.020(15), the following revenues may be collected:

(1) The director of general administration may assess a charge against each state board, commission, agency, office, department, activity, or other occupant of the facility or building constructed with bonds issued for the purposes of RCW 43.99H.020(15) for payment of a proportion of costs for each square foot of floor space assigned to or occupied by the entity. Payment of the amount billed to the entity for such occupancy shall be made quarterly during each fiscal year. The director of general administration shall deposit the payment in the capitol campus reserve account.

(2) The director of general administration may pledge a portion of the parking rental income collected by the department of general administration from parking space developed as a part of the facility constructed with bonds issued for the purposes of RCW 43.99H.020(15). The pledged portion of this income shall be deposited in the capitol campus reserve account. The unpledged portion of this income shall continue to be deposited in the state vehicle parking account.

(3) The state treasurer shall transfer four million dollars from the capitol building construction account to the capitol campus reserve account each fiscal year from 1990 to 1995.



Beginning in fiscal year 1996, the director of general administration, in consultation with the state finance committee, shall determine the necessary amount for the state treasurer to transfer from the capitol building construction account to the capitol campus reserve account for the purpose of repayment of the general fund of the costs of the bonds issued for the purposes of RCW 43.99H.020(15).

(4) Any remaining balance in the state building and parking bond redemption account after the final debt service payment shall be transferred to the capitol campus reserve account. [1995 c 215 § 6; 1989 1st ex.s. c 14 § 7.]

**Chapter 43.99J**

**FINANCING FOR APPROPRIATIONS—  
1993-1995 FISCAL BIENNIUM**

Sections

43.99J.020 Conditions and limitations.

**43.99J.020 Conditions and limitations.** The proceeds from the sale of the bonds authorized in RCW 43.99J.010 shall be deposited in the state building construction account created by RCW 43.83.020. The proceeds shall be transferred as follows:

(1) Nine hundred three million dollars to remain in the state building construction account created by RCW 43.83.020; and

(2) One million five hundred thousand dollars to the fruit commission facility account.

These proceeds shall be used exclusively for the purposes specified in this section, and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management subject to legislative appropriation. [1993 sp.s. c 12 § 2.]

**Reviser's note:** The 1994 publication of this code section inadvertently omitted two lines of text. The full text of the law is reprinted here.

**Chapter 43.99K**

**FINANCING FOR APPROPRIATIONS—  
1995-1997 FISCAL BIENNIUM**

Sections

43.99K.010 1995-1997 Fiscal biennium—General obligation bonds for capital and operating appropriations acts.

43.99K.020 Conditions and limitations.

43.99K.030 Retirement of bonds—Reimbursement of general fund—Pledge and promise—Remedies.

43.99K.040 Additional means for payment of principal and interest.

43.99K.050 Legal investment.

43.99K.900 Severability—1995 2nd sp.s. c 17.

**43.99K.010 1995-1997 Fiscal biennium—General obligation bonds for capital and operating appropriations acts.** For the purpose of providing funds to finance the projects described and authorized by the legislature in the capital and operating appropriations acts for the 1995-97 fiscal biennium, and all costs incidental thereto, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of eight hundred eleven million dollars, or as much thereof as may

be required, to finance these projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. [1995 2nd sp.s. c 17 § 1.]

**43.99K.020 Conditions and limitations.** The proceeds from the sale of the bonds authorized in RCW 43.99K.010 shall be deposited in the state building construction account created by RCW 43.83.020. The proceeds shall be transferred as follows:

(1) Seven hundred eighty million dollars to remain in the state building construction account created by RCW 43.83.020;

(2) Twenty million dollars to the outdoor recreation account created by RCW 43.99.060;

(3) Eighteen million six hundred thousand dollars to the habitat conservation account created by RCW 43.98A.020;

(4) Two million nine hundred twelve thousand dollars to the public safety reimbursable bond account; and

(5) Ten million dollars to the higher education construction account created by RCW 28B.14D.040.

These proceeds shall be used exclusively for the purposes specified in this section and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management subject to legislative appropriation. [1995 2nd sp.s. c 17 § 2.]

**43.99K.030 Retirement of bonds—Reimbursement of general fund—Pledge and promise—Remedies.** (1) The state general obligation bond retirement fund shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99K.020 (1), (2), (3), (4), and (5).

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the general obligation bond retirement fund an amount equal to the amount certified by the state finance committee to be due on the payment date.

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99K.020(4), the state treasurer shall transfer from the public safety and education account to the general fund of the state treasury the amount computed in subsection (2) of this section for the bonds issued for the purposes of RCW 43.99K.020(4).

(4) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99K.020(5), the board of regents of the University of Washington shall cause to be paid out of University of Washington nonappropriated local funds to the state treasurer for deposit into the general fund of the state treasury the amount computed in subsection (2) of this section for bonds issued for the purposes of RCW 43.99K.020(5).

(5) Bonds issued under this section and RCW 43.99K.010 and 43.99K.020 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

(6) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1995 2nd sp.s. c 17 § 3.]

**43.99K.040 Additional means for payment of principal and interest.** The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99K.010, and RCW 43.99K.030 shall not be deemed to provide an exclusive method for the payment. [1995 2nd sp.s. c 17 § 4.]

**43.99K.050 Legal investment.** The bonds authorized in RCW 43.99K.010 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1995 2nd sp.s. c 17 § 5.]

**43.99K.900 Severability—1995 2nd sp.s. c 17.** 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. [1995 2nd sp.s. c 17 § 8.]

### Chapter 43.103

## WASHINGTON STATE FORENSIC INVESTIGATIONS COUNCIL

#### Sections

- 43.103.010 Purposes.
- 43.103.020 Definitions.
- 43.103.030 Council created—Powers and duties.
- 43.103.040 Membership of council—Appointment.
- 43.103.050 Terms of members—Vacancies.
- 43.103.070 Chair—Quorum—Meetings.
- 43.103.090 Powers.

**43.103.010 Purposes.** The purposes of \*this act are declared by the legislature to be as follows:

(1) To preserve and enhance the state crime laboratory, which is an essential part of the criminal justice system in the state of Washington;

(2) To fund the death investigation system and to make related state and local institutions more efficient;

(3) To preserve and enhance the state toxicology laboratory which is an essential part of the criminal justice and death investigation systems in the state of Washington;

(4) To provide resources necessary for the performance, by qualified pathologists, of autopsies which are also essential to the criminal justice and death investigation systems of this state and its counties;

(5) To improve the performance of death investigations and the criminal justice system through the formal training of county coroners and county medical examiners;

(6) To establish and maintain a dental identification system; and

(7) To provide flexibility so that any county may establish a county morgue when it serves the public interest. [1995 c 398 § 2; 1983 1st ex.s. c 16 § 1.]

**\*Reviser's note:** "This act" consists of the enactment of RCW 43.103.010, 43.103.020, 43.103.030, 43.103.040, 43.103.050, 43.103.060, 43.103.070, 43.103.080, 43.103.090, 43.103.900, 43.103.901, 43.79.445, 68.08.350, 68.08.355, and 68.08.360, an appropriation section, and a temporary section (uncodified); and the 1983 1st ex.s. c 16 amendments to RCW 68.08.107, 43.20A.630, 43.101.090, 43.101.100, 68.08.104, and 68.12.010.

**43.103.020 Definitions.** As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Council" means the Washington state forensic investigations council.

(2) "Crime laboratory" means the Washington state patrol crime laboratory system created in RCW 43.43.670.

(3) "Toxicology laboratory" means the Washington state toxicology laboratory. [1995 c 398 § 3; 1983 1st ex.s. c 16 § 2.]

**43.103.030 Council created—Powers and duties.** There is created the Washington state forensic investigations council. The council shall oversee the state toxicology laboratory and, together with the president of the University of Washington or the president's designee, control the laboratory's operation. The council may also study and recommend cost-efficient improvements to the death investigation system in Washington and report its findings to the legislature.

Further, the council shall, jointly with the chairperson of the pathology department of the University of Washington's School of Medicine, or the chairperson's designee, oversee the state forensic pathology fellowship program, determine the budget for the program and set the fellow's annual salary, and take those steps necessary to administer the program.

The forensic investigations council shall be actively involved in the preparation of the crime laboratory and toxicology laboratory budgets and shall approve the crime laboratory and toxicology laboratory budgets prior to their formal submission to the office of financial management pursuant to RCW 43.88.030. [1995 c 398 § 4; 1991 c 176 § 2; 1983 1st ex.s. c 16 § 3.]

*Forensic pathology fellowship program: RCW 28B.20.426.*

**43.103.040 Membership of council—Appointment.** The council shall consist of twelve members who shall be selected as follows: One county coroner; one county prosecutor; one county prosecutor who also serves as ex officio county coroner; one county medical examiner; one county sheriff; one chief of police; the chief of the state patrol; two members of a county legislative authority; one pathologist who is currently in private practice; and two members of a city legislative authority.

The governor shall appoint members to the council from among the nominees submitted for each position as follows: The Washington association of county officials shall submit two nominees each for the coroner position and the medical examiner position; the Washington state association of counties shall submit two nominees each for the two county legislative authority positions; the association of Washington cities shall submit two nominees each for the two city legislative authority positions; the Washington association of prosecuting attorneys shall submit two nominees each for the county prosecutor-ex officio county coroner and for the county prosecutor position; the Washington association of sheriffs and police chiefs shall submit two nominees each for the county sheriff position and the chief of police position; and the Washington association of pathologists shall submit two nominees for the private pathologist position. [1995 c 398 § 5; 1983 1st ex.s. c 16 § 4.]

**43.103.050 Terms of members—Vacancies.** All members of the council are appointed for terms of four years, commencing on July 1 and expiring on June 30. However, of the members appointed to the council, five shall be appointed for two-year terms and six shall be appointed for four-year terms. A person chosen to fill a vacancy created other than by the natural expiration of a member's term shall be nominated and appointed as provided in RCW 43.103.040 for the unexpired term of the member he or she is to succeed. Any member may be reappointed for additional terms. [1995 c 398 § 6; 1983 1st ex.s. c 16 § 5.]

**43.103.070 Chair—Quorum—Meetings.** The council shall elect a chair and a vice chair from among its members. The chair shall not vote except in case of a tie vote. Seven members of the council shall constitute a quorum. The governor shall summon the council to its first meeting. Otherwise, meetings may be called by the chair and shall be called by him or her upon the written request of five members of the council. Conference calls by telephone are a proper form of meeting. [1995 c 398 § 7; 1983 1st ex.s. c 16 § 7.]

**43.103.090 Powers.** The council may:

- (1) Meet at such times and places as may be designated by a majority vote of the council members or, if a majority cannot agree, by the chair;
- (2) Adopt rules governing the council and the conduct of its meetings;
- (3) Require reports from the state toxicologist on matters pertaining to the toxicology laboratory;
- (4) Require reports from the chief of the Washington state patrol on matters pertaining to the crime laboratory;
- (5) Be actively involved in the preparation of the crime laboratory and toxicology laboratory budgets and shall approve the crime laboratory and toxicology laboratory budgets prior to their formal submission to the office of financial management pursuant to RCW 43.88.030;
- (6) Do anything, necessary or convenient, which enables the council to perform its duties and to exercise its powers;
- (7) Appoint a toxicologist as state toxicologist to serve at the pleasure of the council; and

- (8) Set the salary for the state toxicologist. [1995 c 398 § 8; 1983 1st ex.s. c 16 § 9.]

### Chapter 43.105

#### DEPARTMENT OF INFORMATION SERVICES

(Formerly: Data processing and communications systems)

##### Sections

43.105.017 Legislative intent. (*Expires June 30, 1997.*)

43.105.041 Powers and duties of board. (*Expires June 30, 1997.*)

**43.105.017 Legislative intent. (*Expires June 30, 1997.*)** It is the intent of the legislature that:

- (1) State government use voice, data, and video telecommunications technologies to:
  - (a) Transmit and increase access to live, interactive classroom instruction and training;
  - (b) Provide for interactive public affairs presentations, including a public forum for state and local issues;
  - (c) Facilitate communications and exchange of information among state and local elected officials and the general public;
  - (d) Enhance state-wide communications within state agencies; and
  - (e) Through the use of telecommunications, reduce time lost due to travel to in-state meetings;
- (2) Information be shared and administered in a coordinated manner, except when prevented by agency responsibilities for security, privacy, or confidentiality;
- (3) The primary responsibility for the management and use of information, information systems, telecommunications, equipment, software, and services rests with each agency head;
- (4) Resources be used in the most efficient manner and services be shared when cost-effective;
- (5) A state agency, office, department, or educational institution may donate obsolete telecommunications equipment and related surplus supplies to local programs provided under RCW 28A.215.120 pursuant to section 507, chapter 14, Laws of 1995 2nd sp. sess.;
- (6) A structure be created to:
  - (a) Plan and manage telecommunications and computing networks;
  - (b) Increase agencies' awareness of information sharing opportunities; and
  - (c) Assist agencies in implementing such possibilities;
- (7) An acquisition process for equipment, proprietary software, and related services be established that meets the needs of the users, considers the exchange of information, and promotes fair and open competition;
- (8) To the greatest extent possible, major information technology projects be implemented on an incremental basis;
- (9) The state maximize opportunities to exchange and share data and information by moving toward implementation of open system architecture based upon interface standards providing for application and data portability and interoperability;
- (10) To the greatest extent possible, the state recognize any price performance advantages which may be available in midrange and personal computing architecture;

(11) The state improve recruitment, retention, and training of professional staff;

(12) Plans, proposals, and acquisitions for information services be reviewed from a financial and management perspective as part of the budget process; and

(13) State government adopt policies and procedures that maximize the use of existing video telecommunications resources, coordinate and develop video telecommunications in a manner that is cost-effective and encourages shared use, and ensure the appropriate use of video telecommunications to fulfill identified needs. [1995 2nd sp.s. c 14 § 511; 1992 c 20 § 6; 1990 c 208 § 2; 1987 c 504 § 2.]

**Sunset Act application:** See note following chapter digest.

**Expiration date—1995 2nd sp.s. c 14 §§ 511-523, 528-533:** "Sections 511 through 523 and 528 through 533 of this act expire June 30, 1997." [1995 2nd sp.s. c 14 § 536.]

**Effective dates—1995 2nd sp.s. c 14:** "(1) Except for sections 514 through 524 and 539 through 556 of this act, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995.

(2) Sections 514 through 524 of this act shall take effect January 1, 1996." [1995 2nd sp.s. c 14 § 562.]

**Severability—1995 2nd sp.s. c 14:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1995 2nd sp.s. c 14 § 561.]

**Severability—Captions not law—1992 c 20:** See notes following RCW 43.105.160.

**43.105.041 Powers and duties of board. (Expires June 30, 1997.)** The board shall have the following powers and duties related to information services:

(1) To develop standards governing the acquisition and disposition of equipment, proprietary software and purchased services, and confidentiality of computerized data;

(2) To purchase, lease, rent, or otherwise acquire, dispose of, and maintain equipment, proprietary software, and purchased services, or to delegate to other agencies and institutions of state government, under appropriate standards, the authority to purchase, lease, rent, or otherwise acquire, dispose of, and maintain equipment, proprietary software, and purchased services: PROVIDED, That, agencies and institutions of state government, except as provided in RCW 43.105.017(5) and section 507, chapter 14, Laws of 1995 2nd sp. sess., are expressly prohibited from acquiring or disposing of equipment, proprietary software, and purchased services without such delegation of authority. The acquisition and disposition of equipment, proprietary software, and purchased services is exempt from RCW 43.19.1919 and, as provided in RCW 43.19.1901, from the provisions of RCW 43.19.190 through 43.19.200. This subsection does not apply to the legislative branch;

(3) To develop state-wide or interagency technical policies, standards, and procedures;

(4) To assure the cost-effective development and incremental implementation of a state-wide video telecommunications system to serve: Public schools; educational service districts; vocational-technical institutes; community colleges; colleges and universities; state and local government; and the general public through public affairs programming;

(5) To provide direction concerning strategic planning goals and objectives for the state. The board shall seek input from the legislature and the judiciary;

(6) To develop and implement a process for the resolution of appeals by:

(a) Vendors concerning the conduct of an acquisition process by an agency or the department; or

(b) A customer agency concerning the provision of services by the department or by other state agency providers;

(7) To establish policies for the periodic review by the department of agency performance which may include but are not limited to analysis of:

(a) Planning, management, control, and use of information services;

(b) Training and education; and

(c) Project management;

(8) To set its meeting schedules and convene at scheduled times, or meet at the request of a majority of its members, the chair, or the director; and

(9) To review and approve that portion of the department's budget requests that provides for support to the board. [1995 2nd sp.s. c 14 § 512; 1990 c 208 § 6; 1987 c 504 § 5; 1983 c 3 § 115; 1973 1st ex.s. c 219 § 6.]

**Sunset Act application:** See note following chapter digest.

**Expiration date—1995 2nd sp.s. c 14 §§ 511-523, 528-533:** See note following RCW 43.105.017.

**Effective dates—1995 2nd sp.s. c 14:** See note following RCW 43.105.017.

**Severability—1995 2nd sp.s. c 14:** See note following RCW 43.105.017.

## Chapter 43.117

### STATE COMMISSION ON ASIAN PACIFIC AMERICAN AFFAIRS

(Formerly: State commission on Asian-American affairs)

#### Sections

43.117.010 Legislative declaration.

43.117.020 Definitions.

43.117.030 Commission established.

43.117.070 Duties of commission—State agencies to give assistance.

43.117.080 Promotion of equal opportunity and benefits.

**43.117.010 Legislative declaration.** The legislature declares that the public policy of this state is to insure equal opportunity for all of its citizens. The legislature finds that Asian Pacific Americans have unique and special problems. It is the purpose of this chapter to improve the well-being of Asian Pacific Americans by insuring their access to participation in the fields of government, business, education, and other areas. The legislature is particularly concerned with the plight of those Asian Pacific Americans who, for economic, linguistic, or cultural reasons, find themselves disadvantaged or isolated from American society and the benefits of equal opportunity. The legislature further finds that it is necessary to aid Asian Pacific Americans in obtaining governmental services in order to promote the health, safety, and welfare of all the residents of this state. Therefore the legislature deems it necessary to create a commission to carry out the purposes of this chapter. [1995 c 67 § 2; 1983 c 119 § 1; 1974 ex.s. c 140 § 1.]

**Effective date—1983 c 119:** "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 30, 1983." [1983 c 119 § 5.]

**43.117.020 Definitions.** As used in this chapter unless the context indicates otherwise:

(1) "Asian Pacific Americans" include persons of Japanese, Chinese, Filipino, Korean, Samoan, Guamanian, Thai, Viet-Nameese, Cambodian, Laotian, and other South East Asian, South Asian, and Pacific Island ancestry.

(2) "Commission" means the Washington state commission on Asian Pacific American affairs in the office of the governor. [1995 c 67 § 3; 1974 ex.s. c 140 § 2.]

**43.117.030 Commission established.** There is established a Washington state commission on Asian Pacific American affairs in the office of the governor. The now existing Asian-American advisory council shall become the commission upon enactment of this chapter. The council may transfer all office equipment, including files and records to the commission. [1995 c 67 § 4; 1974 ex.s. c 140 § 3.]

**43.117.070 Duties of commission—State agencies to give assistance.** (1) The commission shall examine and define issues pertaining to the rights and needs of Asian Pacific Americans, and make recommendations to the governor and state agencies with respect to desirable changes in program and law.

(2) The commission shall further advise such state government agencies on the development and implementation of comprehensive and coordinated policies, plans, and programs focusing on the special problems and needs of Asian Pacific Americans.

(3) Each state department and agency shall provide appropriate and reasonable assistance to the commission as needed in order that the commission may carry out the purposes of this chapter. [1995 c 67 § 5; 1974 ex.s. c 140 § 7.]

**43.117.080 Promotion of equal opportunity and benefits.** In carrying out its duties, the commission may establish such relationships with local governments and private industry as may be needed to promote equal opportunity and benefits to Asian Pacific Americans in government, education, economic development, employment, and services. [1995 c 67 § 6; 1974 ex.s. c 140 § 8.]

## Chapter 43.131

### WASHINGTON SUNSET ACT OF 1977

#### Sections

- 43.131.385 Rural natural resources impact area programs—Termination.
- 43.131.386 Rural natural resources impact area programs—Repeal.
- 43.131.387 Permit assistance center—Termination.
- 43.131.388 Permit assistance center—Repeal.

**43.131.385 Rural natural resources impact area programs—Termination.** The rural natural resources impact area programs shall be terminated on June 30, 1998, as provided in RCW 43.131.386. [1995 c 226 § 34.]

**Severability—Conflict with federal requirements—Effective date—1995 c 226:** See notes following RCW 43.31.601.

**43.131.386 Rural natural resources impact area programs—Repeal.** The following acts or parts of acts are each repealed, effective June 30, 1999:

- (1) RCW 43.31.601 and 1995 c 226 § 1, 1992 c 21 § 2, & 1991 c 314 § 2;
- (2) RCW 43.31.641 and 1995 c 226 § 4, 1993 c 280 § 50, & 1991 c 314 § 7;
- (3) RCW 50.22.090 and 1995 c 226 § 5, 1993 c 316 § 10, 1992 c 47 § 2, & 1991 c 315 § 4;
- (4) RCW 43.160.212 and 1995 c 226 § 6 & 1993 c 316 § 5;
- (5) RCW 43.31.651 and 1995 c 226 § 10, 1993 c 280 § 51, & 1991 c 314 § 9;
- (6) RCW 43.63A.021 and 1995 c 226 § 11;
- (7) RCW 43.63A.600 and 1995 c 226 § 12, 1994 c 114 § 1, 1993 c 280 § 77, & 1991 c 315 § 23;
- (8) RCW 43.63A.440 and 1995 c 226 § 13, 1993 c 280 § 74, & 1989 c 424 § 7;
- (9) RCW 43.160.200 and 1995 c 226 § 16, 1993 c 320 § 7, 1993 c 316 § 4, & 1991 c 314 § 23;
- (10) RCW 28B.50.258 and 1995 c 226 § 18 & 1991 c 315 § 16;
- (11) RCW 28B.50.262 and 1995 c 226 § 19 & 1994 c 282 § 3;
- (12) RCW 28B.80.570 and 1995 c 226 § 20, 1992 c 21 § 6, & 1991 c 315 § 18;
- (13) RCW 28B.80.575 and 1995 c 226 § 21 & 1991 c 315 § 19;
- (14) RCW 28B.80.580 and 1995 c 226 § 22, 1993 sp.s. c 18 § 34, 1992 c 231 § 31, & 1991 c 315 § 20;
- (15) RCW 28B.80.585 and 1995 c 226 § 23 & 1991 c 315 § 21;
- (16) RCW 43.17.065 and 1995 c 226 § 24, 1993 c 280 § 37, 1991 c 314 § 28, & 1990 1st ex.s. c 17 § 77;
- (17) RCW 43.20A.750 and 1995 c 226 § 25, 1993 c 280 § 38, 1992 c 21 § 4, & 1991 c 153 § 28;
- (18) RCW 43.168.140 and 1995 c 226 § 28 & 1991 c 314 § 20;
- (19) RCW 50.12.270 and 1995 c 226 § 30 & 1991 c 315 § 3;
- (20) RCW 50.70.010 and 1995 c 226 § 31, 1992 c 21 § 1, & 1991 c 315 § 5; and
- (21) RCW 50.70.020 and 1995 c 226 § 32 & 1991 c 315 § 6. [1995 c 226 § 35.]

**Severability—Conflict with federal requirements—Effective date—1995 c 226:** See notes following RCW 43.31.601.

**43.131.387 Permit assistance center—Termination.** The permit assistance center and its powers and duties shall be terminated June 30, 1999, as provided in RCW 43.131.388. [1995 c 347 § 617.]

**Finding—Severability—Part headings and table of contents not law—1995 c 347:** See notes following RCW 36.70A.470.

**43.131.388 Permit assistance center—Repeal.** The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 2000:

- (1) RCW 90.60.010 and 1995 c 347 § 601;

- (2) RCW 90.60.020 and 1995 c 347 § 602;
- (3) RCW 90.60.030 and 1995 c 347 § 603;
- (4) RCW 90.60.040 and 1995 c 347 § 604;
- (5) RCW 90.60.050 and 1995 c 347 § 605;
- (6) RCW 90.60.060 and 1995 c 347 § 606;
- (7) RCW 90.60.070 and 1995 c 347 § 607;
- (8) RCW 90.60.080 and 1995 c 347 § 608;
- (9) RCW 90.60.090 and 1995 c 347 § 609;
- (10) RCW 90.60.100 and 1995 c 347 § 610;
- (11) RCW 90.60.110 and 1995 c 347 § 611;
- (12) RCW 90.60.120 and 1995 c 347 § 612;
- (13) RCW 90.60.130 and 1995 c 347 § 613;
- (14) RCW 90.60.140 and 1995 c 347 § 614;
- (15) RCW 90.60.150 and 1995 c 347 § 615; and
- (16) RCW 90.60.800 and 1995 c 347 § 616. [1995 c 347 § 618.]

**Finding—Severability—Part headings and table of contents not law—1995 c 347:** See notes following RCW 36.70A.470.

### Chapter 43.132

#### FISCAL IMPACT OF PROPOSED LEGISLATION ON POLITICAL SUBDIVISIONS

##### Sections

- 43.132.020 Fiscal notes—Preparation—Contents—Scope—Revisions—Reports.
- 43.132.030 Designation of department of community, trade, and economic development to prepare fiscal notes—Cooperation of state agencies, legislative staffs, and local government associations.

**43.132.020 Fiscal notes—Preparation—Contents—Scope—Revisions—Reports.** The director of financial management or the director's designee shall, in cooperation with appropriate legislative committees and legislative staff, establish a mechanism for the determination of the fiscal impact of proposed legislation which if enacted into law would directly or indirectly increase or decrease revenues received or expenditures incurred by counties, cities, towns, or any other political subdivisions of the state. The office of financial management shall, when requested by a member of the state legislature, report in writing as to such fiscal impact and said report shall be known as a "fiscal note".

Such fiscal notes shall indicate by fiscal year the total impact on the subdivisions involved for the first two years the legislation would be in effect and also a cumulative six year forecast of the fiscal impact. Where feasible and applicable, the fiscal note also shall indicate the fiscal impact on each individual county or on a representative sampling of cities, towns, or other political subdivisions.

A fiscal note as defined in this section shall be provided only upon request of any member of the state legislature. A legislator also may request that such a fiscal note be revised to reflect the impact of proposed amendments or substitute bills. Fiscal notes shall be completed within seventy-two hours of the request unless a longer time period is allowed by the requesting legislator. In the event a fiscal note has not been completed within seventy-two hours of a request, a daily report shall be prepared for the requesting legislator by the director of financial management which report summarizes the progress in preparing the fiscal note. If the request is referred to the director of community, trade, and

economic development, the daily report shall also include the date and time such referral was made. [1995 c 399 § 79; 1984 c 125 § 16; 1979 c 151 § 149; 1977 ex.s. c 19 § 2.]

**Severability—Headings—Effective date—1984 c 125:** See RCW 43.63A.901 through 43.63A.903.

**43.132.030 Designation of department of community, trade, and economic development to prepare fiscal notes—Cooperation of state agencies, legislative staffs, and local government associations.** The director of financial management is hereby empowered to designate the director of community, trade, and economic development as the official responsible for the preparation of fiscal notes authorized and required by this chapter. It is the intent of the legislature that when necessary the resources of other state agencies, appropriate legislative staffs, and the various associations of local government may be employed in the development of such fiscal notes. [1995 c 399 § 80; 1985 c 6 § 10; 1979 c 151 § 150; 1977 ex.s. c 19 § 3.]

### Chapter 43.133

#### WASHINGTON SUNRISE ACT

##### Sections

- 43.133.030 Sunrise notes—Procedure.
- 43.133.050 Sunrise notes—Preparation.

**43.133.030 Sunrise notes—Procedure.** The office of financial management and the department of community, trade, and economic development shall, in cooperation with appropriate legislative committees and legislative staff, establish a procedure for the provision of sunrise notes on the expected impact of bills and resolutions that authorize the creation of new boards and new types of special purpose districts. [1995 c 399 § 81; 1987 c 342 § 3.]

**43.133.050 Sunrise notes—Preparation.** (1) The office of financial management shall prepare sunrise notes for legislation concerning the creation of new boards. The department of community, trade, and economic development shall prepare sunrise notes for legislation creating new types of special purpose districts.

(2) A sunrise note shall be prepared for all executive and agency request legislation that creates a board or special purpose district.

(3) The office of financial management or the department of community, trade, and economic development shall also provide a sunrise note at the request of any committee of the legislature. [1995 c 399 § 82; 1987 c 342 § 5.]

### Chapter 43.143

#### OCEAN RESOURCES MANAGEMENT ACT

##### Sections

- 43.143.010 Legislative policy and intent—Moratorium on leases for oil and gas exploration, development, or production—Appeals from regulation of recreational uses—Participation in federal ocean and marine resource decisions.
- 43.143.040 Oil and gas leasing analysis.

**43.143.010 Legislative policy and intent—Moratorium on leases for oil and gas exploration, development, or production—Appeals from regulation of recreational uses—Participation in federal ocean and marine resource decisions.** (1) The purpose of this chapter is to articulate policies and establish guidelines for the exercise of state and local management authority over Washington's coastal waters, seabed, and shorelines.

(2) There shall be no leasing of Washington's tidal or submerged lands extending from mean high tide seaward three miles along the Washington coast from Cape Flattery south to Cape Disappointment, nor in Grays Harbor, Willapa Bay, and the Columbia river downstream from the Longview bridge, for purposes of oil or gas exploration, development, or production until at least July 1, 2000. During the 2000 legislative session, the legislature shall determine whether the moratorium on leasing should be extended past July 1, 2000. This determination shall be based on the information available at that time, including the analysis described in RCW 43.143.040. If the legislature does not extend the moratorium on leasing, the moratorium will end on July 1, 2000. At any time that oil or gas leasing, exploration, and development are allowed to occur, these activities shall be required to meet or exceed the standards and criteria contained in RCW 43.143.030.

(3) When conflicts arise among uses and activities, priority shall be given to resource uses and activities that will not adversely impact renewable resources over uses which are likely to have an adverse impact on renewable resources.

(4) It is the policy of the state of Washington to actively encourage the conservation of liquid fossil fuels, and to explore available methods of encouraging such conservation.

(5) It is not currently the intent of the legislature to include recreational uses or currently existing commercial uses involving fishing or other renewable marine or ocean resources within the uses and activities which must meet the planning and review criteria set forth in RCW 43.143.030. It is not the intent of the legislature, however, to permanently exclude these uses from the requirements of RCW 43.143.030. If information becomes available which indicates that such uses should reasonably be covered by the requirements of RCW 43.143.030, the permitting government or agency may require compliance with those requirements, and appeals of that decision shall be handled through the established appeals procedure for that permit or approval.

(6) The state shall participate in federal ocean and marine resource decisions to the fullest extent possible to ensure that the decisions are consistent with the state's policy concerning the use of those resources. [1995 c 339 § 1; 1989 1st ex.s. c 2 § 9.]

**43.143.040 Oil and gas leasing analysis.** Prior to September 1, 1994, the department of natural resources and the department of ecology, working together and at the direction of the joint select committee on marine and ocean resources, shall complete an analysis of the potential positive and negative impacts of the leasing of state-owned lands which is described in RCW 43.143.010(2). The department shall consult with the departments of fish and wildlife and community, trade, and economic development, and with the

public, when preparing this analysis. The analysis shall be presented to the legislature no later than September 1, 1994. This analysis shall be used by the legislature in determining whether the oil and gas leasing moratorium contained in RCW 43.143.010 should be extended. [1995 c 399 § 83; 1989 1st ex.s. c 2 § 12.]

### Chapter 43.150

#### CENTER FOR VOLUNTEERISM AND CITIZEN SERVICE

##### Sections

- 43.150.030 Definitions.
- 43.150.040 Center for volunteerism and citizen service authorized—Coordinator—Staff.
- 43.150.060 Repealed.

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

(1) "Volunteer" means a person who is willing to work without expectation of salary or financial reward and who chooses where he or she provides services and the type of services he or she provides.

(2) "Center" means the state center for volunteerism and citizen service. [1995 c 269 § 2301; 1992 c 66 § 3; 1982 1st ex.s. c 11 § 3.]

**Effective date—1995 c 269:** See note following RCW 13.40.025.

**Part headings not law—Severability—1995 c 269:** See notes following RCW 13.40.005.

**43.150.040 Center for volunteerism and citizen service authorized—Coordinator—Staff.** The governor may establish a state-wide center for volunteerism and citizen service within the department of community, trade, and economic development and appoint an executive administrator, who may employ such staff as necessary to carry out the purposes of this chapter. The provisions of chapter 41.06 RCW do not apply to the executive administrator and the staff. [1995 c 399 § 84; 1992 c 66 § 4; 1985 c 6 § 11; 1982 1st ex.s. c 11 § 4.]

**43.150.060 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

### Chapter 43.155

#### PUBLIC WORKS PROJECTS

##### Sections

- 43.155.020 Definitions.
- 43.155.050 Public works assistance account.
- 43.155.068 Loans for preconstruction activities.
- 43.155.070 Eligibility, priority, limitations, and exceptions.

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

(1) "Board" means the public works board created in RCW 43.155.030.

(2) "Department" means the department of community, trade, and economic development.

(3) "Financing guarantees" means the pledge of money in the public works assistance account, or money to be received by the public works assistance account, to the repayment of all or a portion of the principal of or interest on obligations issued by local governments to finance public works projects.

(4) "Local governments" means cities, towns, counties, special purpose districts, and any other municipal corporations or quasi-municipal corporations in the state excluding school districts and port districts.

(5) "Public works project" means a project of a local government for the planning, acquisition, construction, repair, reconstruction, replacement, rehabilitation, or improvement of streets and roads, bridges, water systems, or storm and sanitary sewage systems.

(6) "Technical assistance" means training and other services provided to local governments to: (a) Help such local governments plan, apply, and qualify for loans and financing guarantees from the board, and (b) help local governments improve their ability to plan for, finance, acquire, construct, repair, replace, rehabilitate, and maintain public facilities. [1995 c 399 § 85; 1985 c 446 § 8.]

**43.155.050 Public works assistance account.** The public works assistance account is hereby established in the state treasury. Money may be placed in the public works assistance account from the proceeds of bonds when authorized by the legislature or from any other lawful source. Money in the public works assistance account shall be used to make loans and to give financial guarantees to local governments for public works projects. Moneys in the account may also be appropriated to provide for state match requirements under federal law for projects and activities conducted and financed by the board under the drinking water assistance account. During the 1995-97 fiscal biennium, moneys in the public works assistance account may be appropriated for transfer to the flood control assistance account to be used for flood control assistance, including grants under chapter 86.26 RCW. To the extent that moneys in the public works assistance account are not appropriated during the 1995-97 fiscal biennium for public works or flood control assistance, the legislature may direct their transfer to the state general fund. In awarding grants under chapter 86.26 RCW, the department of ecology shall give strong preference to local governments that have: (1) Implemented, or are in the process of implementing, an ordinance that establishes a flood plain policy that is substantially more stringent than minimum federal requirements; (2) completed a comprehensive flood control plan meeting the requirements of RCW 86.12.200; or (3) constructed, or are in the process of constructing, a system of overtopping dikes or levees that allow public access. [1995 2nd sp.s. c 18 § 918; 1995 c 376 § 11; 1993 sp.s. c 24 § 921; 1985 c 471 § 8.]

**Reviser's note:** This section was amended by 1995 c 376 § 11 and by 1995 2nd sp.s. c 18 § 918, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Severability—Effective date—1995 2nd sp.s. c 18:** See notes following RCW 19.118.110.

**Findings—1995 c 376:** See note following RCW 70.116.060.

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

**Severability—Effective date—1985 c 471:** See notes following RCW 82.04.260.

**43.155.068 Loans for preconstruction activities.** (1)

The board may make low-interest or interest-free loans to local governments for preconstruction activities on public works projects before the legislature approves the construction phase of the project. Preconstruction activities include design, engineering, bid-document preparation, environmental studies, right of way acquisition, and other preliminary phases of public works projects as determined by the board. The purpose of the loans authorized in this section is to accelerate the completion of public works projects by allowing preconstruction activities to be performed before the approval of the construction phase of the project by the legislature.

(2) Projects receiving loans for preconstruction activities under this section must be evaluated using the priority process and factors in RCW 43.155.070(2). The receipt of a loan for preconstruction activities does not ensure the receipt of a construction loan for the project under this chapter. Construction loans for projects receiving a loan for preconstruction activities under this section are subject to legislative approval under RCW 43.155.070 (4) and (5). The board shall adopt a single application process for local governments seeking both a loan for preconstruction activities under this section and a construction loan for the project.

(3) Preconstruction activity loans under this section may be made only from those funds specifically appropriated from the public works assistance account for such a purpose by the legislature. [1995 c 363 § 2.]

**Finding—Purpose—1995 c 363:** "The legislature finds that there continues to exist a great need for capital projects to plan, acquire, design, construct, and repair local government streets, roads, bridges, water systems, and storm and sanitary sewage systems. It is the purpose of this act to accelerate the construction of these projects under the public works assistance program." [1995 c 363 § 1.]

**43.155.070 Eligibility, priority, limitations, and exceptions.** (1) To qualify for loans or pledges under this chapter the board must determine that a local government meets all of the following conditions:

(a) The city or county must be imposing a tax under chapter 82.46 RCW at a rate of at least one-quarter of one percent;

(b) The local government must have developed a long-term plan for financing public works needs;

(c) The local government must be using all local revenue sources which are reasonably available for funding public works, taking into consideration local employment and economic factors; and

(d) A county, city, or town that is required or chooses to plan under RCW 36.70A.040 must have adopted a comprehensive plan in conformance with the requirements of chapter 36.70A RCW, after it is required that the comprehensive plan be adopted, and must have adopted development regulations in conformance with the requirements of chapter 36.70A RCW, after it is required that development regulations be adopted.

(2) The board shall develop a priority process for public works projects as provided in this section. The intent of the



priority process is to maximize the value of public works projects accomplished with assistance under this chapter. The board shall attempt to assure a geographical balance in assigning priorities to projects. The board shall consider at least the following factors in assigning a priority to a project:

(a) Whether the local government receiving assistance has experienced severe fiscal distress resulting from natural disaster or emergency public works needs;

(b) Whether the project is critical in nature and would affect the health and safety of a great number of citizens;

(c) The cost of the project compared to the size of the local government and amount of loan money available;

(d) The number of communities served by or funding the project;

(e) Whether the project is located in an area of high unemployment, compared to the average state unemployment;

(f) Whether the project is the acquisition, expansion, improvement, or renovation by a local government of a public water system that is in violation of health and safety standards, including the cost of extending existing service to such a system;

(g) The relative benefit of the project to the community, considering the present level of economic activity in the community and the existing local capacity to increase local economic activity in communities that have low economic growth; and

(h) Other criteria that the board considers advisable.

(3) Existing debt or financial obligations of local governments shall not be refinanced under this chapter. Each local government applicant shall provide documentation of attempts to secure additional local or other sources of funding for each public works project for which financial assistance is sought under this chapter.

(4) Before November 1 of each year, the board shall develop and submit to the appropriate fiscal committees of the senate and house of representatives a description of the loans made under RCW 43.155.065, 43.155.068, and subsection (7) of this section during the preceding fiscal year and a prioritized list of projects which are recommended for funding by the legislature, including one copy to the staff of each of the committees. The list shall include, but not be limited to, a description of each project and recommended financing, the terms and conditions of the loan or financial guarantee, the local government jurisdiction and unemployment rate, demonstration of the jurisdiction's critical need for the project and documentation of local funds being used to finance the public works project. The list shall also include measures of fiscal capacity for each jurisdiction recommended for financial assistance, compared to authorized limits and state averages, including local government sales taxes; real estate excise taxes; property taxes; and charges for or taxes on sewerage, water, garbage, and other utilities.

(5) The board shall not sign contracts or otherwise financially obligate funds from the public works assistance account before the legislature has appropriated funds for a specific list of public works projects. The legislature may remove projects from the list recommended by the board. The legislature shall not change the order of the priorities recommended for funding by the board.

(6) Subsection (5) of this section does not apply to loans made under RCW 43.155.065, 43.155.068, and subsection (7) of this section.

(7)(a) Loans made for the purpose of capital facilities plans shall be exempted from subsection (5) of this section. In no case shall the total amount of funds utilized for capital facilities plans and emergency loans exceed the limitation in RCW 43.155.065.

(b) For the purposes of this section "capital facilities plans" means those plans required by the growth management act, chapter 36.70A RCW, and plans required by the public works board for local governments not subject to the growth management act. [1995 c 363 § 3; 1993 c 39 § 1; 1991 sp.s. c 32 § 23; 1990 1st ex.s. c 17 § 82; 1990 c 133 § 6; 1988 c 93 § 3; 1987 c 505 § 40; 1985 c 446 § 12.]

**Finding—Purpose—1995 c 363:** See note following RCW 43.155.068.

**Effective date—1993 c 39:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993." [1993 c 39 § 2.]

**Section headings not law—1991 sp.s. c 32:** See RCW 36.70A.902.

**Intent—1990 1st ex.s. c 17:** See note following RCW 43.210.010.

**Severability—Part, section headings not law—1990 1st ex.s. c 17:** See RCW 36.70A.900 and 36.70A.901.

**Findings—Severability—1990 c 133:** See notes following RCW 36.94.140.

## Chapter 43.160

### ECONOMIC DEVELOPMENT—PUBLIC FACILITIES LOANS AND GRANTS

#### Sections

- 43.160.020 Definitions.
- 43.160.030 Community economic revitalization board—Members—  
Terms—Chair, vice-chair—Staff support—Compensation and travel expenses—Vacancies—Removal.
- 43.160.076 Grants and loans in distressed counties or natural resources impact areas. (*Effective until June 30, 1997.*)
- 43.160.115 Cooperation with Washington state development loan fund committee required—Transfer of funds.
- 43.160.180 Private activity bond subcommittee.
- 43.160.200 Economic development account—Rural natural resources impact areas. (*Expires June 30, 1997.*)
- 43.160.210 Distressed counties—Twenty percent of loans and grants. (*Effective June 30, 1997.*)
- 43.160.212 Rural natural resources impact areas—Loans for public works facilities.

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

(1) "Board" means the community economic revitalization board.

(2) "Bond" means any bond, note, debenture, interim certificate, or other evidence of financial indebtedness issued by the board pursuant to this chapter.

(3) "Department" means the department of community, trade, and economic development.

(4) "Financial institution" means any bank, savings and loan association, credit union, development credit corporation, insurance company, investment company, trust company, savings institution, or other financial institution approved by the board and maintaining an office in the state.

(5) "Industrial development facilities" means "industrial development facilities" as defined in RCW 39.84.020.

(6) "Industrial development revenue bonds" means tax-exempt revenue bonds used to fund industrial development facilities.

(7) "Local government" or "political subdivision" means any port district, county, city, town, or special utility district.

(8) "Sponsor" means any of the following entities which customarily provide service or otherwise aid in industrial or other financing and are approved as a sponsor by the board: A bank, trust company, savings bank, investment bank, national banking association, savings and loan association, building and loan association, credit union, insurance company, or any other financial institution, governmental agency, or holding company of any entity specified in this subsection.

(9) "Umbrella bonds" means industrial development revenue bonds from which the proceeds are loaned, transferred, or otherwise made available to two or more users under this chapter.

(10) "User" means one or more persons acting as lessee, purchaser, mortgagor, or borrower under a financing document and receiving or applying to receive revenues from bonds issued under this chapter.

(11) "Rural natural resources impact area" means:

(a) A nonmetropolitan county, as defined by the 1990 decennial census, that meets two of the five criteria set forth in subsection (12) of this section; or

(b) A nonurbanized area, as defined by the 1990 decennial census, that is located in a metropolitan county that meets two of the five criteria set forth in subsection (12) of this section.

(12) For the purposes of designating rural natural resources impact areas, the following criteria shall be considered:

(a) A lumber and wood products employment location quotient at or above the state average;

(b) A commercial salmon fishing employment location quotient at or above the state average;

(c) Projected or actual direct lumber and wood products job losses of one hundred positions or more;

(d) Projected or actual direct commercial salmon fishing job losses of one hundred positions or more; and

(e) An unemployment rate twenty percent or more above the state average. The counties that meet these criteria shall be determined by the employment security department for the most recent year for which data is available. For the purposes of administration of programs under this chapter, the United States post office five-digit zip code delivery areas will be used to determine residence status for eligibility purposes. For the purpose of this definition, a zip code delivery area that is located wholly or partially in an urbanized area or within two miles of an urbanized area is considered urbanized. The office of financial management shall make available a zip code listing of the areas to all agencies and organizations providing services under this chapter. [1995 c 226 § 14. Prior: 1993 c 320 § 1; 1993 c 280 § 55; 1992 c 21 § 3; 1991 c 314 § 22; 1985 c 466 § 58; 1985 c 6 § 12; 1984 c 257 § 2; 1983 1st ex.s. c 60 § 1; 1982 1st ex.s. c 40 § 2.]

**Severability—Conflict with federal requirements—Effective date—1995 c 226:** See notes following RCW 43.31.601.

[1995 RCW Supp—page 570]

**Effective date—Severability—1993 c 280:** See RCW 43.330.902 and 43.330.903.

**Findings—1991 c 314:** See note following RCW 43.31.601.

**Effective date—Severability—1985 c 466:** See notes following RCW 43.31.085.

**43.160.030 Community economic revitalization board—Members—Terms—Chair, vice-chair—Staff support—Compensation and travel expenses—Vacancies—Removal.** (1) The community economic revitalization board is hereby created to exercise the powers granted under this chapter.

(2) The board shall consist of the chairman of and one minority member appointed by the speaker of the house of representatives from the committee of the house of representatives that deals with issues of economic development, the chairman of and one minority member appointed by the president of the senate from the committee of the senate that deals with issues of economic development, and the following members appointed by the governor: A recognized private or public sector economist; one port district official; one county official; one city official; one representative of the public; one representative of small businesses each from: (a) The area west of Puget Sound, (b) the area east of Puget Sound and west of the Cascade range, (c) the area east of the Cascade range and west of the Columbia river, and (d) the area east of the Columbia river; one executive from large businesses each from the area west of the Cascades and the area east of the Cascades. The appointive members shall initially be appointed to terms as follows: Three members for one-year terms, three members for two-year terms, and three members for three-year terms which shall include the chair. Thereafter each succeeding term shall be for three years. The chair of the board shall be selected by the governor. The members of the board shall elect one of their members to serve as vice-chair. The director of community, trade, and economic development, the director of revenue, the commissioner of employment security, and the secretary of transportation shall serve as nonvoting advisory members of the board.

(3) Staff support shall be provided by the department of community, trade, and economic development to assist the board in implementing this chapter and the allocation of private activity bonds.

(4) All appointive members of the board shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(5) If a vacancy occurs by death, resignation, or otherwise of appointive members of the board, the governor shall fill the same for the unexpired term. Any members of the board, appointive or otherwise, may be removed for malfeasance or misfeasance in office, upon specific written charges by the governor, under chapter 34.05 RCW. [1995 c 399 § 86; 1993 c 320 § 2. Prior: 1987 c 422 § 2; 1987 c 195 § 11; prior: 1985 c 446 § 2; 1985 c 6 § 13; prior: 1985 c 446 § 1; 1984 c 287 § 89; 1983 1st ex.s. c 60 § 2; 1982 1st ex.s. c 40 § 3.]

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

**43.160.076 Grants and loans in distressed counties or natural resources impact areas.** (*Effective until June 30, 1997.*) (1) Except as authorized to the contrary under subsection (2) of this section, from all funds available to the board for loans and grants in a biennium, the board shall spend at least fifty percent for grants and loans for projects in distressed counties or rural natural resources impact areas. For purposes of this section, the term "distressed counties" includes any county, in which the average level of unemployment for the three years before the year in which an application for a loan or grant is filed, exceeds the average state employment for those years by twenty percent.

(2) If at any time during the last six months of a biennium the board finds that the actual and anticipated applications for qualified projects in distressed counties or rural natural resources impact areas are clearly insufficient to use up the fifty percent allocation, then the board shall estimate the amount of the insufficiency and during the remainder of the biennium may use that amount of the allocation for loans and grants for projects not located in distressed counties or rural natural resources impact areas. [1995 c 226 § 15; 1993 c 320 § 5; 1991 c 314 § 24; 1985 c 446 § 6.]

**Repeal—1991 c 314:** "RCW 43.160.076 and 1991 c 314 § 24 & 1985 c 446 § 6 are each repealed effective June 30, 1997." [1995 c 226 § 7; 1993 c 320 § 10; 1991 c 314 § 32.]

**Severability—Conflict with federal requirements—Effective date—1995 c 226:** See notes following RCW 43.31.601.

**Findings—1991 c 314:** See note following RCW 43.31.601.

**43.160.115 Cooperation with Washington state development loan fund committee required—Transfer of funds.** In addition to its powers and duties under this chapter, the community economic revitalization board shall cooperate with the Washington state development loan fund committee in order to provide for coordination of their very similar programs. Under this chapter, it is the duty of the department of community, trade, and economic development and the board to financially assist the committee to the extent required by law. Funds appropriated to the board or the department of community, trade, and economic development for the use of the board shall be transferred to the department of community, trade, and economic development to the extent required by law. [1995 c 399 § 87; 1987 c 422 § 7; 1987 c 195 § 12; 1985 c 164 § 14.]

**Severability—1985 c 164:** See RCW 43.168.900.

**43.160.180 Private activity bond subcommittee.** (1) There is hereby created the private activity bond subcommittee of the board.

(2) The subcommittee shall be primarily responsible for reviewing and making recommendations to the board on requests for certification and allocation pursuant to the provisions of chapter 39.86 RCW and as authorized by rules adopted by the board.

(3) The subcommittee shall consist of the following members: Six members of the board including: (a) The chair; (b) the county official; (c) the city official; (d) the port district official; (e) a legislator, appointed by the chair; and (f) the representative of the public. The members' terms shall coincide with their terms of appointment to the board.

(4) Staff support to the subcommittee shall be provided by the department of community, trade, and economic development.

(5) Members of the subcommittee shall receive no compensation but shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060.

(6) If a vacancy on the subcommittee occurs by death, resignation, failure to hold the office from which the member was appointed, or otherwise, the vacancy shall be filled through the procedures specified for filling the corresponding vacancy on the board. [1995 c 399 § 88; 1987 c 422 § 9; 1985 c 446 § 15.]

**43.160.200 Economic development account—Rural natural resources impact areas.** (*Expires June 30, 1997.*)

(1) The economic development account is created within the public facilities construction loan revolving fund under RCW 43.160.080. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for the purposes of RCW 43.160.010(4) and this section. The account is subject to allotment procedures under chapter 43.88 RCW.

(2) Applications under this section for assistance from the economic development account are subject to all of the applicable criteria set forth under this chapter, as well as procedures and criteria established by the board, except as otherwise provided.

(3) Eligible applicants under this section are limited to political subdivisions of the state in rural natural resources impact areas that demonstrate, to the satisfaction of the board, the local economy's dependence on the forest products and salmon fishing industries.

(4) Applicants must demonstrate that their request is part of an economic development plan consistent with applicable state planning requirements. Applicants must demonstrate that tourism projects have been approved by the local government. Industrial projects must be approved by the local government and the associate development organization.

(5) Publicly owned projects may be financed under this section upon proof by the applicant that the public project is a necessary component of, or constitutes in whole, a tourism project.

(6) Applications must demonstrate local match and participation. Such match may include: Land donation, other public or private funds or both, or other means of local commitment to the project.

(7) Board financing for feasibility studies shall not exceed twenty-five thousand dollars per study. Board funds for feasibility studies may be provided as a grant and require a dollar for dollar match with up to one-half in-kind match allowed.

(8) Board financing for tourism projects shall not exceed two hundred fifty thousand dollars. Other public facility projects under this section shall not exceed five hundred thousand dollars. Loans with flexible terms and conditions to meet the needs of the applicants shall be provided. Grants may also be authorized, but only when, and to the extent that, a loan is not reasonably possible, given the limited resources of the political subdivision.

(9) The board shall develop guidelines for allowable local match and feasibility studies.

(10) Applications under this section need not demonstrate evidence that specific private development or expansion is ready to occur or will occur if funds are provided.

(11) The board shall establish guidelines for making grants and loans under this section to ensure that the requirements of this chapter are complied with. The guidelines shall include:

(a) A process to equitably compare and evaluate applications from competing communities.

(b) Criteria to ensure that approved projects will have a high probability of success and are likely to provide long-term economic benefits to the community. The criteria shall include: (i) A minimum amount of local participation, determined by the board per application, to verify community support for the project; (ii) an analysis that establishes the project is feasible using standard economic principles; and (iii) an explanation from the applicant regarding how the project is consistent with the communities' economic strategy and goals.

(c) A method of evaluating the impact of the loans or grants on the economy of the community and whether the loans or grants achieved their purpose.

(12) Cities and counties otherwise eligible under and in compliance with this section are authorized to use the loans or grants for buildings and structures. [1995 c 226 § 16. Prior: 1993 c 320 § 7; 1993 c 316 § 4; 1991 c 314 § 23.]

**Sunset Act application:** See note following RCW 43.31.601.

**Severability—Conflict with federal requirements—Effective date—1995 c 226:** See notes following RCW 43.31.601.

**Expiration date—1991 c 314:** "RCW 43.160.200 expires June 30, 1997." [1995 c 226 § 8; 1993 c 316 § 7; 1991 c 314 § 33.]

**Effective date—1993 c 316:** See note following RCW 43.31.611.

**Findings—1991 c 314:** See note following RCW 43.31.601.

#### **43.160.210 Distressed counties—Twenty percent of loans and grants. (Effective June 30, 1997.)**

**Effective date—1991 c 314:** "RCW 43.160.210 shall take effect June 30, 1997." [1995 c 226 § 9; 1993 c 320 § 11; 1993 c 316 § 8; 1991 c 314 § 34.]

**43.160.212 Rural natural resources impact areas—Loans for public works facilities.** (1) For the period beginning July 1, 1991, and ending June 30, 1997, in rural natural resources impact areas the public works board may award low-interest or interest-free loans to local governments for construction of new or expanded public works facilities that stimulate economic growth or diversification.

(2) For the purposes of this section and section 27, chapter 314, Laws of 1991:

(a) "Public facilities" means bridge, road and street, domestic water, sanitary sewer, and storm sewer systems.

(b) "Rural natural resources impact area" means:

(i) A nonmetropolitan county, as defined by the 1990 decennial census, that meets two of the five criteria set forth in subsection (3) of this section; or

(ii) A nonurbanized area, as defined by the 1990 decennial census, that is located in a metropolitan county that meets two of the five criteria set forth in subsection (3) of this section.

(3) For the purposes of designating rural natural resources impact areas, the following criteria shall be considered:

(a) A lumber and wood products employment location quotient at or above the state average;

(b) A commercial salmon fishing employment location quotient at or above the state average;

(c) Projected or actual direct lumber and wood products job losses of one hundred positions or more;

(d) Projected or actual direct commercial salmon fishing job losses of one hundred positions or more; and

(e) An unemployment rate twenty percent or more above the state average. The counties that meet these criteria shall be determined by the employment security department for the most recent year for which data is available. For the purposes of administration of programs under this chapter, the United States post office five-digit zip code delivery areas will be used to determine residence status for eligibility purposes. For the purpose of this definition, a zip code delivery area that is located wholly or partially in an urbanized area or within two miles of an urbanized area is considered urbanized. The office of financial management shall make available a zip code listing of the areas to all agencies and organizations providing services under this chapter.

(4) The loans may have a deferred payment of up to five years but shall be repaid within twenty years. The public works board may require other terms and conditions and may charge such rates of interest on its loans as it deems appropriate to carry out the purposes of this section. Repayments shall be made to the public works assistance account.

(5) The board may make such loans irrespective of the annual loan cycle and reporting required in RCW 43.155.070. [1995 c 226 § 6; 1993 c 316 § 5; 1992 c 21 § 8; 1991 c 314 § 26.]

**Sunset Act application:** See note following RCW 43.31.601.

**Severability—Conflict with federal requirements—Effective date—1995 c 226:** See notes following RCW 43.31.601.

### **Chapter 43.163**

#### **ECONOMIC DEVELOPMENT FINANCE AUTHORITY**

##### **Sections**

43.163.020 Economic development finance authority created—Membership.

43.163.060 Scope of authority's powers—Duties of other agencies.

**43.163.020 Economic development finance authority created—Membership.** The Washington economic development finance authority is established as a public body corporate and politic, with perpetual corporate succession, constituting an instrumentality of the state of Washington exercising essential governmental functions. The authority is a public body within the meaning of RCW 39.53.010.

The authority shall consist of eighteen [seventeen] members as follows: The director of the department of community, trade, and economic development, the director of the department of agriculture, the state treasurer, one member from each caucus in the house of representatives

appointed by the speaker of the house, one member from each caucus in the senate appointed by the president of the senate, and ten public members with one representative of women-owned businesses and one representative of minority-owned businesses and with at least three of the members residing east of the Cascades. The public members shall be residents of the state appointed by the governor on the basis of their interest or expertise in trade, agriculture or business finance or jobs creation and development. One of the public members shall be appointed by the governor as chair of the authority and shall serve as chair of the authority at the pleasure of the governor. The authority may select from its membership such other officers as it deems appropriate.

The term of the persons appointed by the governor as public members of the authority, including the public member appointed as chair, shall be four years from the date of appointment, except that the term of three of the initial appointees shall be for two years from the date of appointment and the term of four of the initial appointees shall be for three years from the date of appointment. The governor shall designate the appointees who will serve the two-year and three-year terms.

In the event of a vacancy on the authority due to death, resignation or removal of one of the public members, or upon the expiration of the term of one of the public members, the governor shall appoint a successor for the remainder of the unexpired term. If either of the state offices is abolished, the resulting vacancy on the authority shall be filled by the state officer who shall succeed substantially to the power and duties of the abolished office.

Any public member of the authority may be removed by the governor for misfeasance, malfeasance or willful neglect of duty after notice and a public hearing, unless such notice and hearing shall be expressly waived in writing by the affected public member.

The state officials serving in ex officio capacity may each designate an employee of their respective departments to act on their behalf in all respects with regard to any matter to come before the authority. Such designations shall be made in writing in such manner as is specified by the rules of the authority.

The members of the authority shall serve without compensation but shall be entitled to reimbursement, solely from the funds of the authority, for expenses incurred in the discharge of their duties under this chapter. The authority may borrow funds from the department for the purpose of reimbursing members for expenses; however, the authority shall repay the department as soon as practicable.

A majority of the authority shall constitute a quorum. [1995 c 399 § 89; 1990 c 53 § 2; 1989 c 279 § 3.]

**43.163.060 Scope of authority's powers—Duties of other agencies.** (1) The authority is authorized to participate fully in federal and other governmental economic development finance programs and to take such actions as are necessary and consistent with this chapter to secure to itself and the people of the state the benefits of those programs and to meet their requirements.

(2) The authority shall coordinate its programs with those contributing to a common purpose found elsewhere in the departments of community, trade, and economic develop-

ment, agriculture or employment security, or any other department or organization of, or affiliated with, the state or federal government, and shall avoid any duplication of such activities or programs provided elsewhere. The departments of community, trade, and economic development, agriculture, employment security and other relevant state agencies shall provide to the authority all reports prepared in the course of their ongoing activities which may assist in the identification of unmet capital financing needs by small-sized and medium-sized businesses in the state. [1995 c 399 § 90; 1989 c 279 § 7.]

### Chapter 43.165

#### COMMUNITY REVITALIZATION TEAM— ASSISTANCE TO DISTRESSED AREAS

##### Sections

##### 43.165.010 Definitions.

**43.165.010 Definitions.** Unless the context clearly requires to the contrary, the definitions in this section apply throughout this chapter.

(1) "Department" means the department of community, trade, and economic development.

(2) "Director" means the director of the department.

(3) "Distressed area" means: (a) A county that has an unemployment rate that is twenty percent above the state-wide average for the previous three years; or (b) a community or area that has experienced sudden and severe or long-term and severe loss of employment, or erosion of its economic base due to decline of its dominant industries; or (c) an area within a county which area: (i) Is composed of contiguous census tracts; (ii) has a minimum population of five thousand persons; (iii) has at least seventy percent of its families and unrelated individuals with incomes below eighty percent of the county's median income for families and unrelated individuals; and (iv) has an unemployment rate which is at least forty percent higher than the county's unemployment rate. For purposes of this definition, "families and unrelated individuals" has the same meaning that is ascribed to that term by the federal department of housing and urban development in its regulations authorizing action grants for economic development and neighborhood revitalization projects.

(4) "Economic development revolving loan funds" means a local, not-for-profit or governmentally sponsored business loan program.

(5) "Team" means the community revitalization team.

(6) "Technical assistance" includes, but is not limited to, assistance with strategic planning, market research, business plan development review, organization and management development, accounting and legal services, grant and loan packaging, and other assistance which may be expected to contribute to the redevelopment and economic well-being of a distressed area. [1995 c 399 § 91; 1987 c 461 § 1; 1985 c 229 § 1.]

## Chapter 43.168

WASHINGTON STATE DEVELOPMENT LOAN  
FUND COMMITTEE

## Sections

- 43.168.020 Definitions.  
 43.168.031 State development loan fund committee—Terminated June 30, 1994—Powers and duties transferred.  
 43.168.140 Rural natural resources impact areas.

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

(1) "Committee" means the Washington state development loan fund committee.

(2) "Department" means the department of community, trade, and economic development.

(3) "Director" means the director of community, trade, and economic development.

(4) "Distressed area" means: (a) A county which has an unemployment rate which is twenty percent above the state average for the immediately previous three years; (b) a metropolitan statistical area, as defined by the office of federal statistical policy and standards, United States department of commerce, in which the average level of unemployment for the calendar year immediately preceding the year in which an application is filed under this chapter exceeds the average state unemployment for such calendar year by twenty percent. Applications under this subsection (4)(b) shall be filed by April 30, 1989; (c) an area within a county, which area: (i) Is composed of contiguous census tracts; (ii) has a minimum population of five thousand persons; (iii) has at least seventy percent of its families and unrelated individuals with incomes below eighty percent of the county's median income for families and unrelated individuals; and (iv) has an unemployment rate which is at least forty percent higher than the county's unemployment rate; or (d) a county designated as a rural natural resources impact area under RCW 43.31.601 if an application is filed by July 1, 1993. For purposes of this definition, "families and unrelated individuals" has the same meaning that is ascribed to that term by the federal department of housing and urban development in its regulations authorizing action grants for economic development and neighborhood revitalization projects.

(5) "Fund" means the Washington state development loan fund.

(6) "Local development organization" means a nonprofit organization which is organized to operate within an area, demonstrates a commitment to a long-standing effort for an economic development program, and makes a demonstrable effort to assist in the employment of unemployed or underemployed residents in an area.

(7) "Project" means the establishment of a new or expanded business in an area which when completed will provide employment opportunities. "Project" also means the retention of an existing business in an area which when completed will provide employment opportunities. [1995 c 226 § 27; 1993 c 280 § 56; 1991 c 314 § 19; 1988 c 42 § 18; 1987 c 461 § 2; 1985 c 164 § 2.]

**Severability—Conflict with federal requirements—Effective date—1995 c 226:** See notes following RCW 43.31.601.

**Effective date—Severability—1993 c 280:** See RCW 43.330.902 and 43.330.903.

**Findings—1991 c 314:** See note following RCW 43.31.601.

**Severability—1988 c 42:** See note following RCW 4.24.480.

**43.168.031 State development loan fund committee—Terminated June 30, 1994—Powers and duties transferred.** The Washington state development loan fund committee shall be terminated on June 30, 1994, and its powers and duties transferred to the director of the department of community, trade, and economic development. [1995 c 399 § 92; 1988 c 186 § 7.]

**43.168.140 Rural natural resources impact areas.** Any funds appropriated by the legislature to the development loan fund for purposes of the timber recovery act shall be used for development loans in rural natural resources impact areas as defined in RCW 43.31.601. [1995 c 226 § 28; 1991 c 314 § 20.]

**Sunset Act application:** See note following RCW 43.31.601.

**Severability—Conflict with federal requirements—Effective date—1995 c 226:** See notes following RCW 43.31.601.

**Findings—1991 c 314:** See note following RCW 43.31.601.

## Chapter 43.170

SMALL BUSINESS INNOVATORS' OPPORTUNITY  
PROGRAM

## Sections

- 43.170.020 Definitions.  
 43.170.030 Small business innovators' opportunity program—Pilot project established—Composition and structure—User fee.  
 43.170.070 Referral to investment opportunities office.

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

(1) "Department" means the department of community, trade, and economic development.

(2) "Director" means the director of community, trade, and economic development.

(3) "Program" means the small business innovators' opportunity program.

(4) "Inventor" or "innovator" means one who thinks of, imagines, or creates something new which may result in a device, contrivance, or process for the first time, through the use of the imagination or ingenious thinking and experimentation.

(5) "Proposal" means a plan provided by an inventor or innovator on an idea for an invention or an improvement.

(6) "Higher education" means any university, college, community college, or technical institute in this state. [1995 c 399 § 93; 1985 c 466 § 60; 1982 c 44 § 2.]

**Effective date—Severability—1985 c 466:** See notes following RCW 43.31.085.

**43.170.030 Small business innovators' opportunity program—Pilot project established—Composition and structure—User fee.** The department, in cooperation with institutions of higher education, shall establish as a pilot

project a small business innovators' opportunity program to provide a professional research and counseling service on a user fee basis to inventors, innovators, and the business community.

The composition and organizational structure of the program shall be determined by the department in a manner which will foster the continuation of the program without state funding at the end of the pilot project established by this chapter. The department shall provide staff support for the program for the duration of the pilot project. The program shall:

- (1) Receive proposals from inventors and innovators;
- (2) Review proposals for accuracy and evaluate their prospects for marketability;
- (3) Cooperate with institutions of higher education to evaluate proposals for marketability, suitability for patent rights, and for the provision of professional research and counseling;
- (4) Provide assistance to the innovators and inventors as appropriate; and
- (5) Have the power to receive funds, contract with institutions of higher education, and carry out such other duties as are deemed necessary to implement this chapter.

The user fee shall be set by the director in an amount which is designed to recover the cost of the services provided. [1995 c 399 § 94; 1985 c 466 § 61; 1982 c 44 § 3.]

**Effective date—Severability—1985 c 466:** See notes following RCW 43.31.085.

**43.170.070 Referral to investment opportunities office.** Any innovation or inventor receiving assistance under this program shall be referred to the investment opportunities office operated by the department. [1995 c 399 § 95; 1989 c 312 § 9.]

**Severability—1989 c 312:** See note following RCW 43.31.403.

*Investment opportunities office:* RCW 43.31.403.

### Chapter 43.172

#### MINORITY AND WOMEN-OWNED BUSINESSES— SMALL BUSINESS BONDING ASSISTANCE PROGRAM

##### Sections

- 43.172.011 Definitions—Bonding program.  
43.172.020 Small business bonding assistance program—  
Implementation—Rules.

**43.172.011 Definitions—Bonding program.** Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.172.020 through 43.172.110.

- (1) "Approved surety company" means a surety company approved by the department for participation in providing direct bonding assistance to qualified contractors.
- (2) "Bond" means any bond or security required for bid, payment, or performance of contracts.
- (3) "Department" means the department of community, trade, and economic development.
- (4) "Program" means the Washington state small business bonding assistance program provided for in this chapter.

(5) "Qualified contractor" means any resident minority business enterprise or women's business enterprise, as determined by the department to be consistent with the requirements of chapter 39.19 RCW and engaged in the contracting business, which has obtained a certificate of accreditation from the Washington state small business bonding assistance program. [1995 c 399 § 96; 1993 c 512 § 16.]

**43.172.020 Small business bonding assistance program—Implementation—Rules.** There is established within the department the Washington state small business bonding assistance program to assist resident minority and women-owned small contracting businesses to acquire the managerial and financial skills, standards, and assistance necessary to enable them to obtain bid, payment, and performance bonds from surety companies for either advertised or designated contracts. The department shall implement the program by establishing a course of instruction as set forth in RCW 43.172.040. The department shall encourage surety companies and other private interests to help implement this course of instruction to assist minority and women-owned small contracting businesses. The department shall adopt rules to ensure the proper implementation of the program set forth in this chapter. [1995 c 399 § 97; 1993 c 512 § 17.]

### Chapter 43.180

#### HOUSING FINANCE COMMISSION

##### Sections

- 43.180.040 Commission created.  
43.180.200 Internal revenue code.

**43.180.040 Commission created.** (1) There is hereby established a public body corporate and politic, with perpetual corporate succession, to be known as the Washington state housing finance commission. The commission is an instrumentality of the state exercising essential government functions and, for purposes of the code, acts as a constituted authority on behalf of the state when it issues bonds pursuant to this chapter. The commission is a "public body" within the meaning of RCW 39.53.010.

(2) The commission shall consist of the following voting members:

- (a) The state treasurer, ex officio;
- (b) The director of community, trade, and economic development, ex officio;
- (c) An elected local government official, ex officio, with experience in local housing programs, who shall be appointed by the governor with the consent of the senate;
- (d) A representative of housing consumer interests, appointed by the governor with the consent of the senate;
- (e) A representative of labor interests, appointed by the governor, with the consent of the senate, after consultation with representatives of organized labor;
- (f) A representative of low-income persons, appointed by the governor with the consent of the senate;
- (g) Five members of the public appointed by the governor, with the consent of the senate, on the basis of geographic distribution and their expertise in housing, real

estate, finance, energy efficiency, or construction, one of whom shall be appointed by the governor as chair of the commission and who shall serve on the commission and as chair of the commission at the pleasure of the governor.

The term of the persons appointed by the governor, other than the chair, shall be four years from the date of their appointment, except that the terms of three of the initial appointees shall be for two years from the date of their appointment. The governor shall designate the appointees who will serve the two-year terms. An appointee may be removed by the governor for cause pursuant to RCW 43.06.070 and 43.06.080. The governor shall fill any vacancy in an appointed position by appointment for the remainder of the unexpired term. If the \*department of community development is abolished, the resulting vacancy shall be filled by a state official who shall be appointed to the commission by the governor. If this official occupies an office or position for which senate confirmation is not required, then his or her appointment to the commission shall be subject to the consent of the senate. The members of the commission shall be compensated in accordance with RCW 43.03.240 and may be reimbursed, solely from the funds of the commission, for expenses incurred in the discharge of their duties under this chapter, subject to the provisions of RCW 43.03.050 and 43.03.060. A majority of the commission constitutes a quorum. Designees shall be appointed in such manner and shall exercise such powers as are specified by the rules of the commission.

(3) The commission may adopt an official seal and may select from its membership a vice chair, a secretary, and a treasurer. The commission shall establish rules concerning its exercise of the powers authorized by this chapter. The rules shall be adopted in conformance with chapter 34.05 RCW. [1995 c 399 § 98; 1985 c 6 § 14; 1984 c 287 § 90; 1983 c 161 § 4.]

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

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

**43.180.200 Internal revenue code.** For purposes of the code:

(1) The legislature reserves the right at any time to alter or change the structure, organization, programs, or activities of the commission and to terminate the commission, so long as the action does not impair any outstanding contracts entered into by the commission;

(2) Any net earnings of the commission beyond that necessary to retire its bonds and to carry out the purposes of this chapter shall not inure to the benefit of any person other than the state;

(3) Upon dissolution of the commission, title to all of its remaining property shall vest in the state;

(4) The commission constitutes the only housing finance agency of the state of Washington; and

(5) In order to take advantage of the maximum amount of tax exempt bonds for housing financing available pursuant to the code, any state ceiling with respect to housing shall be allocated in accordance with the following formula:

(a) Eighty percent of the state ceiling shall be allocated to the commission and twenty percent shall be allocated to the other issuing authorities in the state.

(b) The allocation to the issuing authorities other than the commission shall be distributed to such issuing authorities in amounts as determined following public notice by the department of community, trade, and economic development pursuant to rules promulgated by it. The distribution shall be in response to applications received from such issuing authorities and shall be based on the following factors: (i) The amount of housing to be made available by such applicant; (ii) the population within the jurisdiction of the applicant; (iii) coordination with other applicable federal and state housing programs; (iv) the likelihood of implementing the proposed financing during that year; and (v) consistency with the plan of the commission. On or before February 1 of each year, the department of community, trade, and economic development shall distribute the state ceiling allocation among such issuing authorities and any unused portion shall be added to the allocation of the commission. Each issuing authority other than the commission shall confirm its allocation distribution by providing to the department of community, trade, and economic development no later than June 1 a copy of an executed bond purchase contract or alternative documentation deemed sufficient by the commission to evidence the reasonable likelihood of the allocation distribution being fully used. Any portion of such allocation not so confirmed shall be added to the allocation of the commission on July 1. Prior to July 1, the commission shall provide written notice of the allocation decrease to the affected issuing authority. The reallocation shall not limit the authority of the commission to assign a portion of its allocation pursuant to subsection (5)(c) of this section.

(c) The commission may assign a portion of its allocation to another issuing agency. [1995 c 399 § 99; 1986 c 264 § 3; 1985 c 6 § 15; 1984 c 28 § 1; 1983 c 161 § 20.]

## Chapter 43.185

### HOUSING ASSISTANCE PROGRAM

#### Sections

43.185.015 Housing assistance program.

43.185.020 Definitions.

**43.185.015 Housing assistance program.** There is created within the department the housing assistance program to carry out the purposes of this chapter. [1995 c 399 § 100; 1991 c 356 § 2.]

**43.185.020 Definitions.** "Department" means the department of community, trade, and economic development. "Director" means the director of the department of community, trade, and economic development. [1995 c 399 § 101; 1986 c 298 § 3.]

## Chapter 43.185A

### AFFORDABLE HOUSING PROGRAM

#### Sections

43.185A.010 Definitions.



43.185A.020 Affordable housing program—Purpose—Input.

**43.185A.010 Definitions.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Affordable housing" means residential housing for rental or private individual ownership which, as long as the same is occupied by low-income households, requires payment of monthly housing costs, including utilities other than telephone, of no more than thirty percent of the family's income.

(2) "Department" means the department of community, trade, and economic development.

(3) "Director" means the director of the department of community, trade, and economic development.

(4) "First-time home buyer" means an individual or his or her spouse who have not owned a home during the three-year period prior to purchase of a home.

(5) "Low-income household" means a single person, family or unrelated persons living together whose adjusted income is less than eighty percent of the median family income, adjusted for household size, for the county where the project is located. [1995 c 399 § 102; 1991 c 356 § 10.]

**43.185A.020 Affordable housing program—Purpose—Input.** The affordable housing program is created in the department for the purpose of developing and coordinating public and private resources targeted to meet the affordable housing needs of low-income households in the state of Washington. The program shall be developed and administered by the department with advice and input from the affordable housing advisory board established in RCW 43.185B.020. [1995 c 399 § 103; 1993 c 478 § 16; 1991 c 356 § 11.]

## Chapter 43.185B

### WASHINGTON HOUSING POLICY ACT

Sections

43.185B.010 Definitions.

**43.185B.010 Definitions.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Affordable housing" means residential housing that is rented or owned by a person or household whose monthly housing costs, including utilities other than telephone, do not exceed thirty percent of the household's monthly income.

(2) "Department" means the department of community, trade, and economic development.

(3) "Director" means the director of community, trade, and economic development.

(4) "Nonprofit organization" means any public or private nonprofit organization that: (a) Is organized under federal, state, or local laws; (b) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual; and (c) has among its purposes significant activities related to the provision of decent housing that is affordable to very low-income, low-income, or moderate-income households and special needs populations.

(5) "Regulatory barriers to affordable housing" and "regulatory barriers" mean any public policies (including those embodied in statutes, ordinances, regulations, or administrative procedures or processes) required to be identified by the state or local government in connection with its strategy under section 105(b)(4) of the Cranston-Gonzalez national affordable housing act (42 U.S.C. 12701 et seq.).

(6) "Tenant-based organization" means a nonprofit organization whose governing body includes a majority of members who reside in the housing development and are considered low-income households. [1995 c 399 § 104; 1993 c 478 § 4.]

## Chapter 43.190

### LONG-TERM CARE OMBUDSMAN PROGRAM

Sections

43.190.020 "Long-term care facility" defined.

43.190.030 Office of state long-term care ombudsman created—Powers and duties.

43.190.060 Duties of ombudsman.

**43.190.020 "Long-term care facility" defined.** As used in this chapter, "long-term care facility" means any of the following:

(1) A facility which:

(a) Maintains and operates twenty-four hour skilled nursing services for the care and treatment of chronically ill or convalescent patients, including mental, emotional, or behavioral problems, mental retardation, or alcoholism;

(b) Provides supportive, restorative, and preventive health services in conjunction with a socially oriented program to its residents, and which maintains and operates twenty-four hour services including board, room, personal care, and intermittent nursing care. "Long-term health care facility" includes nursing homes and nursing facilities, but does not include acute care hospital or other licensed facilities except for that distinct part of the hospital or facility which provides nursing facility services.

(2) Any family home, group care facility, or similar facility determined by the secretary, for twenty-four hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual.

(3) Any swing bed in an acute care facility. [1995 1st sp.s. c 18 § 32; 1991 sp.s. c 8 § 3; 1983 c 290 § 2.]

**Conflict with federal requirements—Severability—Effective date—1995 1st sp.s. c 18:** See notes following RCW 74.39A.008.

**Effective date—1991 sp.s. c 8:** See note following RCW 18.51.050.

**43.190.030 Office of state long-term care ombudsman created—Powers and duties.** There is created the office of the state long-term care ombudsman. The department of community, trade, and economic development shall contract with a private nonprofit organization to provide long-term care ombudsman services as specified under, and consistent with, the federal older Americans act as amended, federal mandates, the goals of the state, and the needs of its citizens. The department of community, trade, and economic development shall ensure that all program and staff support

necessary to enable the ombudsman to effectively protect the interests of residents, patients, and clients of all long-term care facilities is provided by the nonprofit organization that contracts to provide long-term care ombudsman services. The long-term care ombudsman program shall have the following powers and duties:

(1) To provide services for coordinating the activities of long-term care ombudsmen throughout the state;

(2) Carry out such other activities as the department of community, trade, and economic development deems appropriate;

(3) Establish procedures consistent with RCW 43.190.110 for appropriate access by long-term care ombudsmen to long-term care facilities and patients' records, including procedures to protect the confidentiality of the records and ensure that the identity of any complainant or resident will not be disclosed without the written consent of the complainant or resident, or upon court order;

(4) Establish a state-wide uniform reporting system to collect and analyze data relating to complaints and conditions in long-term care facilities for the purpose of identifying and resolving significant problems, with provision for submission of such data to the department of social and health services and to the federal department of health and human services, or its successor agency, on a regular basis; and

(5) Establish procedures to assure that any files maintained by ombudsman programs shall be disclosed only at the discretion of the ombudsman having authority over the disposition of such files, except that the identity of any complainant or resident of a long-term care facility shall not be disclosed by such ombudsman unless:

(a) Such complainant or resident, or the complainant's or resident's legal representative, consents in writing to such disclosure; or

(b) Such disclosure is required by court order. [1995 c 399 § 105; 1988 c 119 § 2; 1983 c 290 § 3.]

**Effective date—1988 c 119 § 2:** "Section 2 of this act shall take effect July 1, 1989." [1988 c 119 § 5.]

**Legislative findings—1988 c 119:** "The legislature recognizes that the state long-term care ombudsman program and the office of the state long-term care ombudsman, located within the department of social and health services, have brought into serious question the ability of that office to serve as an effective mechanism on the state level for investigating and resolving complaints made by or on behalf of residents of long-term care facilities.

The legislature further finds it necessary to exercise its options under the federal older Americans act and identify an organization, outside of the department of social and health services and independent of any other state agency, to provide, through contract, long-term care ombudsman services." [1988 c 119 § 1.]

**Survey—1988 c 119:** "The committee on health care of the house of representatives shall conduct a survey and analysis of the appropriate placement outside of state government of the office of the state long-term care ombudsman. The survey shall ascertain how the contracted placement of the office will most effectively allow it to meet its responsibilities under chapter 43.190 RCW. A draft of the findings shall be submitted to the governor and the legislature before the first Friday in November 1988 and the final findings, conclusions, and recommendations shall be submitted in a report to the governor and the legislature no later than December 30, 1988.

The survey required shall include, but is not limited to, a complete assessment of how independently contracting the program outside state government will provide the office with an effective means for resolving complaints and building program accountability and integrity facilitating local involvement and contributing to long-term care policy development.

The study shall also clearly identify and describe how this model for administering the duties and responsibilities of the ombudsman will affect the ability of the office to function as mandated under the federal older Americans act, and provide suggestions that will assist the office to coordinate information and assistance, to the fullest degree possible, with citizen groups, the general public, the nursing home industry, and local volunteer programs. The survey shall further specify the operational program details necessary for adopting the proposed independently contracted plan." [1988 c 119 § 3.]

**Use of survey findings—1988 c 119:** "The survey findings, together with any reports of legislative committees in response to such survey, shall be used by the department of community development in determining the best manner to contract for and provide long-term care ombudsman services." [1988 c 119 § 4.]

**43.190.060 Duties of ombudsman.** A long-term care ombudsman shall:

(1) Investigate and resolve complaints made by or on behalf of residents of long-term care facilities relating to administrative action which may adversely affect the health, safety, welfare, and rights of these individuals;

(2) Monitor the development and implementation of federal, state, and local laws, rules, regulations, and policies with respect to long-term care facilities in this state;

(3) Provide information as appropriate to public agencies regarding the problems of individuals residing in long-term care facilities; and

(4) Provide for training volunteers and promoting the development of citizen organizations to participate in the ombudsman program. A volunteer long-term care ombudsman shall be able to identify and resolve problems regarding the care of residents in long-term care facilities and to assist such residents in the assertion of their civil and human rights. However, volunteers shall not be used for complaint investigations but may engage in fact-finding activities to determine whether a formal complaint should be submitted to the department. [1995 1st sp.s. c 18 § 33; 1987 c 158 § 3; 1983 c 290 § 6.]

**Conflict with federal requirements—Severability—Effective date—1995 1st sp.s. c 18:** See notes following RCW 74.39A.008.

## Chapter 43.210

### SMALL BUSINESS EXPORT FINANCE ASSISTANCE CENTER

(Formerly: Export assistance center)

#### Sections

- 43.210.030 Board of directors—Membership—Terms—Vacancies.
- 43.210.050 Export assistance services contract with department of community, trade, and economic development.
- 43.210.060 Rule-making authority.
- 43.210.070 Small business export finance assistance center fund.
- 43.210.100 Pacific Northwest export assistance project—Generally.
- 43.210.110 Pacific Northwest export assistance project—Duties of center.
- 43.210.120 Rules.

**43.210.030 Board of directors—Membership—Terms—Vacancies.** The small business export finance assistance center and its branches shall be governed and managed by a board of nineteen directors appointed by the governor and confirmed by the senate. The directors shall serve terms of six years except that two of the original directors shall serve for two years and two of the original directors shall serve for four years. The directors may

provide for the payment of their expenses. The directors shall include a representative of a not-for-profit corporation formed for the purpose of facilitating economic development, at least two representatives of state financial institutions engaged in the financing of export transactions, a representative of a port district, and a representative of organized labor. Of the remaining board members, there shall be one representative of business from the area west of Puget Sound, one representative of business from the area east of Puget Sound and west of the Cascade range, one representative of business from the area east of the Cascade range and west of the Columbia river, one representative of business from the area east of the Columbia river, the director of the department of community, trade, and economic development, and the director of the department of agriculture. One of the directors shall be a representative of the public selected from the area in the state west of the Cascade mountain range and one director shall be a representative of the public selected from that area of the state east of the Cascade mountain range. One director shall be a representative of the public at large. The directors shall be broadly representative of geographic areas of the state, and the representatives of businesses shall represent at least four different industries in different sized businesses as follows: (a) One representative of a company employing fewer than one hundred persons; (b) one representative of a company employing between one hundred and five hundred persons; (c) one representative of a company employing more than five hundred persons; (d) one representative from an export management company; and (e) one representative from an agricultural or food processing company. Any vacancies on the board due to the expiration of a term or for any other reason shall be filled by appointment by the governor for the unexpired term. [1995 c 399 § 106; 1991 c 314 § 15; 1985 c 231 § 3; 1983 1st ex.s. c 20 § 3.]

**Findings—1991 c 314:** See note following RCW 43.31.601.

**43.210.050 Export assistance services contract with department of community, trade, and economic development.** The small business export finance assistance center formed under RCW 43.210.020 and 43.210.030 shall enter into a contract under this chapter with the department of community, trade, and economic development or its statutory successor. The contract shall require the center to provide export assistance services, consistent with RCW 43.210.070 and 43.210.100 through 43.210.120, shall have a duration of two years, and shall require the center to aggressively seek to fund its continued operation from nonstate funds. The contract shall also require the center to report annually to the department on its success in obtaining nonstate funding. Upon expiration of the contract, any provisions within the contract applicable to the Pacific Northwest export assistance project shall be automatically renewed without change provided the legislature appropriates funds for administration of the small business export assistance center and the Pacific Northwest export assistance project. The provisions of the contract related to the Pacific Northwest export assistance project may be changed at any time if the director of the department of community, trade, and economic development or the president of the small business export finance assistance center present compelling reasons supporting the need

for a contract change to the board of directors and a majority of the board of directors agrees to the changes. The department of agriculture shall be included in the contracting negotiations with the department of community, trade, and economic development and the small business export finance assistance center when the Pacific Northwest export assistance project provides export services to industrial sectors within the administrative domain of the Washington state department of agriculture. The department of community, trade, and economic development, the small business export finance assistance center, and, if appropriate, the department of agriculture, shall report annually, as one group, to the appropriate legislative oversight committees on the progress of the Pacific Northwest export assistance project. [1995 c 399 § 107; 1991 c 314 § 16. Prior: 1985 c 466 § 64; 1985 c 231 § 5; 1983 1st ex.s. c 20 § 5.]

**Findings—1991 c 314:** See note following RCW 43.31.601.

**Effective date—Severability—1985 c 466:** See notes following RCW 43.31.085.

**43.210.060 Rule-making authority.** The department of community, trade, and economic development or its statutory successor shall adopt rules under chapter 34.05 RCW as necessary to carry out the purposes of this chapter. [1995 c 399 § 108; 1985 c 466 § 65; 1983 1st ex.s. c 20 § 6.]

**Effective date—Severability—1985 c 466:** See notes following RCW 43.31.085.

**43.210.070 Small business export finance assistance center fund.** The small business export finance assistance center fund is created in the custody of the state treasurer. Expenditures from the fund may be used only for the purposes of funding the services of the small business export finance assistance center and its projects under this chapter. Only the director of the department of community, trade, and economic development or the director's designee may authorize expenditures from the fund. The director of the department of community, trade, and economic development shall not withhold funds appropriated for the administration of the small business export finance assistance center and its projects, if the small business export finance assistance center complies with the provisions of its contract under RCW 43.210.050 and 43.210.100. Funding appropriated by the state of Washington shall not be used to provide services to other states or provinces. The fund is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures. [1995 c 399 § 109; 1991 c 314 § 14.]

**Sunset Act application:** See note following chapter digest.

**Findings—1991 c 314:** See note following RCW 43.31.601.

**43.210.100 Pacific Northwest export assistance project—Generally.** (1) The Pacific Northwest export assistance project is hereby created for the following purposes:

(a) To assist manufacturers relatively new to exporting with gross annual revenues less than twenty-five million dollars with comprehensive services for designing and managing introductory export strategies and in securing financing and credit guarantees for export transactions;

(b) To provide, in cooperation with the export promotion services offered by the department of community, trade, and economic development and the Washington state department of agriculture, information and assistance to manufacturers with gross annual revenues less than twenty-five million dollars about the methods and procedures of structuring company specific export financing and credit guarantee alternatives; or

(c) To provide information to their clients about opportunities in organizing cooperative export networks, foreign sales corporations, or export trading companies under the United States export trading company act of 1982, for the purpose of increasing their comparative sales volume and ability to export their products to foreign markets.

(2) The Pacific Northwest export assistance project is a separate branch of the small business export finance assistance center for accounting and auditing purposes.

(3) The Pacific Northwest export assistance project is subject to the authority of the small business export finance assistance center, under RCW 43.210.020, and shall be governed and managed by the board of directors, under RCW 43.210.030. [1995 c 399 § 110; 1991 c 314 § 11.]

**Sunset Act application:** See note following chapter digest.

**Findings—1991 c 314:** See note following RCW 43.31.601.

**43.210.110 Pacific Northwest export assistance project—Duties of center.** (1) The small business export finance assistance center has the following powers and duties when exercising its authority under RCW 43.210.100(3):

(a) Solicit and accept grants, contributions, and any other financial assistance from the federal government, federal agencies, and any other public or private sources to carry out its purposes;

(b) Offer comprehensive export assistance and counseling to manufacturers relatively new to exporting with gross annual revenues less than twenty-five million dollars. As close to seventy-five percent as possible of each year's new cadre of clients must have gross annual revenues of less than five million dollars at the time of their initial contract. At least fifty percent of each year's new cadre of clients shall be from rural natural resources impact areas as defined in RCW 43.31.601. Counseling may include, but not be limited to, helping clients obtain debt or equity financing, in constructing competent proposals, and assessing federal guarantee and/or insurance programs that underwrite exporting risk; assisting clients in evaluating their international marketplace by developing marketing materials, assessing and selecting targeted markets; assisting firms in finding foreign customers by conducting foreign market research, evaluating distribution systems, selecting and assisting in identification of and/or negotiations with foreign agents, distributors, retailers, and by promoting products through attending trade shows abroad; advising companies on their products, guarantees, and after sales service requirements necessary to compete effectively in a foreign market; designing a competitive strategy for a firm's products in targeted markets and methods of minimizing their commercial and political risks; securing for clients specific assistance as needed, outside the center's field of expertise, by referrals to other public or private organizations. The Pacific Northwest export assistance project shall focus its efforts on

facilitating export transactions for its clients, and in doing so, provide such technical services as are appropriate to accomplish its mission either with staff or outside consultants;

(c) Sign three-year counseling agreements with its clients that provide for termination if adequate funding for the Pacific Northwest export assistance project is not provided in future appropriations. Counseling agreements shall not be renewed unless there are compelling reasons to do so, and under no circumstances shall they be renewed for more than two additional years. A counseling agreement may not be renewed more than once. The counseling agreements shall have mutual performance clauses, that if not met, will be grounds for releasing each party, without penalty, from the provisions of the agreement. Clients shall be immediately released from a counseling agreement with the Pacific Northwest export assistance project, without penalty, if a client wishes to switch to a private export management service and produces a valid contract signed with a private export management service, or if the president of the small business export finance assistance center determines there are compelling reasons to release a client from the provisions of the counseling agreement;

(d) May contract with private or public international trade education services to provide Pacific Northwest export assistance project clients with training in international business. The president and board of directors shall decide the amount of funding allocated for educational services based on the availability of resources in the operating budget of the Pacific Northwest export assistance project;

(e) May contract with the Washington state international trade fair to provide services for Pacific Northwest export assistance project clients to participate in one trade show annually. The president and board of directors shall decide the amount of funding allocated for trade fair assistance based on the availability of resources in the operating budget of the Pacific Northwest export assistance project;

(f) Provide biennial assessments of its performance. Project personnel shall work with the department of revenue and employment security department to confidentially track the performance of the project's clients in increasing tax revenues to the state, increasing gross sales revenues and volume of products destined to foreign clients, and in creating new jobs for Washington citizens. A biennial report shall be prepared for the governor and legislature to assess the costs and benefits to the state from creating the project. The president of the small business export finance assistance center shall design an appropriate methodology for biennial assessments in consultation with the director of community, trade, and economic development and the director of the Washington state department of agriculture. The department of revenue and the employment security department shall provide data necessary to complete this biennial evaluation, if the data being requested is available from existing data bases. Client-specific information generated from the files of the department of revenue and the employment security department for the purposes of this evaluation shall be kept strictly confidential by each department and the small business export finance assistance center;

(g) Take whatever action may be necessary to accomplish the purposes set forth in RCW 43.210.070 and 43.210.100 through 43.210.120; and

(h) Limit its assistance to promoting the exportation of value-added manufactured goods. The project shall not provide counseling or assistance, under any circumstances, for the importation of foreign made goods into the United States.

(2) The Pacific Northwest export assistance project shall not, under any circumstances, assume ownership or take title to the goods of its clients.

(3) The Pacific Northwest export assistance project may not use any Washington state funds which come from the public treasury of the state of Washington to make loans or to make any payment under a loan guarantee agreement. Under no circumstances may the center use any funds received under RCW 43.210.050 to make or assist in making any loan or to pay or assist in paying any amount under a loan guarantee agreement. Debts of the center shall be center debts only and may be satisfied only from the resources of the center. The state of Washington shall not in any way be liable for such debts.

(4) The Pacific Northwest export assistance project shall make every effort to seek nonstate funds to supplement its operations. The small business export finance assistance center and the project are authorized to charge reasonable fees for services and products provided and to expend the proceeds for the particular purposes for which they were collected.

(5) The small business export finance assistance center and its Pacific Northwest export assistance project shall take whatever steps are necessary to provide its services, if requested, to the states of Oregon, Idaho, Montana, Alaska, and the Canadian provinces of British Columbia and Alberta. Interstate services shall not be provided by the Pacific Northwest export assistance project during its first biennium of operation. The provision of services may be temporary and subject to the payment of fees, or each state may request permanent services contingent upon a level of permanent funding adequate for services provided. Temporary services and fees may be negotiated by the small business export finance assistance center's president subject to approval of the board of directors. The president of the small business export finance assistance center may enter into negotiations with neighboring states to contract for delivery of the project's services. Final contracts for providing the project's counseling and services outside of the state of Washington on a permanent basis shall be subject to approval of the governor, appropriate legislative oversight committees, and the small business export finance assistance center's board of directors.

(6) The small business export finance assistance center may receive such gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of the Pacific Northwest export assistance project and expend the same or any income therefrom according to the terms of the gifts, grants, or endowments.

(7) The president of the small business export finance assistance center, in consultation with the board of directors, may use the following formula in determining the number of clients that can be reasonably served by the Pacific Northwest export assistance project relative to its appropriation. Divide the amount appropriated for administration of the

Pacific Northwest export assistance project by the marginal cost of adding each additional Pacific Northwest export assistance project client. For the purposes of this calculation, and only for the first biennium of operation, the biennial marginal cost of adding each additional Pacific Northwest export assistance project client shall be fifty-seven thousand ninety-five dollars. The biennial marginal cost of adding each additional client after the first biennium of operation shall be established from the actual operating experience of the Pacific Northwest export assistance project. [1995 c 226 § 29; 1994 c 284 § 7. Prior: 1993 sp.s. c 24 § 922; 1993 c 366 § 1; 1993 c 280 § 57; 1991 c 314 § 12.]

**Sunset Act application:** See note following chapter digest.

**Severability—Conflict with federal requirements—Effective date—1995 c 226:** See notes following RCW 43.31.601.

**Severability—Effective date—1994 c 284:** See RCW 43.63B.900 and 43.63B.901.

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

**Effective date—Severability—1993 c 280:** See RCW 43.330.902 and 43.330.903.

**Findings—1991 c 314:** See note following RCW 43.31.601.

**43.210.120 Rules.** The department of community, trade, and economic development shall adopt rules under chapter 34.05 RCW as necessary to carry out the purposes of RCW 43.210.070 and 43.210.100 through 43.210.120. [1995 c 399 § 111; 1991 c 314 § 13.]

**Sunset Act application:** See note following chapter digest.

**Findings—1991 c 314:** See note following RCW 43.31.601.

## Chapter 43.220

### WASHINGTON CONSERVATION CORPS

#### Sections

43.220.070 Corps membership—Eligibility, terms, etc.

**43.220.070 Corps membership—Eligibility, terms, etc.** (1) Conservation corps members shall be unemployed residents of the state between eighteen and twenty-five years of age at the time of enrollment who are citizens or lawful permanent residents of the United States. The age requirements may be waived for corps leaders and specialists with special leadership or occupational skills; such members shall be given special responsibility for providing leadership, character development, and sense of community responsibility to the corps members, groups, and work crews to which they are assigned. The upper age requirement may be waived for residents who have a sensory or mental handicap. Special effort shall be made to recruit minority and disadvantaged youth who meet selection criteria of the conservation corps. Preference shall be given to youths residing in areas, both urban and rural, in which there exists substantial unemployment exceeding the state average unemployment rate.

(2) The legislature finds that people with developmental disabilities would benefit from experiencing a meaningful work experience, and learning the value of labor and of membership in a productive society.

The legislature urges state agencies that are participating in the Washington conservation corps program to consider for enrollment in the program people who have developmental disabilities, as defined in RCW 71A.10.020.

If an agency chooses to enroll people with developmental disabilities in its Washington conservation corps program, the agency may apply to the United States department of labor, employment standards administration for a special subminimum wage certificate in order to be allowed to pay enrollees with developmental disabilities according to their individual levels of productivity.

(3) Corps members shall not be considered state employees. Other provisions of law relating to civil service, hours of work, rate of compensation, sick leave, unemployment compensation, state retirement plans, and vacation leave do not apply to the Washington conservation corps except for the crew leaders, who shall be project employees, and the administrative and supervisory personnel.

(4) Enrollment shall be for a period of six months which may be extended for an additional six months by mutual agreement of the corps and the corps member. Corps members shall be reimbursed at the minimum wage rate established by state or federal law, whichever is higher: PROVIDED, That if agencies elect to run a residential program, the appropriate costs for room and board shall be deducted from the corps member's paycheck as provided in chapter 43.220 RCW.

(5) Corps members are to be available at all times for emergency response services coordinated through the department of community, trade, and economic development or other public agency. Duties may include sandbagging and flood cleanup, search and rescue, and other functions in response to emergencies. [1995 c 399 § 112; 1990 c 71 § 2; 1988 c 78 § 1; 1986 c 266 § 48. Prior: 1985 c 230 § 7; 1985 c 7 § 110; 1983 1st ex.s. c 40 § 7.]

**Sunset Act application:** See note following chapter digest.

**Legislative finding—1990 c 71:** See note following RCW 43.220.230.

**Severability—1986 c 266:** See note following RCW 38.52.005.

## Chapter 43.280

### COMMUNITY TREATMENT SERVICES FOR VICTIMS OF SEX OFFENDERS

#### Sections

- 43.280.020 Grant program—Funding priority.
- 43.280.060 Awarding of grants—Peer review committee.
- 43.280.070 Gifts, grants, and endowments.
- 43.280.080 Office of crime victims advocacy.
- 43.280.090 Office of crime victims advocacy—Ad hoc advisory committees.

**43.280.020 Grant program—Funding priority.** There is established in the department of community, trade, and economic development a grant program to enhance the funding for treating the victims of sex offenders. Activities that can be funded through this grant program are limited to those that:

(1) Provide effective treatment to victims of sex offenders;

(2) Increase access to and availability of treatment for victims of sex offenders, particularly if from underserved populations; and

(3) Create or build on efforts by existing community programs, coordinate those efforts, or develop cooperative efforts or other initiatives to make the most effective use of resources to provide treatment services to these victims.

Funding priority shall be given to those applicants that represent well-established existing programs and applicants that represent new programs that are being created in geographic areas where no programs presently exist. [1995 c 399 § 113; 1990 c 3 § 1203.]

**43.280.060 Awarding of grants—Peer review committee.** (1) Subject to funds appropriated by the legislature, the department of community, trade, and economic development shall make awards under the grant program established by RCW 43.280.020.

(2) Awards shall be made competitively based on the purposes of and criteria in this chapter.

(3) To aid the department of community, trade, and economic development in making its determination, the department shall form a peer review committee comprised of the executive administrator for the \*crime victims' advocacy office and individuals who have experience in the treatment of victims of predatory violent sex offenders. The peer review committee shall advise the department on the extent to which each eligible applicant meets the purposes and criteria of this chapter. The department shall consider this advice in making awards.

(4) Activities funded under this section may be considered for funding in future years, but shall be considered under the same terms and criteria as new activities. Funding under this chapter shall not constitute an obligation by the state of Washington to provide ongoing funding. [1995 c 399 § 114; 1990 c 3 § 1207.]

**\*Reviser's note:** The section creating the crime victims' advocacy office, 1990 c 3 § 1202, was vetoed by the governor.

**43.280.070 Gifts, grants, and endowments.** The department of community, trade, and economic development may receive such gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of this chapter and expend the same or any income therefrom according to the terms of the gifts, grants, or endowments. [1995 c 399 § 115; 1990 c 3 § 1208.]

**43.280.080 Office of crime victims advocacy.** The office of crime victims advocacy is established in the department of community, trade, and economic development. The office shall assist communities in planning and implementing services for crime victims, advocate on behalf of crime victims in obtaining needed services and resources, and advise local and state governments on practices, policies, and priorities that impact crime victims. In addition, the office shall administer grant programs for sexual assault treatment and prevention services, as authorized in this chapter. [1995 c 241 § 1.]

**43.280.090 Office of crime victims advocacy—Ad hoc advisory committees.** The director of the department of community, trade, and economic development may establish ad hoc advisory committees, as necessary, to obtain advice and guidance regarding the office of crime victims advocacy program. [1995 c 269 § 2102.]

**Reviser's note:** 1995 c 269 directed that this section be added to chapter 43.63A RCW. This section has been codified in chapter 43.280 RCW, which relates more directly to the office of crime victims advocacy.

**Effective date—1995 c 269:** See note following RCW 13.40.025.

**Part headings not law—Severability—1995 c 269:** See notes following RCW 13.40.005.

### Chapter 43.300

#### DEPARTMENT OF FISH AND WILDLIFE

##### Sections

43.300.060 Enforcement in accordance with RCW 43.05.100 and 43.05.110.

**43.300.060 Enforcement in accordance with RCW 43.05.100 and 43.05.110.** Enforcement action taken after July 23, 1995, by the director or the department shall be in accordance with RCW 43.05.100 and 43.05.110. [1995 c 403 § 627.]

**Findings—Short title—Intent—1995 c 403:** See note following RCW 34.05.328.

**Part headings not law—Severability—1995 c 403:** See RCW 43.05.903 and 43.05.904.

### Chapter 43.310

#### YOUTH GANGS

##### Sections

43.310.020 Gang risk prevention and intervention pilot programs—Request for proposals.

**43.310.020 Gang risk prevention and intervention pilot programs—Request for proposals.** (1) The department of community, trade, and economic development may recommend existing programs or contract with either school districts or community organizations, or both, through a request for proposal process for the development, administration, and implementation in the county of community-based gang risk prevention and intervention pilot programs.

(2) Proposals by the school district for gang risk prevention and intervention pilot program grant funding shall begin with school years no sooner than the 1994-95 session, and last for a duration of two years.

(3) The school district or community organization proposal shall include:

(a) A description of the program goals, activities, and curriculum. The description of the program goals shall include a list of measurable objectives for the purpose of evaluation by the department of community, trade, and economic development. To the extent possible, proposals shall contain empirical data on current problems, such as drop-out rates and occurrences of violence on and off campus by school-age individuals.

(b) A description of the individual school or schools and the geographic area to be affected by the program.

(c) A demonstration of broad-based support for the program from business and community organizations.

(d) A clear description of the experience, expertise, and other qualifications of the community organizations to conduct an effective prevention and intervention program in cooperation with a school or a group of schools.

(e) A proposed budget for expenditure of the grant.

(4) Grants awarded under this section may not be used for the administrative costs of the school district or the individual school. [1995 c 399 § 116; 1993 c 497 § 4.]

### Chapter 43.320

#### DEPARTMENT OF FINANCIAL INSTITUTIONS

##### Sections

43.320.011 Department of general administration and department of licensing powers and duties transferred.

43.320.013 Department of general administration and department of licensing civil service employees transferred.

43.320.060 Deputization of assistant to exercise powers and duties of director.

43.320.110 Banking examination fund.

**43.320.011 Department of general administration and department of licensing powers and duties transferred.** (1) All powers, duties, and functions of the department of general administration under Titles 30, 31, 32, 33, and 43 RCW and any other title pertaining to duties relating to banks, savings banks, foreign bank branches, savings and loan associations, credit unions, consumer loan companies, check cashers and sellers, trust companies and departments, and other similar institutions are transferred to the department of financial institutions. All references to the director of general administration, supervisor of banking, or the supervisor of savings and loan associations in the Revised Code of Washington are construed to mean the director of the department of financial institutions when referring to the functions transferred in this section. All references to the department of general administration in the Revised Code of Washington are construed to mean the department of financial institutions when referring to the functions transferred in this subsection.

(2) All powers, duties, and functions of the department of licensing under chapters 18.44, 19.100, 19.110, 21.20, 21.30, and 48.18A RCW and any other statute pertaining to the regulation under the chapters listed in this subsection of escrow agents, securities, franchises, business opportunities, commodities, and any other speculative investments are transferred to the department of financial institutions. All references to the director or department of licensing in the Revised Code of Washington are construed to mean the director or department of financial institutions when referring to the functions transferred in this subsection. [1995 c 238 § 6; 1993 c 472 § 6.]

**Effective date—1995 c 238:** See note following RCW 18.44.010.

**43.320.013 Department of general administration and department of licensing civil service employees transferred.** All employees classified under chapter 41.06 RCW, the state civil service law, who are employees of the department of general administration or the department of

licensing engaged in performing the powers, functions, and duties transferred by RCW 43.320.011, except those under chapter 18.44 RCW, are transferred to the department of financial institutions. All such employees are assigned to the department of financial institutions to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service. [1995 c 238 § 7; 1993 c 472 § 9.]

**Effective date—1995 c 238:** See note following RCW 18.44.010.

**43.320.060 Deputization of assistant to exercise powers and duties of director.** The director of financial institutions shall appoint, deputize, and employ examiners and such other assistants and personnel as may be necessary to carry on the work of the department of financial institutions.

In the event of the director's absence the director shall have the power to deputize one of the assistants of the director to exercise all the powers and perform all the duties prescribed by law with respect to banks, savings banks, foreign bank branches, savings and loan associations, credit unions, consumer loan companies, check cashers and sellers, trust companies and departments, securities, franchises, business opportunities, commodities, escrow agents, and other similar institutions or areas that are performed by the director so long as the director is absent: **PROVIDED**, That such deputized assistant shall not have the power to approve or disapprove new charters, licenses, branches, and satellite facilities, unless such action has received the prior written approval of the director. Any person so deputized shall possess the same qualifications as those set out in this section for the director. [1995 c 238 § 8; 1993 c 472 § 20; 1977 ex.s. c 185 § 1; 1965 c 8 § 43.19.020. Prior: 1955 c 285 § 5; prior: (i) 1919 c 209 § 2; 1917 c 80 § 2; RRS § 3209. (ii) 1945 c 123 § 1; 1935 c 176 § 12; Rem. Supp. 1945 § 10786-11. Formerly RCW 43.19.020.]

**Effective date—1995 c 238:** See note following RCW 18.44.010.

**43.320.110 Banking examination fund.** There is created a local fund known as the "banking examination fund" which shall consist of all moneys received by the department of financial institutions from banks, savings banks, foreign bank branches, savings and loan associations, consumer loan companies, check cashers and sellers, trust companies and departments, and escrow agents, and which shall be used for the purchase of supplies and necessary equipment and the payment of salaries, wages, utilities, and other incidental costs required for the proper regulation of these companies. The state treasurer shall be the custodian of the fund. Disbursements from the fund shall be on authorization of the director of financial institutions or the director's designee. In order to maintain an effective expenditure and revenue control, the fund shall be subject in all respects to chapter 43.88 RCW, but no appropriation is required to permit expenditures and payment of obligations from the fund. [1995 c 238 § 9; 1993 c 472 § 25; 1981 c 241 § 1. Formerly RCW 43.19.095.]

**Effective date—1995 c 238:** See note following RCW 18.44.010.

**Effective date—1981 c 241:** "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state

government and its existing public institutions, and shall take effect July 1, 1981." [1981 c 241 § 4.]

### Chapter 43.330

## DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

#### Sections

43.330.125 Department shall provide assistance to counties and cities.

43.330.135 Court-appointed special advocate programs—Funds—Eligibility.

**43.330.125 Department shall provide assistance to counties and cities.** The department of community, trade, and economic development shall provide training and technical assistance to counties and cities to assist them in fulfilling the requirements of chapter 36.70B RCW. [1995 c 347 § 430.]

**Finding—Severability—Part headings and table of contents not law—1995 c 347:** See notes following RCW 36.70A.470.

**43.330.135 Court-appointed special advocate programs—Funds—Eligibility.** (1) The department of community, trade, and economic development shall distribute such funds as are appropriated for the state-wide technical support, development, and enhancement of court-appointed special advocate programs.

(2) In order to receive money under subsection (1) of this section, an organization providing state-wide technical support, development, and enhancement of court-appointed special advocate programs must meet all of the following requirements:

(a) The organization must provide state-wide support, development, and enhancement of court-appointed special advocate programs that offer guardian ad litem services as provided in RCW 26.12.175, 26.44.053, and 13.34.100;

(b) All guardians ad litem working under court-appointed special advocate programs supported, developed, or enhanced by the organization must be volunteers and may not receive payment for services rendered pursuant to the program. The organization may include paid positions that are exclusively administrative in nature, in keeping with the scope and purpose of this section; and

(c) The organization providing state-wide technical support, development, and enhancement of court-appointed special advocate programs must be a public benefit nonprofit corporation as defined in RCW 24.03.490.

(3) If more than one organization is eligible to receive money under this section, the department shall develop criteria for allocation of appropriated money among the eligible organizations. [1995 c 13 § 1.]

### Chapter 43.332

## OFFICE OF THE WASHINGTON STATE TRADE REPRESENTATIVE

#### Sections

43.332.005 Findings.

43.332.010 Office created—Finances.



**43.332.005 Findings.** (1) The legislature finds that:

(a) The expansion of international trade is vital to the overall growth of Washington's economy;

(b) On a per capita basis, Washington state is the most international trade dependent state in the nation;

(c) The North American free trade agreement (NAFTA) and the general agreement on tariffs and trade (GATT) highlight the increased importance of international trade opportunities to the United States and the state of Washington;

(d) The passage of NAFTA and GATT will have a major impact on the state's agriculture, aerospace, computer software, and textiles and apparel sectors;

(e) There is a need to strengthen and coordinate the state's activities in promoting and developing its agricultural, manufacturing, and service industries overseas, especially for small and medium-sized businesses, and minority and women-owned business enterprises; and

(f) The importance of having a coherent vision for advancing Washington state's interest in the global economy has rarely been so consequential as it is now.

(2) The legislature declares that the purpose of the office of the Washington state trade representative is to strengthen and expand the state's activities in marketing its goods and services overseas. [1995 c 350 § 1.]

**43.332.010 Office created—Finances.** The office of the Washington state trade representative is created under the office of the governor. The office shall serve as the state's official liaison with foreign governments on trade matters.

The office of the Washington state trade representative may accept or request grants or gifts from citizens and other private sources to be used to defray the costs of appropriate hosting of foreign dignitaries, including appropriate gift-giving and reciprocal gift-giving, or other activities of the office. The office shall open and maintain a bank account into which it shall deposit all money received under this section. Such money and the interest accruing thereon shall not constitute public funds, shall be kept segregated and apart from funds of the state, and shall not be subject to appropriation or allotment by the state or subject to chapter 43.88 RCW. [1995 c 350 § 2.]

**Title 44****STATE GOVERNMENT—LEGISLATIVE****Chapters**

**44.05 Washington State Redistricting Act.**

**Chapter 44.05****WASHINGTON STATE REDISTRICTING ACT****Sections**

**44.05.100** Submission of redistricting plan to legislature—Amendment—Effect—Adoption of plan by supreme court upon failure of commission.

**44.05.100 Submission of redistricting plan to legislature—Amendment—Effect—Adoption of plan by supreme court upon failure of commission.** (1) Upon approval of a redistricting plan by three of the voting members of the commission, but not later than December 15th of the year ending in one, the commission shall submit the plan to the legislature.

(2) After submission of the plan by the commission, the legislature shall have the next thirty days during any regular or special session to amend the commission's plan. If the legislature amends the commission's plan the legislature's amendment must be approved by an affirmative vote in each house of two-thirds of the members elected or appointed thereto, and may not include more than two percent of the population of any legislative or congressional district.

(3) The plan approved by the commission, with any amendment approved by the legislature, shall be final upon approval of such amendment or after expiration of the time provided for legislative amendment by subsection (2) of this section whichever occurs first, and shall constitute the districting law applicable to this state for legislative and congressional elections, beginning with the next elections held in the year ending in two. This plan shall be in force until the effective date of the plan based upon the next succeeding federal decennial census or until a modified plan takes effect as provided in RCW 44.05.120(6).

(4) If three of the voting members of the commission fail to approve and submit a plan within the time limitations provided in subsection (1) of this section, the supreme court shall adopt a plan by March 1st of the year ending in two. Any such plan approved by the court is final and constitutes the districting law applicable to this state for legislative and congressional elections, beginning with the next election held in the year ending in two. This plan shall be in force until the effective date of the plan based on the next succeeding federal decennial census or until a modified plan takes effect as provided in RCW 44.05.120(6). [1995 c 88 § 1; 1983 c 16 § 10.]

**Title 46****MOTOR VEHICLES****Chapters**

**46.01** Department of licensing.  
**46.04** Definitions.  
**46.08** General provisions.  
**46.09** Off-road and nonhighway vehicles.  
**46.12** Certificates of ownership and registration.  
**46.16** Vehicle licenses.  
**46.20** Drivers' licenses—Identicards.  
**46.25** Uniform commercial driver's license act.  
**46.32** Vehicle inspection.  
**46.37** Vehicle lighting and other equipment.  
**46.44** Size, weight, load.  
**46.52** Accidents—Reports—Abandoned vehicles.  
**46.55** Towing and impoundment.  
**46.61** Rules of the road.  
**46.63** Disposition of traffic infractions.  
**46.68** Disposition of revenue.