

CERTIFICATION OF ENROLLMENT

ENGROSSED SENATE BILL 5063

60th Legislature
2007 Regular Session

Passed by the Senate April 17, 2007
YEAS 45 NAYS 1

President of the Senate

Passed by the House April 5, 2007
YEAS 78 NAYS 20

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SENATE BILL 5063** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SENATE BILL 5063

AS AMENDED BY THE HOUSE

Passed Legislature - 2007 Regular Session

State of Washington 60th Legislature 2007 Regular Session

By Senators Kohl-Welles, Fairley, Rockefeller, Kline, Schoesler, Keiser, Parlette, Kauffman, Fraser and Shin

Read first time 01/09/2007. Referred to Committee on Labor, Commerce, Research & Development.

1 AN ACT Relating to removing gender references; amending RCW
2 41.08.020, 41.08.030, 41.08.075, 41.08.080, 41.08.090, 41.08.100,
3 41.08.150, 41.08.220, 41.12.020, 41.12.030, 41.12.075, 41.12.080,
4 41.12.090, 41.12.100, 41.12.150, 41.12.220, 41.16.010, 41.16.020,
5 41.16.030, 41.16.040, 41.16.050, 41.16.070, 41.16.080, 41.16.100,
6 41.16.110, 41.16.120, 41.16.130, 41.16.140, 41.16.145, 41.16.150,
7 41.16.160, 41.16.170, 41.16.180, 41.16.190, 41.16.200, 41.16.210,
8 41.16.220, 41.16.230, 41.16.250, 41.18.010, 41.18.015, 41.18.020,
9 41.18.030, 41.18.040, 41.18.045, 41.18.050, 41.18.060, 41.18.080,
10 41.18.090, 41.18.100, 41.18.102, 41.18.130, 41.18.140, 41.18.150,
11 41.18.160, 41.18.165, 41.18.170, 41.18.180, 41.18.190, 41.18.210,
12 9.40.130, 9A.48.020, 19.09.100, 35.17.100, 35A.11.020, 35.27.240,
13 35.66.040, 35.75.050, 35.88.020, 41.44.060, 41.48.030, 46.37.185,
14 81.28.080, 35.23.121, 35.27.220, 59.12.110, 82.38.230, 87.03.020,
15 87.84.020, 19.29.010, 81.40.095, 19.28.261, 19.28.321, 50.04.240,
16 28B.07.020, 39.04.155, 39.08.010, 39.08.030, 47.28.030, 60.28.010,
17 60.28.011, 60.28.020, 60.28.021, 85.28.130, and 85.28.140; and creating
18 new sections.

19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

1 NEW SECTION. **Sec. 1.** It is the intent of the legislature to make
2 technical changes throughout chapters 41.08, 41.12, 41.16, and 41.18
3 RCW with regard to gender-specific terminology. The legislature finds
4 that gender-neutral terms must be used in accordance with RCW
5 44.04.210. This act is technical in nature and no substantive legal
6 changes are intended or implied.

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

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

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

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

20 The members of such commission shall be appointed by the person or
21 group of persons who, acting singly or in conjunction, as a mayor, city
22 manager, council, common council, commission, or otherwise, is or are
23 vested by law with power and authority to select, appoint, or employ
24 the chief of a fire department in any such city, prior to the enactment
25 of this chapter. The members of such commission shall serve without
26 compensation. No person shall be appointed a member of such commission
27 who is not a citizen of the United States, a resident of such city for
28 at least three years immediately preceding such appointment, and an
29 elector of the county wherein he or she resides. The term of office of
30 such commissioners shall be for six years, except that the first three
31 members of such commission shall be appointed for different terms, as
32 follows: One to serve for a period of two years, one to serve for a
33 period of four years, and one to serve for a period of six years. Any
34 member of such commission may be removed from office for incompetency,
35 incompatibility or dereliction of duty, or malfeasance in office, or
36 other good cause: PROVIDED, HOWEVER, That no member of the commission

1 shall be removed until charges have been preferred, in writing, due
2 notice and a full hearing had. The members of such commission shall
3 devote due time and attention to the performance of the duties
4 hereinafter specified and imposed upon them by this chapter. Two
5 members of such commission shall constitute a quorum and the votes of
6 any two members of such commission concurring shall be sufficient for
7 the decision of all matters and the transaction of all business to be
8 decided or transacted by the commission under or by virtue of the
9 provisions of this chapter. Confirmation of said appointment or
10 appointments of commissioners by any legislative body shall not be
11 required. At the time of any appointment not more than two
12 commissioners shall be adherents of the same political party.

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

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

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

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

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

33 (2) Dishonesty, intemperance, immoral conduct, insubordination,
34 discourteous treatment of the public, or a fellow employee, or any
35 other act of omission or commission tending to injure the public
36 service; or any other willful failure on the part of the employee to

1 properly conduct himself or herself; or any willful violation of the
2 provisions of this chapter or the rules and regulations to be adopted
3 hereunder;

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

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

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

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

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

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

20 No person in the classified civil service who shall have been
21 permanently appointed or inducted into civil service under provisions
22 of this chapter, shall be removed, suspended, demoted or discharged
23 except for cause, and only upon the written accusation of the
24 appointing power, or any citizen or taxpayer, a written statement of
25 which accusation, in general terms, shall be served upon the accused,
26 and a duplicate filed with the commission. Any person so removed,
27 suspended, demoted or discharged may within ten days from the time of
28 his or her removal, suspension, demotion or discharge, file with the
29 commission a written demand for an investigation, whereupon the
30 commission shall conduct such investigation. The investigation shall
31 be confined to the determination of the question of whether such
32 removal, suspension, demotion or discharge was or was not made for
33 political or religious reasons and was or was not made in good faith
34 (~~(for)~~) for cause. After such investigation the commission may
35 affirm the removal, or if it shall find that the removal, suspension,
36 or demotion was made for political or religious reasons, or was not
37 made in good faith for cause, shall order the immediate reinstatement

1 or reemployment of such person in the office, place, position or
2 employment from which such person was removed, suspended, demoted or
3 discharged, which reinstatement shall, if the commission so provides in
4 its discretion, be retroactive, and entitle such person to pay or
5 compensation from the time of such removal, suspension, demotion or
6 discharge. The commission upon such investigation, in lieu of
7 affirming the removal, suspension, demotion or discharge may modify the
8 order of removal, suspension, demotion or discharge by directing a
9 suspension, without pay, for a given period, and subsequent restoration
10 to duty, or demotion in classification, grade, or pay; the findings of
11 the commission shall be certified, in writing to the appointing power,
12 and shall be forthwith enforced by such officer.

13 All investigations made by the commission pursuant to the
14 provisions of this section shall be by public hearing, after reasonable
15 notice to the accused of the time and place of such hearing, at which
16 hearing the accused shall be afforded an opportunity of appearing in
17 person and by counsel, and presenting his or her defense. If such
18 judgment or order be concurred in by the commission or a majority
19 thereof, the accused may appeal therefrom to the court of original and
20 unlimited jurisdiction in civil suits of the county wherein he or she
21 resides. Such appeal shall be taken by serving the commission, within
22 thirty days after the entry of such judgment or order, a written notice
23 of appeal, stating the grounds thereof, and demanding that a certified
24 transcript of the record and of all papers on file in the office of the
25 commission affecting or relating to such judgment or order, be filed by
26 the commission with such court. The commission shall, within ten days
27 after the filing of such notice, make, certify and file such transcript
28 with such court. The court of original and unlimited jurisdiction in
29 civil suits shall thereupon proceed to hear and determine such appeal
30 in a summary manner: PROVIDED, HOWEVER, That such hearing shall be
31 confined to the determination of whether the judgment or order of
32 removal, discharge, demotion or suspension made by the commission, was
33 or was not made in good faith for cause, and no appeal to such court
34 shall be taken except upon such ground or grounds.

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

37 Whenever a position in the classified service becomes vacant, the

1 appointing power, if it desires to fill the vacancy, shall make
2 requisition upon the commission for the name and address of a person
3 eligible for appointment thereto. The commission shall certify the
4 name of the person highest on the eligible list for the class to which
5 the vacant position has been allocated, who is willing to accept
6 employment. If there is no appropriate eligible list for the class,
7 the commission shall certify the name of the person standing highest on
8 said list held appropriate for such class. If more than one vacancy is
9 to be filled an additional name shall be certified for each additional
10 vacancy. The appointing power shall forthwith appoint such person to
11 such vacant position.

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

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

1 ((firemen)) firefighters employed in such are paid regularly by the
2 city and devote their whole time to firefighting.

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

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

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

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

17 The members of such commission shall be appointed by the person or
18 group of persons who, acting singly or in conjunction, as a mayor, city
19 manager, council, common council, commission, or otherwise, is or are
20 vested by law with the power and authority to select, appoint, or
21 employ the chief of a police department in any such city, prior to the
22 enactment of this chapter. The members of such commission shall serve
23 without compensation. No person shall be appointed a member of such
24 commission who is not a citizen of the United States, a resident of
25 such city for at least three years immediately preceding such
26 appointment, and an elector of the county wherein he or she resides.
27 The term of office of such commissioners shall be for six years, except
28 that the first three members of such commission shall be appointed for
29 different terms, as follows: One to serve for a period of two years,
30 one to serve for a period of four years, and one to serve for a period
31 of six years. Any member of such commission may be removed from office
32 for incompetency, incompatibility or dereliction of duty, or
33 malfeasance in office, or other good cause: PROVIDED, HOWEVER, That no
34 member of the commission shall be removed until charges have been
35 preferred, in writing, due notice and a full hearing had. The members
36 of such commission shall devote due time and attention to the

1 performance of the duties hereinafter specified and imposed upon them
2 by this chapter. Two members of such commission shall constitute a
3 quorum and the votes of any two members of such commission concurring
4 shall be sufficient for the decision of all matters and the transaction
5 of all business to be decided or transacted by the commission under or
6 by virtue of the provisions of this chapter. Confirmation of said
7 appointment or appointments of commissioners by any legislative body
8 shall not be required. At the time of any appointment not more than
9 two commissioners shall be adherents of the same political party.

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

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

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

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

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

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

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

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

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

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

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

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

16 No person in the classified civil service who shall have been
17 permanently appointed or inducted into civil service under provisions
18 of this chapter, shall be removed, suspended, demoted or discharged
19 except for cause, and only upon written accusation of the appointing
20 power, or any citizen or taxpayer; a written statement of which
21 accusation, in general terms, shall be served upon the accused, and a
22 duplicate filed with the commission. Any person so removed, suspended,
23 demoted or discharged may within ten days from the time of his or her
24 removal, suspension, demotion or discharge, file with the commission a
25 written demand for an investigation, whereupon the commission shall
26 conduct such investigation. The investigation shall be confined to the
27 determination of the question of whether such removal, suspension,
28 demotion or discharge was or was not made for political or religious
29 reasons and was or was not made in good faith (~~(of or)~~) for cause.
30 After such investigation the commission may affirm the removal, or if
31 it shall find that the removal, suspension, or demotion was made for
32 political or religious reasons, or was not made in good faith for
33 cause, shall order the immediate reinstatement (~~(of or)~~) or
34 reemployment of such person in the office, place, position or
35 employment from which such person was removed, suspended, demoted or
36 discharged, which reinstatement shall, if the commission so provides in
37 its discretion, be retroactive, and entitle such person to pay or

1 compensation from the time of such removal, suspension, demotion or
2 discharge. The commission upon such investigation, (~~(fin)~~) in lieu of
3 affirming the removal, suspension, demotion or discharge may modify the
4 order of removal, suspension, demotion or discharge by directing a
5 suspension, without pay, for a given period, and subsequent restoration
6 to duty, or demotion in classification, grade, or pay; the findings of
7 the commission shall be certified, in writing to the appointing power,
8 and shall be forthwith enforced by such officer.

9 All investigations made by the commission pursuant to the
10 provisions of this section shall be had by public hearing, after
11 reasonable notice to the accused of the time and place of such hearing,
12 at which hearing the accused shall be afforded an opportunity of
13 appearing in person and by counsel, and presenting his or her defense.
14 If such judgment or order be concurred in by the commission or a
15 majority thereof, the accused may appeal therefrom to the court of
16 original and unlimited jurisdiction in civil suits of the county
17 wherein he or she resides. Such appeal shall be taken by serving the
18 commission, within thirty days after the entry of such judgment or
19 order, a written notice of appeal, stating the grounds thereof, and
20 demanding that a certified transcript of the record and of all papers
21 on file in the office of the commission affecting or relating to such
22 judgment or order, be filed by the commission with such court. The
23 commission shall, within ten days after the filing of such notice,
24 make, certify and file such transcript with such court. The court of
25 original and unlimited jurisdiction in civil suits shall thereupon
26 proceed to hear and determine such appeal in a summary manner:
27 PROVIDED, HOWEVER, That such hearing shall be confined to the
28 determination of whether the judgment or order of removal, discharge,
29 demotion or suspension made by the commission, was or was not made in
30 good faith for cause, and no appeal to such court shall be taken except
31 upon such ground or grounds.

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

34 Whenever a position in the classified service becomes vacant, the
35 appointing power, if it desires to fill the vacancy, shall make
36 requisition upon the commission for the name and address of a person
37 eligible for appointment thereto. The commission shall certify the

1 name of the person highest on the eligible list for the class to which
2 the vacant position has been allocated, who is willing to accept
3 employment. If there is no appropriate eligible list for the class,
4 the commission shall certify the name of the person standing highest on
5 said list held appropriate for such class. If more than one vacancy is
6 to be filled an additional name shall be certified for each additional
7 vacancy. The appointing power shall forthwith appoint such person to
8 such vacant position.

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

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

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

36 No commissioner or any other person((τ)) shall, by himself or
37 herself, or in cooperation with one or more persons, defeat, deceive,

1 or obstruct any person in respect of his or her right of examination or
2 registration according to the rules and regulations of this chapter, or
3 falsely mark, grade, estimate or report upon the examination or proper
4 standing of any person examined, registered or certified pursuant to
5 the provisions of this chapter, or aid in so doing, or make any false
6 representation concerning the same, or concerning the person examined,
7 or furnish any person any special or secret information for the purpose
8 of improving or injuring the prospects or chances of any person so
9 examined, registered or certified, or to be examined, registered or
10 certified or persuade any other person, or permit or aid in any manner
11 any other person to personate him or her, in connection with any
12 examination or registration of application or request to be examined or
13 registered.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (11) "Prior (~~fireman~~) firefighter" shall mean a (~~fireman~~)
37 firefighter who was actively employed as a (~~fireman~~) firefighter of

1 a fire department prior to the first day of January, 1947, and who
2 continues such employment thereafter.

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

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

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

21 There is hereby created in each city and town a municipal
22 ~~((firemen's))~~ firefighters' pension board to consist of the following
23 five members, ex officio, the mayor, or in a city of the first class,
24 the mayor or a designated representative who shall be an elected
25 official of the city, who shall be ~~((chairman))~~ chairperson of the
26 board, the city comptroller or clerk, the ~~((chairman))~~ chairperson of
27 finance of the city council, or if there is no ~~((chairman))~~ chairperson
28 of finance, the city treasurer, and in addition, two regularly employed
29 or retired firefighters elected by secret ballot of those employed and
30 retired firefighters who are subject to the jurisdiction of the board.
31 The members to be elected by the firefighters shall be elected annually
32 for a two year term. The two firefighters elected as members shall, in
33 turn, select a third eligible member who shall serve as an alternate in
34 the event of an absence of one of the regularly elected members. In
35 case a vacancy occurs in the membership of the firefighters or retired
36 members, the members shall in the same manner elect a successor to
37 serve the unexpired term. The board may select and appoint a secretary

1 who may, but need not be a member of the board. In case of absence or
2 inability of the ((~~chairman~~)) chairperson to act, the board may select
3 a ((~~chairman~~)) chairperson pro tempore who shall during such absence or
4 inability perform the duties and exercise the powers of the
5 ((~~chairman~~)) chairperson. A majority of the members of the board shall
6 constitute a quorum and have power to transact business.

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

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

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

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

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

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

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

25 (4) Invest the moneys of the fund in a manner consistent with the
26 investment policies outlined in RCW 35.39.060. Authorized investments
27 shall include investment grade securities issued by the United States,
28 state, municipal corporations, other public bodies, corporate bonds,
29 and other investments authorized by RCW 35.39.030, 35.58.510,
30 35.81.070, 35.82.070, 36.29.020, 39.58.020, 39.58.080, 39.58.130,
31 39.60.010, 39.60.020, 68.52.060, 68.52.065, and 72.19.120.

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

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

1 witnesses who testify before the board of a nature and in a similar
2 manner to oaths administered by superior courts of the state of
3 Washington.

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

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

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

16 (10) Appoint one or more duly licensed and practicing physicians
17 who shall examine and report to the board upon all applications for
18 relief and pension under this chapter. Such physicians shall visit and
19 examine all sick firefighters and ((~~disabled firemen~~)) firefighters who
20 are disabled when, in their judgment, the best interests of the relief
21 and pension fund require it or when ordered by the board. They shall
22 perform all operations on such sick and injured ((~~firemen~~))
23 firefighters and render all medical aid and care necessary for the
24 recovery of such ((~~firemen~~)) firefighters on account of sickness or
25 disability received while in the performance of duty as defined in this
26 chapter. Such physicians shall be paid from said fund, the amount of
27 said fees or salary to be set and agreed upon by the board and the
28 physicians. No physician not regularly appointed or specially
29 appointed and employed, as hereinafter provided, shall receive or be
30 entitled to any fees or compensation from said fund as attending
31 physician to a sick or injured ((~~fireman~~)) firefighter. If any sick or
32 injured ((~~fireman~~)) firefighter refuses the services of the appointed
33 physicians, or the specially appointed and employed physician, he or
34 she shall be personally liable for the fees of any other physician
35 employed by him or her. No person shall have a right of action against
36 the board or the municipality for negligence of any physician employed
37 by it. The board shall have the power and authority to select and
38 employ, besides the regularly appointed physician, such other

1 physician, surgeon or specialist for consultation with, or assistance
2 to the regularly appointed physician, or for the purpose of performing
3 operations or rendering services and treatment in particular cases, as
4 it shall deem advisable, and to pay fees for such services from said
5 fund. Said board shall hear and decide all applications for such
6 relief or pensions under this chapter, and its decisions on such
7 applications shall be final and conclusive and not subject to revision
8 or reversal except by the board.

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

11 There is hereby created and established in the treasury of each
12 municipality a fund which shall be known and designated as the
13 (~~firemen's~~) firefighters' pension fund, which shall consist of: (1)
14 All bequests, fees, gifts, emoluments, or donations given or paid
15 thereto; (2) twenty-five percent of all moneys received by the state
16 from taxes on fire insurance premiums; (3) taxes paid pursuant to the
17 provisions of RCW 41.16.060; (4) interest on the investments of the
18 fund; and (5) contributions by firefighters as provided for herein.
19 The moneys received from the tax on fire insurance premiums under the
20 provisions of this chapter shall be distributed in the proportion that
21 the number of paid firefighters in the city, town, or fire protection
22 district bears to the total number of paid firefighters throughout the
23 state to be ascertained in the following manner: The secretary of the
24 (~~firemen's~~) firefighters' pension board of each city, town, and fire
25 protection district now or hereafter coming under the provisions of
26 this chapter shall within thirty days after June 7, 1961, and on or
27 before the fifteenth day of January thereafter, certify to the state
28 treasurer the number of paid firefighters in the fire department in
29 such city, town, or fire protection district. For any city or town
30 annexed by a fire protection district at any time before, on, or after
31 June 9, 1994, the city or town shall continue to certify to the state
32 treasurer the number of paid firefighters in the city or town fire
33 department immediately before annexation until all obligations against
34 the (~~firemen's~~) firefighters' pension fund in the city or town have
35 been satisfied. For the purposes of the calculation in this section,
36 the state treasurer shall subtract the number certified by the annexed
37 city or town from the number of paid firefighters certified by an

1 annexing fire protection district. The state treasurer shall on or
 2 before the first day of June of each year deliver to the treasurer of
 3 each city, town, and fire protection district coming under the
 4 provisions of this chapter his or her warrant, payable to each city,
 5 town, or fire protection district for the amount due such city, town or
 6 fire protection district ascertained as herein provided and the
 7 treasurer of each such city, town, or fire protection district shall
 8 place the amount thereof to the credit of the ~~((firemen's))~~
 9 firefighters' pension fund of such city, town, or fire protection
 10 district.

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

13 (1) Every ~~((fireman))~~ firefighter employed on and after January 1,
 14 1947, shall contribute to the fund and there shall be deducted from his
 15 or her pay and placed in the fund an amount in accordance with the
 16 following table:

17	(Fireman)	
18	<u>Firefighter</u> whose	
19	age at last birthday	Contributions and
20	at time of entry	deductions from
21	of service was:	salary
22	21 and under.....	5.00%
23	22	5.24%
24	23	5.50%
25	24	5.77%
26	25	6.07%
27	26	6.38%
28	27	6.72%
29	28	7.09%
30	29	7.49%
31	30 and over.....	7.92%

32 (2) Every ~~((fireman))~~ firefighter employed prior to January 1,
 33 1947, and continuing active employment shall contribute to the fund and
 34 there shall be deducted from his or her salary and placed in the fund,
 35 five percent of his or her salary.

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

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

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

Entrance age at last birthday	Salary percentage factor
20 and under	1.50%
21	1.55%
22	1.60%
23	1.65%
24	1.70%
25	1.75%
26	1.80%
27	1.85%
28	1.90%
29	1.95%
30 and over	2.00%

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

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

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

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

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

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

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

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

33 (1) Any ((fireman)) firefighter who shall become disabled as a
34 result of the performance of his or her duty or duties as defined in
35 this chapter, may be retired at the expiration of six months from the

1 date of his or her disability, upon his or her written request filed
2 with his or her retirement board. The board may upon such request
3 being filed, consult such medical advice as it sees fit, and may have
4 the applicant examined by such physicians as it deems desirable. If
5 from the reports of such physicians the board finds the applicant
6 capable of performing his or her duties in the fire department, the
7 board may refuse to recommend his or her retirement.

8 (2) If the board deems it for the good of the fire department or
9 the pension fund, it may recommend the applicant's retirement without
10 any request therefor by him or her, after giving him or her a thirty
11 days' notice. Upon his or her retirement he or she shall be paid a
12 monthly disability pension in amount equal to one-half of his or her
13 monthly salary at date of retirement, but which shall not exceed one
14 hundred fifty dollars a month. If he or she recovers from his or her
15 disability he or she shall thereupon be restored to active service,
16 with the same rank he or she held when he or she retired.

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

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

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

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

3 The amount of all benefits payable under the provisions of RCW
4 41.16.080, 41.16.120, 41.16.130, 41.16.140 and 41.16.230 (~~as now or~~
5 ~~hereafter amended,~~) shall be increased annually as hereafter in this
6 section provided. The local pension board shall meet subsequent to
7 March 31st but prior to June 30th of each year for the purposes of
8 adjusting benefit allowances payable pursuant to the aforementioned
9 sections. The local board shall determine the increase in the consumer
10 price index between January 1st and December 31st of the previous year
11 and increase in dollar amount the benefits payable subsequent to July
12 1st of the year in which said board makes such determination by a
13 dollar amount proportionate to the increase in the consumer price
14 index: PROVIDED, That regardless of the change in the consumer price
15 index, such increase shall be at least two percent each year such
16 adjustment is made.

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

29 For the purpose of this section the term

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

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

36 (1) Any (~~fireman~~) firefighter who has served twenty years or more
37 and who shall resign or be dismissed, shall have the option of

1 receiving all his or her contributions plus earned interest compounded
2 semiannually, or a monthly pension in the amount of his or her average
3 monthly salary times the number of years of service rendered, times one
4 and one-half percent. Payment of such pension shall commence at the
5 time of severance from the fire department, or at the age of fifty-five
6 years, whichever shall be later. The ((~~fireman~~)) firefighter shall
7 have sixty days from the severance date to elect which option he or she
8 will take. In the event he or she fails to exercise his or her right
9 of election then he or she shall receive the amount of his or her
10 contributions plus accrued compounded interest. In the event he or she
11 elects such pension, but dies before attaining the age of fifty-five,
12 his widow or her widower, or if he leaves no widow or she leaves no
13 widower, then his or her child or children shall receive only his or
14 her contribution, plus accrued compounded interest. In the event he or
15 she elects to take a pension and dies after attaining the age of fifty-
16 five, his widow or her widower, or if he leaves no widow or she leaves
17 no widower, then child or children shall receive his or her
18 contributions, plus accrued compounded interest, less the amount of
19 pension payments made to such ((~~fireman~~)) firefighter during his or her
20 lifetime.

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

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

27 Whenever any ((~~fireman~~)) firefighter, after four years of service,
28 shall die from natural causes, or from an injury not sustained in the
29 performance of his or her duty and for which no pension is provided in
30 this chapter, and who has not been retired on account of disability,
31 his widow or her widower, if he or she was his wife or her husband at
32 the time he or she was stricken with his or her last illness, or at the
33 time he or she received the injuries from which he or she died; or if
34 there is no such widow, then his or her child or children shall be
35 entitled to the amount of his or her contributions, plus accrued
36 compounded interest, or the sum of one thousand dollars, whichever sum

1 shall be the greater. In case of death as above stated, before the end
2 of four years of service, an amount based on the proportion of the time
3 of service to four years shall paid such beneficiaries.

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

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

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

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

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

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

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

33 The board shall require all ((~~firemen~~)) firefighters receiving
34 disability pensions to be examined every six months. All such

1 examinations shall be made by physicians duly appointed by the board.
2 If a ((~~fireman~~)) firefighter shall fail to submit to such examination
3 within ten days of having been so ordered in writing by said retirement
4 board all pensions or benefits paid to said ((~~fireman~~)) firefighter
5 under this chapter, shall immediately cease and the disbursing officer
6 in charge of such payments shall issue no further payments to such
7 ((~~fireman~~)) firefighter. If such ((~~fireman~~)) firefighter fails to
8 present himself or herself for examination within thirty days after
9 being ordered so to do, he or she shall forfeit all rights under this
10 chapter. If such ((~~fireman~~)) firefighter, upon examination as
11 aforesaid, shall be found fit for service, he or she shall be restored
12 to duty in the same rank held at the time of his or her retirement, or
13 if unable to perform the duties of said rank, then, at his or her
14 request, in such other rank, the duties of which he or she is then able
15 to perform. The board shall thereupon so notify the ((~~fireman~~))
16 firefighter and shall require him or her to resume his or her duties as
17 a member of the fire department. If, upon being so notified, such
18 member shall fail to report for employment within ten days, he or she
19 shall forfeit all rights to any benefits under this chapter.

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

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

32 (2) Any moneys loaned or advanced by a municipality from the
33 general or any other fund of such municipality to the ((~~firemen's~~))
34 firefighters' relief and pension fund created under the provisions of
35 chapter 50, Laws of 1909, as amended, and not repaid shall be an
36 obligation of the ((~~firemen's~~)) firefighters' pension fund created

1 under this chapter, and shall at such times and in such amounts as is
2 directed by the board be repaid.

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

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

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

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

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

32 If all or any portion of a fire protection district is annexed to
33 or incorporated into a city or town, or is succeeded by a metropolitan
34 municipal corporation or county fire department, no full time paid
35 (~~fireman~~) firefighter affected by such annexation, incorporation or

1 succession shall receive a reduction in his or her retirement and job
2 security rights: PROVIDED, That this section shall not apply to any
3 retirement and job security rights authorized under chapter 41.24 RCW.

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

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

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

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

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

32 (4) "Basic salary" means the basic monthly salary, including
33 longevity pay, attached to the rank held by the retired (~~fireman~~)
34 firefighter at the date of his or her retirement, without regard to
35 extra compensation which such (~~fireman~~) firefighter may have received
36 for special duties assignments not acquired through civil service

1 examination: PROVIDED, That such basic salary shall not be deemed to
2 exceed the salary of a battalion chief.

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

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

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

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

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

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

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

37 (12) "Fund" shall have the same meaning as in RCW 41.16.010 as now

1 or hereafter amended. Such fund shall be created in the manner and be
2 subject to the provisions specified in chapter 41.16 RCW as now or
3 hereafter amended.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 Whenever any (~~fireman~~) firefighter, at the time of taking effect
29 of this act or thereafter, shall have been appointed under civil
30 service rules and have served for a period of twenty-five years or more
31 as a member in any capacity of the regularly constituted fire
32 department of any city, town or fire protection district which may be
33 subject to the provisions of this chapter, and shall have attained the
34 age of fifty years, he or she shall be eligible for retirement and
35 shall be retired by the board upon his or her written request. Upon
36 his or her retirement such (~~fireman~~) firefighter shall be paid a

1 monthly pension which shall be equal to fifty percent of the basic
2 salary now or hereafter attached to the same rank and status held by
3 the said ((~~fireman~~)) firefighter at the date of his or her retirement:
4 PROVIDED, That a ((~~fireman~~)) firefighter hereafter retiring who has
5 served as a member for more than twenty-five years, shall have his or
6 her pension payable under this section increased by two percent of the
7 basic salary per year for each full year of such additional service to
8 a maximum of five additional years.

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

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

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

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

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

35 Every ((~~fireman~~)) firefighter who shall become disabled as a result
36 of the performance of duty may be retired at the expiration of six

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

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

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

1 under this section increased by two percent of his or her basic salary
2 per year for each full year of additional service to a maximum of five
3 additional years.

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

6 Any ((fireman)) firefighter who has completed his or her
7 probationary period and has been permanently appointed, and sustains a
8 disability not in the performance of his or her duty which renders him
9 or her unable to continue his or her service, may request to be retired
10 by filing a written request with his or her retirement board within
11 sixty days from the date of his or her disability. The board may, upon
12 such request being filed, consult such medical advice as it deems fit
13 and proper. If the board finds the ((fireman)) firefighter capable of
14 performing his or her duties, it may refuse to recommend retirement and
15 order the ((fireman)) firefighter back to duty. If no request for
16 retirement has been received after the expiration of sixty days from
17 the date of his or her disability, the board may recommend retirement
18 of the ((fireman)) firefighter. The board shall give the ((fireman))
19 firefighter a thirty-day written notice of its recommendation, and he
20 or she shall be retired upon expiration of said notice. Upon
21 retirement he or she shall receive a pension equal to fifty percent of
22 his or her basic salary. For a period of ninety days following such
23 disability the ((fireman)) firefighter shall receive an allowance from
24 the fund equal to his or her basic salary. He or she shall during said
25 ninety days be provided with such medical, hospital, and nursing care
26 as the board deems proper. No funds shall be expended for such
27 disability if the board determines that the ((fireman)) firefighter was
28 gainfully employed or engaged for compensation in other than fire
29 department duty when the disability occurred, or if such disability was
30 the result of dissipation or abuse. Whenever any ((fireman))
31 firefighter shall die as a result of a disability sustained not in the
32 line of duty, his widow or her widower shall receive a monthly pension
33 equal to one-third of his or her basic salary until remarried; if such
34 widow or widower has dependent upon her or him for support a child or
35 children of such deceased ((fireman)) firefighter, he or she shall
36 receive an additional pension as follows: One child, one-eighth of the
37 deceased's basic salary; two children, one-seventh; three or more

1 children, one-sixth. If there be no widow or widower, monthly payments
2 equal to one-third of the deceased (~~fireman's~~) firefighter's basic
3 salary shall be made to his or her child or children. The widow or
4 widower may elect at any time in writing to receive a cash settlement,
5 and if the board after hearing finds it financially beneficial to the
6 pension fund, he or she may receive the sum of five thousand dollars
7 cash in lieu of all future monthly pension payments, and other
8 benefits, including benefits to any child and/or children.

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

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

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

34 In the event a (~~fireman~~) firefighter is killed in the performance
35 of duty, or in the event a (~~fireman~~) firefighter retired on account
36 of service connected disability shall die from any cause, his widow or

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

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

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

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

31 Any ((fireman)) firefighter who shall have served for a period of
32 less than twenty-five years, or who shall be less than fifty years of
33 age, and shall resign, or be dismissed from the fire department for a
34 reason other than conviction for a felony, shall be paid the amount of
35 his or her contributions to the fund plus earned interest: PROVIDED,
36 That in the case of any ((fireman)) firefighter who has completed

1 twenty years of service, such ((fireman)) firefighter, upon termination
2 for any cause except for a conviction of a felony, shall have the
3 option of electing, in lieu of recovery of his or her contributions as
4 herein provided, to be classified as a vested ((fireman)) firefighter
5 in accordance with the following provisions:

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

9 (2) During the period between the date of his or her termination
10 and the date upon which he or she becomes a retired ((fireman))
11 firefighter as hereinafter provided, such vested ((fireman))
12 firefighter and his or her spouse or dependent children shall be
13 entitled to all benefits available under chapter 41.18 RCW to a retired
14 ((fireman)) firefighter and his or her spouse or dependent children
15 with the exception of the service retirement allowance as herein
16 provided for: PROVIDED, That any claim for medical coverage under RCW
17 41.18.060 shall be attributable to service connected illness or injury;

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

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

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

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

34 Every person who was a member of the fire department at the time he
35 or she entered and served in the armed forces of the United States in
36 time of war, whether as a draftee, or inductee, and who shall have been

1 discharged from such armed forces under conditions other than
2 dishonorable, shall have added and accredited to his or her period of
3 employment as a (~~fireman~~) firefighter his or her period of war or
4 peacetime service in the armed forces: PROVIDED, That such added and
5 accredited service shall not as to any individual exceed five years.

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

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

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

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

34 No such person shall have added and accredited to his or her period
35 of employment as a (~~fireman~~) firefighter his or her period of service
36 with said private enterprise unless he, she, or a third party shall pay

1 to the municipality his or her contribution for the period of such
2 service with the private enterprise at the rate provided in RCW
3 41.18.030, or, if he or she shall be entitled to any private pension or
4 retirement benefits as a result of such service with the private
5 enterprise, unless he or she agrees at the time of his or her
6 employment by the municipality to accept a reduction in the payment of
7 any benefits payable under this chapter that are based in whole or in
8 part on such added and accredited service by the amount of those
9 private pension or retirement benefits received. For the purposes of
10 RCW 41.18.030, the date of entry of service shall be deemed the date of
11 entry into service with the private enterprise, which service is
12 accredited by this section, and the amount of contributions for the
13 period of accredited service shall be based on the wages or salary of
14 such person during that added and accredited period of service with the
15 private enterprise.

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

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

22 The provisions of this chapter governing contributions, pensions,
23 and benefits shall have exclusive application (1) to (~~firemen~~)
24 firefighters as defined in this chapter hereafter becoming members of
25 a fire department, (2) to (~~firemen~~) firefighters as defined in this
26 chapter heretofore employed in a department who have not otherwise
27 elected as provided for in RCW 41.18.160, and (3) to (~~firemen~~)
28 firefighters on disability retirement under chapter 41.16 RCW, at the
29 effective date of this chapter, who thereafter shall have been returned
30 to active duty by the retirement board, and who have not otherwise
31 elected as provided for in RCW 41.18.160 within sixty days after return
32 to active duty.

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

35 Any (~~fireman~~) firefighter who has made contributions under any
36 prior act may elect to avail himself or herself of the benefits

1 provided by this chapter or under such prior act by filing written
2 notice with the board within sixty days from the effective date of this
3 1961 amendatory act: PROVIDED, That any ((fireman)) firefighter who
4 has received refunds by reason of selecting the benefits of prior acts
5 shall return the amount of such refunds as a condition to coverage
6 under this 1961 amendatory act.

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

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

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

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

29 Upon the receipt of such request, the transfer of membership to the
30 city's ((fireman's)) firefighter's pension system shall be made,
31 together with a transfer of all accumulated contributions credited to
32 such member. The board of administration shall transmit to the
33 municipal ((fireman's)) firefighters' pension board a record of service
34 credited to such member which shall be computed and credited to such
35 member as a part of his or her period of employment in the city's
36 ((fireman's)) firefighter's pension system. For the purpose of the

1 transfer contemplated by this section, those affected individuals who
2 have formerly withdrawn funds from the city employees' retirement
3 system shall be allowed to restore contributions withdrawn from that
4 retirement system directly to the ((fireman's)) firefighter's pension
5 system and receive credit in the ((fireman's)) firefighter's pension
6 system for their former membership service in the prior system.

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

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

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

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

18 RCW 9.40.120, as now or hereafter amended, shall not prohibit the
19 authorized use or possession of any material, substance, or device
20 described therein by a member of the armed forces of the United States
21 or by ((firemen)) firefighters, or peace officers, nor shall these
22 sections prohibit the use or possession of any material, substance, or
23 device described therein when used solely for scientific research or
24 educational purposes or for any lawful purpose. RCW 9.40.120, as now
25 or hereafter amended, shall not prohibit the manufacture or disposal of
26 an incendiary device for the parties or purposes described in this
27 section.

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

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

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

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

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

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

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

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

6 The following conditions apply to solicitations as defined by RCW
7 19.09.020:

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

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

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

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

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

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

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

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

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

1 required in subsection (1) or (2) of this section, whichever is
2 applicable.

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

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

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

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

13 (5) A container or vending machine displaying a solicitation must
14 also display in a clear and conspicuous manner the name of the
15 charitable organization for which funds are solicited, the name,
16 business address, and telephone number of the individual and any
17 commercial fund raiser responsible for collecting funds placed in the
18 containers or vending machines, and the following statement: "This
19 charity is currently registered with the secretary's office under the
20 charitable solicitation act, registration number"

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

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

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

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

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

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

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

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

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

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

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

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

37 (11) A charitable organization shall comply with all local

1 governmental regulations that apply to soliciting for or on behalf of
2 charitable organizations.

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

6 (13) Solicitations shall not be conducted by a charitable
7 organization or commercial fund raiser that has, or if a corporation,
8 its officers, directors, or principals have, been convicted of a crime
9 involving solicitations for or on behalf of a charitable organization
10 in this state, the United States, or any other state or foreign country
11 within the past ten years or has been subject to any permanent
12 injunction or administrative order or judgment under RCW 19.86.080 or
13 19.86.090, involving a violation or violations of RCW 19.86.020, within
14 the past ten years, or of restraining a false or misleading promotional
15 plan involving solicitations for charitable organizations.

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

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

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

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

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

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

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

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

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

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

33 Such body may adopt and enforce ordinances of all kinds relating to
34 and regulating its local or municipal affairs and appropriate to the
35 good government of the city, and may impose penalties of fine not
36 exceeding five thousand dollars or imprisonment for any term not
37 exceeding one year, or both, for the violation of such ordinances,

1 constituting a misdemeanor or gross misdemeanor as provided therein.
2 However, the punishment for any criminal ordinance shall be the same as
3 the punishment provided in state law for the same crime. Such a body
4 alternatively may provide that violation of such ordinances constitutes
5 a civil violation subject to monetary penalty, but no act which is a
6 state crime may be made a civil violation.

7 The legislative body of each code city shall have all powers
8 possible for a city or town to have under the Constitution of this
9 state, and not specifically denied to code cities by law. By way of
10 illustration and not in limitation, such powers may be exercised in
11 regard to the acquisition, sale, ownership, improvement, maintenance,
12 protection, restoration, regulation, use, leasing, disposition,
13 vacation, abandonment or beautification of public ways, real property
14 of all kinds, waterways, structures, or any other improvement or use of
15 real or personal property, in regard to all aspects of collective
16 bargaining as provided for and subject to the provisions of chapter
17 41.56 RCW, as now or hereafter amended, and in the rendering of local
18 social, cultural, recreational, educational, governmental, or corporate
19 services, including operating and supplying of utilities and municipal
20 services commonly or conveniently rendered by cities or towns.

21 In addition and not in limitation, the legislative body of each
22 code city shall have any authority ever given to any class of
23 municipality or to all municipalities of this state before or after the
24 enactment of this title, such authority to be exercised in the manner
25 provided, if any, by the granting statute, when not in conflict with
26 this title. Within constitutional limitations, legislative bodies of
27 code cities shall have within their territorial limits all powers of
28 taxation for local purposes except those which are expressly preempted
29 by the state as provided in RCW 66.08.120, 82.36.440, 48.14.020, and
30 48.14.080.

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

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

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

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

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

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

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

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

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

1 other expenses growing out of the regulating and licensing of the
2 riding of bicycles and other vehicles and the construction, maintenance
3 and regulation of the use of bicycle paths and roadways.

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

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

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

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

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

34 (1) The governor is hereby authorized to enter on behalf of the
35 state into an agreement with the secretary of health, education, and

1 welfare consistent with the terms and provisions of this chapter, for
2 the purpose of extending the benefits of the federal old-age and
3 survivors insurance system to employees of the state or any political
4 subdivision not members of an existing retirement system, or to members
5 of a retirement system established by the state or by a political
6 subdivision thereof or by an institution of higher learning with
7 respect to services specified in such agreement which constitute
8 "employment" as defined in RCW 41.48.020. Such agreement may contain
9 such provisions relating to coverage, benefits, contributions,
10 effective date, modification and termination of the agreement,
11 administration, and other appropriate provisions as the governor and
12 secretary of health, education, and welfare shall agree upon, but,
13 except as may be otherwise required by or under the social security act
14 as to the services to be covered, such agreement shall provide in
15 effect that--

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

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

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

33 (d) All services which constitute employment as defined in RCW
34 41.48.020 and are performed in the employ of the state by employees of
35 the state, shall be covered by the agreement;

36 (e) All services which (i) constitute employment as defined in RCW
37 41.48.020, (ii) are performed in the employ of a political subdivision

1 of the state, and (iii) are covered by a plan which is in conformity
2 with the terms of the agreement and has been approved by the governor
3 under RCW 41.48.050, shall be covered by the agreement; and

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

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

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

28 (2) Any instrumentality jointly created by this state and any other
29 state or states is hereby authorized, upon the granting of like
30 authority by such other state or states, (a) to enter into an agreement
31 with the secretary of health, education, and welfare whereby the
32 benefits of the federal old-age and survivors insurance system shall be
33 extended to employees of such instrumentality, (b) to require its
34 employees to pay (and for that purpose to deduct from their wages)
35 contributions equal to the amounts which they would be required to pay
36 under RCW 41.48.040(1) if they were covered by an agreement made
37 pursuant to subsection (1) of this section, and (c) to make payments to
38 the secretary of the treasury in accordance with such agreement,

1 including payments from its own funds, and otherwise to comply with
2 such agreements. Such agreement shall, to the extent practicable, be
3 consistent with the terms and provisions of subsection (1) and other
4 provisions of this chapter.

5 (3) The governor is empowered to authorize a referendum, and to
6 designate an agency or individual to supervise its conduct, in
7 accordance with the requirements of section 218(d)(3) of the social
8 security act, and subsection (4) of this section on the question of
9 whether service in all positions covered by a retirement system
10 established by the state or by a political subdivision thereof should
11 be excluded from or included under an agreement under this chapter. If
12 a retirement system covers positions of employees of the state of
13 Washington, of the institutions of higher learning, and positions of
14 employees of one or more of the political subdivisions of the state,
15 then for the purpose of the referendum as provided herein, there may be
16 deemed to be a separate retirement system with respect to employees of
17 the state, or any one or more of the political subdivisions, or
18 institutions of higher learning and the governor shall authorize a
19 referendum upon request of the subdivisions' or institutions' of higher
20 learning governing body: PROVIDED HOWEVER, That if a referendum of
21 state employees generally fails to produce a favorable majority vote
22 then the governor may authorize a referendum covering positions of
23 employees in any state department who are compensated in whole or in
24 part from grants made to this state under title III of the federal
25 social security act: PROVIDED, That any city or town affiliated with
26 the statewide city employees retirement system organized under chapter
27 41.44 RCW may at its option agree to a plan submitted by the board of
28 trustees of said statewide city employees retirement system for
29 inclusion under an agreement under this chapter if the referendum to be
30 held as provided herein indicates a favorable result: PROVIDED
31 FURTHER, That the teachers' retirement system be considered one system
32 for the purpose of the referendum except as applied to the several
33 colleges of education. The notice of referendum required by section
34 218(d)(3)(C) of the social security act to be given to employees shall
35 contain or shall be accompanied by a statement, in such form and such
36 detail as the agency or individual designated to supervise the
37 referendum shall deem necessary and sufficient, to inform the employees

1 of the rights which will accrue to them and their dependents and
2 survivors, and the liabilities to which they will be subject, if their
3 services are included under an agreement under this chapter.

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

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

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

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

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

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

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

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

32 (6) If the legislative body of any political subdivision of this
33 state certifies to the governor that a referendum has been held under
34 the terms of RCW 41.48.050(1)(i) and gives notice to the governor of
35 termination of social security for any coverage group of the political
36 subdivision, the governor shall give two years advance notice in
37 writing to the federal department of health, education, and welfare of

1 such termination of the agreement entered into under this section with
2 respect to said coverage group.

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

5 ((Firemen)) Firefighters, when approved by the chief of their
6 respective service, shall be authorized to use a green light on the
7 front of their private cars when on emergency duty only. Such green
8 light shall be visible for a distance of two hundred feet under normal
9 atmospheric conditions and shall be of a type and mounting approved by
10 the Washington state patrol. The use of the green light shall only be
11 for the purpose of identification and the operator of a vehicle so
12 equipped shall not be entitled to any of the privileges provided in RCW
13 46.61.035 for the operators of authorized emergency vehicles.

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

16 No common carrier shall charge, demand, collect or receive a
17 greater or less or different compensation for transportation of persons
18 or property, or for any service in connection therewith, than the
19 rates, fares and charges applicable to such transportation as specified
20 in its schedules filed and in effect at the time; nor shall any such
21 carrier refund or remit in any manner or by any device any portion of
22 the rates, fares, or charges so specified excepting upon order of the
23 commission as hereinafter provided, nor extend to any shipper or person
24 any privileges or facilities in the transportation of passengers or
25 property except such as are regularly and uniformly extended to all
26 persons and corporations under like circumstances. No common carrier
27 shall, directly or indirectly, issue or give any free ticket, free pass
28 or free or reduced transportation for passengers between points within
29 this state, except its employees and their families, surgeons and
30 physicians and their families, its officers, agents and attorneys at
31 law; to ministers of religion, traveling secretaries of railroad Young
32 Men's Christian Associations, inmates of hospitals, charitable and
33 eleemosynary institutions and persons exclusively engaged in charitable
34 and eleemosynary work; to indigent, destitute and homeless persons and
35 to such persons when transported by charitable societies or hospitals,
36 and the necessary agents employed in such transportation; to inmates of

1 the national homes or state homes for disabled volunteer soldiers and
2 of soldiers' and sailors' homes, including those about to enter and
3 those returning home after discharge; to necessary caretakers of
4 livestock, poultry, milk and fruit; to employees of sleeping car
5 companies, express companies, and to (~~linemen~~) lineworkers of
6 telegraph and telephone companies; to railway mail service employees,
7 post office inspectors, customs inspectors and immigration inspectors;
8 to (~~newsboys~~) newspaper delivery persons on trains; baggage agents,
9 witnesses attending any legal investigation in which the common carrier
10 is interested; to persons injured in accidents or wrecks and physicians
11 and nurses attending such persons; to the National Guard of Washington
12 when on official duty, and students going to and returning from state
13 institutions of learning: PROVIDED, That this provision shall not be
14 construed to prohibit the interchange of passes for the officers,
15 attorneys, agents and employees and their families, of railroad
16 companies, steamboat companies, express companies and sleeping car
17 companies with other railroad companies, steamboat companies, express
18 companies and sleeping car companies, nor to prohibit any common
19 carrier from carrying passengers free with the object of providing
20 relief in cases of general epidemic, pestilence, or other calamitous
21 visitation: AND PROVIDED, FURTHER, That this provision shall not be
22 construed to prohibit the exchange of passes or franks for the
23 officers, attorneys, agents, employees, and their families of such
24 telegraph, telephone and cable lines, and the officers, attorneys,
25 agents, employees, and their families of other telegraph, telephone or
26 cable lines, or with railroad companies, express companies or sleeping
27 car companies: PROVIDED, FURTHER, That the term "employee" as used in
28 this section shall include furloughed, pensioned, and superannuated
29 employees, persons who have become disabled or infirm in the service of
30 any such common carrier, and the remains of a person killed or dying in
31 the employment of a carrier, those entering or leaving its service and
32 ex-employees traveling for the purpose of entering the service of any
33 such common carrier; and the term "families" as used in this section
34 shall include the families of those persons named in this proviso, also
35 the families of persons killed and the surviving spouses prior to
36 remarriage and minor children during minority, of persons who died
37 while in the service of any such common carrier: AND PROVIDED,
38 FURTHER, That nothing herein contained shall prevent the issuance of

1 mileage, commutation tickets or excursion passenger tickets: AND
2 PROVIDED, FURTHER, That nothing in this section shall be construed to
3 prevent the issuance of free or reduced transportation by any street
4 railroad company for mail carriers, or ((~~police men~~)) police officers or
5 members of fire departments, city officers, and employees when engaged
6 in the performance of their duties as such city employees.

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

14 Nothing in this title shall be construed to prohibit the making of
15 a special contract providing for the mutual exchange of service between
16 any railroad company and any telegraph or telephone company, where the
17 line of such telegraph or telephone company is situated upon or along
18 the railroad right of way and used by both of such companies.

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

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

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

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

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

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

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

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

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

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

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

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

24 The plaintiff or defendant at any time, upon two days' notice to
25 the adverse party, may apply to the court or any judge thereof for an
26 order raising or lowering the amount of any bond in this chapter
27 provided for. Either party may, upon like notice, apply to the court
28 or any judge thereof for an order requiring additional or other surety
29 or sureties upon any such bond. Upon the hearing or any application
30 made under the provisions of this section evidence may be given. The
31 judge after hearing any such application shall make such an order as
32 shall be just in the premises. The ((~~bondsmen~~)) bondspersons may be
33 required to be present at such hearing if so required in the notice
34 thereof, and shall answer under oath all questions that may be asked
35 them touching their qualifications as ((~~bondsmen~~)) bondspersons, and in
36 the event the ((~~bondsmen~~)) bondspersons shall fail or refuse to appear

1 at such hearing and so answer such questions the bond shall be
2 stricken. In the event the court shall order a new or additional bond
3 to be furnished by defendant, and the same shall not be given within
4 twenty-four hours, the court shall order the sheriff to forthwith
5 execute the writ. In the event the defendant shall file a second or
6 additional bond and it shall also be found insufficient after hearing,
7 as above provided, the right to retain the premises by bond shall be
8 lost and the sheriff shall forthwith put the plaintiff in possession of
9 the premises.

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

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

1 that unless such amount is paid on or before the time fixed in the
2 notice the property will be sold in accordance with law.

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

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

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

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

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

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

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

4 (5) Any other matter deemed material.

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

7 The petition must be accompanied by a good and sufficient bond, to
8 be approved by the board of county commissioners, in double the amount
9 of the probable cost of organizing the district, and conditioned that
10 the ((~~bondsmen~~)) bondspersons will pay all of the cost in case such
11 organization shall not be effected. Said petition shall be presented
12 at a regular meeting of the said board, or at any special meeting
13 ordered to consider and act upon said petition, and shall be published
14 once a week, for at least two weeks (three issues) before the time at
15 which the same is to be presented, in some newspaper of general
16 circulation printed and published in the county where said petition is
17 to be presented, together with a notice signed by the clerk of the
18 board of county commissioners stating the time of the meeting at which
19 the same will be presented. There shall also be published a notice of
20 the hearing on said petition in a newspaper published at Olympia,
21 Washington, to be designated by the director of ecology from year to
22 year, which said notice shall be published for at least two weeks
23 (three issues) prior to the date of said meeting and shall contain the
24 name of the county or counties and the number of each township and
25 range in which the lands embraced within the boundaries of the proposed
26 district are situated, also the time, place and purpose for said
27 meeting, which said notice shall be signed by the petitioner whose name
28 first appears upon the said petition. If any portion of the lands
29 within said proposed district lie within another county or counties,
30 then the said petition and notice shall be published for the time above
31 provided in one newspaper printed and published in each of said
32 counties. The said notice, together with a map of the district, shall
33 also be served by registered mail at least thirty days before the said
34 hearing upon the state director of ecology at Olympia, Washington, who
35 shall, at the expense of the district in case it is later organized,
36 otherwise at the expense of the petitioners' ((~~bondsmen~~)) bondspersons,
37 make such investigation of the sufficiency of the source and supply of
38 water for the purposes of the proposed district, as he or she may deem

1 necessary, and file a report of his or her findings, together with a
2 statement of his or her costs, with the board of county commissioners
3 at or prior to the time set for said hearing. When the petition is
4 presented, the board of county commissioners shall hear the same, shall
5 receive such evidence as it may deem material, and may adjourn such
6 hearing from time to time, not exceeding four weeks in all, and on the
7 final hearing shall establish and define the boundaries of the district
8 along such lines as in the judgment of the board will best reclaim the
9 lands involved and enter an order to that effect: PROVIDED, That said
10 board shall not modify the boundaries so as to except from the
11 operation of the district any territory within the boundaries outlined
12 in the petition, which is susceptible of irrigation by the same system
13 of works applicable to other lands in such proposed district and for
14 which a water supply is available; nor shall any lands which, in the
15 judgment of said board, will not be benefited, be included within such
16 district; any lands included within any district, which have a partial
17 or full water right shall be given equitable credit therefor in the
18 apportionment of the assessments in this act provided for: AND
19 PROVIDED FURTHER, That any owner, whose lands are susceptible of
20 irrigation from the same source, and in the judgment of the board it is
21 practicable to irrigate the same by the proposed district system,
22 shall, upon application to the board at the time of the hearing, be
23 entitled to have such lands included in the district.

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

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

1 cast ballots which shall contain the words "Irrigation District--Yes,"
2 and "Irrigation District--No," and also the names of persons to be
3 voted for as directors of the district: PROVIDED, That where in this
4 act publication is required to be made in a newspaper of any county,
5 the same may be made in a newspaper of general circulation in such
6 county, selected by the person or body charged with making the
7 publication and such newspaper shall be the official paper for such
8 purpose.

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

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

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

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

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

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

31 Rule 1. No wire or cable, except the neutral, carrying a current
32 of less than seven hundred fifty volts of electricity within the
33 corporate limits of any city or town shall be run, placed, erected,
34 maintained or used on any insulator the center of which is less than
35 thirteen inches from the center line of any pole. And no such wire,
36 except the neutral, shall be run past any pole to which it is not

1 attached at a distance of less than thirteen inches from the center
2 line thereof. This rule shall not apply to any wire or cable where the
3 same is run from under ground and placed vertically on the pole; nor to
4 any wire or cable where the same is attached to the top of the pole;
5 nor to a pole top fixture as between it and the same pole; nor to any
6 wire or cable between the points where the same is made to leave any
7 pole or fixture thereon for the purpose of entering any building or
8 other structure and the point of attachment to such building or
9 structure; nor to any jumper wire or cable carrying a current or
10 connected with a transformer or other appliance on the same pole; nor
11 to bridle or jumper wires on any pole which are attached to or
12 connected with signal wires on the same pole; nor to any aerial cable
13 as between such cable and any pole upon which it originates or
14 terminates; nor to exclusive telephone or telegraph toll lines; nor to
15 aerial cables containing telephone, telegraph, or signal wires, or
16 wires continuing from same, where the cable is attached to poles on
17 which no wires or cables other than the wires continuing from said
18 cable are maintained, provided, that electric light or power wires or
19 cables are in no case maintained on the same side of the street or
20 highway on which said aerial cable is placed.

21 Rule 2. No wire or cable used to carry a current of over seven
22 hundred fifty volts of electricity within the incorporate limits of any
23 city or town shall be run, placed, erected, maintained or used on any
24 insulator the center of which is nearer than twenty-four inches to the
25 center line of any pole. And no such wire or cable shall be run past
26 any pole to which it is not attached at a distance of less than twenty-
27 four inches from the center line thereof: PROVIDED, That this shall
28 not apply to any wire or cable where the same is run from under ground
29 and placed vertically on the pole; nor to any wire or cable where the
30 same is attached to the top of the pole; nor to a pole top fixture, as
31 between it and the same pole; nor to any wire or cable between the
32 points where the same is made to leave any pole or fixture thereon for
33 the purpose of entering any building or other structure, and the point
34 of attachment to said building or structure; nor to any jumper wire or
35 cable carrying a current or connected with transformers or other
36 appliances on the same pole: PROVIDED FURTHER, That where said wire or
37 cable is run vertically, it shall be rigidly supported and where
38 possible run on the ends of the cross-arms.

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

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

1 less than three feet from any line carrying a voltage of less than
2 seven hundred and fifty volts.

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

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

21 Rule 7. The neutral point or wire of all transformer secondaries
22 strung or erected for use in low potential distributing systems shall
23 be grounded in all cases where the normal maximum difference of
24 potential between the ground and any point in the secondary circuit
25 will not exceed one hundred and fifty volts. When no neutral point or
26 wire is accessible one side of the secondary circuit shall be grounded
27 in the case of single phase transformers, and any one common point in
28 the case of interconnected polyphase bank or banks of transformers.
29 Where the maximum difference of potential between the ground and any
30 point in the secondary circuit will, when grounded, exceed one hundred
31 fifty volts, grounding shall be permitted. Such grounding shall be
32 done in the manner provided in Rule 30.

33 Rule 8. In all cases where a wire or cable larger than No. 14
34 B.W.G. originates or terminates on insulators attached to any pin or
35 other appliance, said wire or cable shall be attached to at least two
36 insulators: PROVIDED HOWEVER, That this section shall not apply to
37 service wires to buildings; nor to wires run vertically on a pole; nor

1 to wires originating or terminating on strain insulators or circuit
2 breakers; nor to telephone, telegraph or signal wires outside the
3 limits of any incorporated city or town.

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

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

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

36 Rule 12. At all points where in case of a breakdown of trolley
37 span wires, the trolley wire would be liable to drop within seven feet

1 of the ground, there shall be double span wires and hangers placed at
2 such points.

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

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

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

19 Rule 16. Suitable insulated platforms or mats shall be provided
20 for the use of all persons while working on any live part of
21 switchboards on which any wire or appliance carries a potential in
22 excess of three hundred volts.

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

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

34 Rule 19. All switches installed with overload protection devices,
35 and all automatic overload circuit breakers must have the trip coils so
36 adjusted as to afford complete protection against overloads and short
37 circuits, and the same must be so arranged that no pole can be opened

1 manually without opening all the poles, and the trip coils shall be
2 instantly operative upon closing.

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

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

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

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

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

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

37 Rule 26. No manhole shall have an opening which is, at the surface
38 of the ground, within a distance of three feet at any point from any

1 rail of any railway or street car track: PROVIDED, That this shall not
2 apply where satisfactory proof shall be submitted to the proper
3 authorities that it is impracticable or physically impossible to comply
4 with the provisions of this paragraph: PROVIDED, That in complying
5 with the provisions of this rule only the construction last in point of
6 time performed, placed or erected shall be held to be in violation
7 thereof.

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

13 Rule 28. All persons employed in manholes shall be furnished with
14 insulated platforms so as to protect the workers while at work in the
15 manholes: PROVIDED, That this paragraph shall not apply to manholes
16 containing only telephone, telegraph or signal wires or cables.

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

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

33 Rule 30. The grounding provided for in these rules shall be done
34 in the following manner: By connecting a wire or wires not less than
35 No. 6 B.&S. gauge to a water pipe of a metallic system outside of the
36 meter, if there is one, or to a copper plate one-sixteenth inch thick
37 and not less than three feet by six feet area buried in coke below the
38 permanent moisture level, or to other device equally as efficient. The

1 ground wire or wires of a direct current system of three or more wires
2 shall not be smaller than the neutral wire at the central station, and
3 not smaller than a No. 6 B.&S. gauge elsewhere: PROVIDED, That the
4 maximum cross section area of any ground wire or wires at the central
5 station need not exceed one million circular mils. The ground wires
6 shall be carried in as nearly a straight line as possible, and kinks,
7 coils and short bends shall be avoided: PROVIDED, That the provisions
8 of this rule shall not apply as to size to ground wires run from
9 instrument transformers or meters.

10 **Sec. 82.** RCW 81.40.095 and 1961 c 14 s 81.40.095 are each amended
11 to read as follows:

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

18 **Sec. 83.** RCW 19.28.261 and 2003 c 399 s 302 are each amended to
19 read as follows:

20 (1) Nothing in RCW 19.28.161 through 19.28.271 shall be construed
21 to require that a person obtain a license or a certified electrician in
22 order to do electrical work at his or her residence or farm or place of
23 business or on other property owned by him or her unless the electrical
24 work is on the construction of a new building intended for rent, sale,
25 or lease. However, if the construction is of a new residential
26 building with up to four units intended for rent, sale, or lease, the
27 owner may receive an exemption from the requirement to obtain a license
28 or use a certified electrician if he or she provides a signed affidavit
29 to the department stating that he or she will be performing the work
30 and will occupy one of the units as his or her principal residence.
31 The owner shall apply to the department for this exemption and may only
32 receive an exemption once every twenty-four months. It is intended
33 that the owner receiving this exemption shall occupy the unit as his or
34 her principal residence for twenty-four months after completion of the
35 units.

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

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

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

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

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

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

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

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

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

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

5 **Sec. 84.** RCW 19.28.321 and 2001 c 211 s 21 are each amended to
6 read as follows:

7 The director of labor and industries of the state of Washington and
8 the officials of all incorporated cities and towns where electrical
9 inspections are required by local ordinances shall have power and it
10 shall be their duty to enforce the provisions of this chapter in their
11 respective jurisdictions. The director of labor and industries shall
12 appoint a chief electrical inspector and may appoint other electrical
13 inspectors as the director deems necessary to assist the director in
14 the performance of the director's duties. The chief electrical
15 inspector, subject to the review of the director, shall be responsible
16 for providing the final interpretation of adopted state electrical
17 standards, rules, and policies for the department and its inspectors,
18 assistant inspectors, electrical plan examiners, and other individuals
19 supervising electrical program personnel. If a dispute arises within
20 the department regarding the interpretation of adopted state electrical
21 standards, rules, or policies, the chief electrical inspector, subject
22 to the review of the director, shall provide the final interpretation
23 of the disputed standard, rule, or policy. All electrical inspectors
24 appointed by the director of labor and industries shall have not less
25 than: Four years experience as ((~~journeyman~~)) journeyperson
26 electricians in the electrical construction trade installing and
27 maintaining electrical wiring and equipment, or two years electrical
28 training in a college of electrical engineering of recognized standing
29 and four years continuous practical electrical experience in
30 installation work, or four years of electrical training in a college of
31 electrical engineering of recognized standing and two years continuous
32 practical electrical experience in electrical installation work; or
33 four years experience as a ((~~journeyman~~)) journeyperson electrician
34 performing the duties of an electrical inspector employed by the
35 department or a city or town with an approved inspection program under
36 RCW 19.28.141, except that for work performed in accordance with the
37 national electrical safety code and covered by this chapter, such

1 inspections may be performed by a person certified as an outside
2 (~~journeyman—lineman~~) journeyperson lineworker, under RCW
3 19.28.261(~~(+2)~~) (5)(b), with four years experience or a person with
4 four years experience as a certified outside (~~journeyman—lineman~~)
5 journeyperson lineworker performing the duties of an electrical
6 inspector employed by an electrical utility. Such state inspectors
7 shall be paid such salary as the director of labor and industries shall
8 determine, together with their travel expenses in accordance with RCW
9 43.03.050 and 43.03.060 as now existing or hereafter amended. As a
10 condition of employment, inspectors hired exclusively to perform
11 inspections in accordance with the national electrical safety code must
12 possess and maintain certification as an outside (~~journeyman—lineman~~)
13 journeyperson lineworker. The expenses of the director of labor and
14 industries and the salaries and expenses of state inspectors incurred
15 in carrying out the provisions of this chapter shall be paid entirely
16 out of the electrical license fund, upon vouchers approved by the
17 director of labor and industries.

18 **Sec. 85.** RCW 50.04.240 and 1945 c 35 s 25 are each amended to read
19 as follows:

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

23 **Sec. 86.** RCW 28B.07.020 and 1985 c 370 s 47 are each amended to
24 read as follows:

25 As used in this chapter, the following words and terms shall have
26 the following meanings, unless the context otherwise requires:

27 (1) "Authority" means the Washington higher education facilities
28 authority created under RCW 28B.07.030 or any board, body, commission,
29 department or officer succeeding to the principal functions of the
30 authority or to whom the powers conferred upon the authority shall be
31 given by law.

32 (2) "Bonds" means bonds, notes, commercial paper, certificates of
33 indebtedness, or other evidences of indebtedness of the authority
34 issued under this chapter.

35 (3) "Bond resolution" means any resolution of the authority,
36 adopted under this chapter, authorizing the issuance and sale of bonds.

1 (4) "Higher education institution" means a private, nonprofit
2 educational institution, the main campus of which is permanently
3 situated in the state, which is open to residents of the state, which
4 neither restricts entry on racial or religious grounds, which provides
5 programs of education beyond high school leading at least to the
6 baccalaureate degree, and which is accredited by the Northwest
7 Association of Schools and Colleges or by an accrediting association
8 recognized by the higher education coordinating board.

9 (5) "Participant" means a higher education institution which, under
10 this chapter, undertakes the financing of a project or projects or
11 undertakes the refunding or refinancing of obligations, mortgages, or
12 advances previously incurred for a project or projects.

13 (6) "Project" means any land or any improvement, including, but not
14 limited to, buildings, structures, fixtures, utilities, machinery,
15 excavations, paving, and landscaping, and any interest in such land or
16 improvements, and any personal property pertaining or useful to such
17 land and improvements, which are necessary, useful, or convenient for
18 the operation of a higher education institution, including but not
19 limited to, the following: Dormitories or other multi-unit housing
20 facilities for students, faculty, officers, or employees; dining halls;
21 student unions; administration buildings; academic buildings;
22 libraries; laboratories; research facilities; computer facilities;
23 classrooms; athletic facilities; health care facilities; maintenance,
24 storage, or utility facilities; parking facilities; or any combination
25 thereof, or any other structures, facilities, or equipment so related.

26 (7) "Project cost" means any cost related to the acquisition,
27 construction, improvement, alteration, or rehabilitation by a
28 participant or the authority of any project and the financing of the
29 project through the authority, including, but not limited to, the
30 following costs paid or incurred: Costs of acquisition of land or
31 interests in land and any improvement; costs of contractors, builders,
32 laborers, (~~materialmen~~) material suppliers, and suppliers of tools
33 and equipment; costs of surety and performance bonds; fees and
34 disbursements of architects, surveyors, engineers, feasibility
35 consultants, accountants, attorneys, financial consultants, and other
36 professionals; interest on bonds issued by the authority during any
37 period of construction; principal of and interest on interim financing
38 of any project; debt service reserve funds; depreciation funds, costs

1 of the initial start-up operation of any project; fees for title
2 insurance, document recording, or filing; fees of trustees and the
3 authority; taxes and other governmental charges levied or assessed on
4 any project; and any other similar costs. Except as specifically set
5 forth in this definition, the term "project cost" does not include
6 books, fuel, supplies, and similar items which are required to be
7 treated as a current expense under generally accepted accounting
8 principles.

9 (8) "Trust indenture" means any agreement, trust indenture, or
10 other similar instrument by and between the authority and one or more
11 corporate trustees.

12 **Sec. 87.** RCW 39.04.155 and 2001 c 284 s 1 are each amended to read
13 as follows:

14 (1) This section provides uniform small works roster provisions to
15 award contracts for construction, building, renovation, remodeling,
16 alteration, repair, or improvement of real property that may be used by
17 state agencies and by any local government that is expressly authorized
18 to use these provisions. These provisions may be used in lieu of other
19 procedures to award contracts for such work with an estimated cost of
20 two hundred thousand dollars or less. The small works roster process
21 includes the limited public works process authorized under subsection
22 (3) of this section and any local government authorized to award
23 contracts using the small works roster process under this section may
24 award contracts using the limited public works process under subsection
25 (3) of this section.

26 (2)(a) A state agency or authorized local government may create a
27 single general small works roster, or may create a small works roster
28 for different specialties or categories of anticipated work. Where
29 applicable, small works rosters may make distinctions between
30 contractors based upon different geographic areas served by the
31 contractor. The small works roster or rosters shall consist of all
32 responsible contractors who have requested to be on the list, and where
33 required by law are properly licensed or registered to perform such
34 work in this state. A state agency or local government establishing a
35 small works roster or rosters may require eligible contractors desiring
36 to be placed on a roster or rosters to keep current records of any
37 applicable licenses, certifications, registrations, bonding, insurance,

1 or other appropriate matters on file with the state agency or local
2 government as a condition of being placed on a roster or rosters. At
3 least once a year, the state agency or local government shall publish
4 in a newspaper of general circulation within the jurisdiction a notice
5 of the existence of the roster or rosters and solicit the names of
6 contractors for such roster or rosters. In addition, responsible
7 contractors shall be added to an appropriate roster or rosters at any
8 time they submit a written request and necessary records. Master
9 contracts may be required to be signed that become effective when a
10 specific award is made using a small works roster.

11 (b) A state agency establishing a small works roster or rosters
12 shall adopt rules implementing this subsection. A local government
13 establishing a small works roster or rosters shall adopt an ordinance
14 or resolution implementing this subsection. Procedures included in
15 rules adopted by the department of general administration in
16 implementing this subsection must be included in any rules providing
17 for a small works roster or rosters that is adopted by another state
18 agency, if the authority for that state agency to engage in these
19 activities has been delegated to it by the department of general
20 administration under chapter 43.19 RCW. An interlocal contract or
21 agreement between two or more state agencies or local governments
22 establishing a small works roster or rosters to be used by the parties
23 to the agreement or contract must clearly identify the lead entity that
24 is responsible for implementing the provisions of this subsection.

25 (c) Procedures shall be established for securing telephone,
26 written, or electronic quotations from contractors on the appropriate
27 small works roster to assure that a competitive price is established
28 and to award contracts to the lowest responsible bidder, as defined in
29 RCW 43.19.1911. Invitations for quotations shall include an estimate
30 of the scope and nature of the work to be performed as well as
31 materials and equipment to be furnished. However, detailed plans and
32 specifications need not be included in the invitation. This subsection
33 does not eliminate other requirements for architectural or engineering
34 approvals as to quality and compliance with building codes. Quotations
35 may be invited from all appropriate contractors on the appropriate
36 small works roster. As an alternative, quotations may be invited from
37 at least five contractors on the appropriate small works roster who
38 have indicated the capability of performing the kind of work being

1 contracted, in a manner that will equitably distribute the opportunity
2 among the contractors on the appropriate roster. However, if the
3 estimated cost of the work is from one hundred thousand dollars to two
4 hundred thousand dollars, a state agency or local government, other
5 than a port district, that chooses to solicit bids from less than all
6 the appropriate contractors on the appropriate small works roster must
7 also notify the remaining contractors on the appropriate small works
8 roster that quotations on the work are being sought. The government
9 has the sole option of determining whether this notice to the remaining
10 contractors is made by: (i) Publishing notice in a legal newspaper in
11 general circulation in the area where the work is to be done; (ii)
12 mailing a notice to these contractors; or (iii) sending a notice to
13 these contractors by facsimile or other electronic means. For purposes
14 of this subsection (2)(c), "equitably distribute" means that a state
15 agency or local government soliciting bids may not favor certain
16 contractors on the appropriate small works roster over other
17 contractors on the appropriate small works roster who perform similar
18 services.

19 (d) A contract awarded from a small works roster under this section
20 need not be advertised.

21 (e) Immediately after an award is made, the bid quotations obtained
22 shall be recorded, open to public inspection, and available by
23 telephone inquiry.

24 (3) In lieu of awarding contracts under subsection (2) of this
25 section, a state agency or authorized local government may award a
26 contract for work, construction, alteration, repair, or improvement
27 (~~(project [projects])~~) projects estimated to cost less than thirty-five
28 thousand dollars using the limited public works process provided under
29 this subsection. Public works projects awarded under this subsection
30 are exempt from the other requirements of the small works roster
31 process provided under subsection (2) of this section and are exempt
32 from the requirement that contracts be awarded after advertisement as
33 provided under RCW 39.04.010.

34 For limited public works projects, a state agency or authorized
35 local government shall solicit electronic or written quotations from a
36 minimum of three contractors from the appropriate small works roster
37 and shall award the contract to the lowest responsible bidder as
38 defined under RCW 43.19.1911. After an award is made, the quotations

1 shall be open to public inspection and available by electronic request.
2 A state agency or authorized local government shall attempt to
3 distribute opportunities for limited public works projects equitably
4 among contractors willing to perform in the geographic area of the
5 work. A state agency or authorized local government shall maintain a
6 list of the contractors contacted and the contracts awarded during the
7 previous twenty-four months under the limited public works process,
8 including the name of the contractor, the contractor's registration
9 number, the amount of the contract, a brief description of the type of
10 work performed, and the date the contract was awarded. For limited
11 public works projects, a state agency or authorized local government
12 may waive the payment and performance bond requirements of chapter
13 39.08 RCW and the retainage requirements of chapter 60.28 RCW, thereby
14 assuming the liability for the contractor's nonpayment of laborers,
15 mechanics, subcontractors, (~~materialmen~~) material suppliers,
16 suppliers, and taxes imposed under Title 82 RCW that may be due from
17 the contractor for the limited public works project, however the state
18 agency or authorized local government shall have the right of recovery
19 against the contractor for any payments made on the contractor's
20 behalf.

21 (4) The breaking of any project into units or accomplishing any
22 projects by phases is prohibited if it is done for the purpose of
23 avoiding the maximum dollar amount of a contract that may be let using
24 the small works roster process or limited public works process.

25 (5) As used in this section, "state agency" means the department of
26 general administration, the state parks and recreation commission, the
27 department of natural resources, the department of fish and wildlife,
28 the department of transportation, any institution of higher education
29 as defined under RCW 28B.10.016, and any other state agency delegated
30 authority by the department of general administration to engage in
31 construction, building, renovation, remodeling, alteration,
32 improvement, or repair activities.

33 **Sec. 88.** RCW 39.08.010 and 1989 c 145 s 1 are each amended to read
34 as follows:

35 Whenever any board, council, commission, trustees, or body acting
36 for the state or any county or municipality or any public body shall
37 contract with any person or corporation to do any work for the state,

1 county, or municipality, or other public body, city, town, or district,
2 such board, council, commission, trustees, or body shall require the
3 person or persons with whom such contract is made to make, execute, and
4 deliver to such board, council, commission, trustees, or body a good
5 and sufficient bond, with a surety company as surety, conditioned that
6 such person or persons shall faithfully perform all the provisions of
7 such contract and pay all laborers, mechanics, and subcontractors and
8 (~~materialmen~~) material suppliers, and all persons who supply such
9 person or persons, or subcontractors, with provisions and supplies for
10 the carrying on of such work, which bond in cases of cities and towns
11 shall be filed with the clerk or comptroller thereof, and any person or
12 persons performing such services or furnishing material to any
13 subcontractor shall have the same right under the provisions of such
14 bond as if such work, services or material was furnished to the
15 original contractor: PROVIDED, HOWEVER, That the provisions of RCW
16 39.08.010 through 39.08.030 shall not apply to any money loaned or
17 advanced to any such contractor, subcontractor or other person in the
18 performance of any such work: PROVIDED FURTHER, That on contracts of
19 twenty-five thousand dollars or less, at the option of the contractor
20 the respective public entity may, in lieu of the bond, retain fifty
21 percent of the contract amount for a period of thirty days after date
22 of final acceptance, or until receipt of all necessary releases from
23 the department of revenue and the department of labor and industries
24 and settlement of any liens filed under chapter 60.28 RCW, whichever is
25 later: PROVIDED FURTHER, That for contracts of one hundred thousand
26 dollars or less, the public entity may accept a full payment and
27 performance bond from an individual surety or sureties: AND PROVIDED
28 FURTHER, That the surety must agree to be bound by the laws of the
29 state of Washington and subjected to the jurisdiction of the state of
30 Washington.

31 **Sec. 89.** RCW 39.08.030 and 2003 c 301 s 4 are each amended to read
32 as follows:

33 (1) The bond mentioned in RCW 39.08.010 shall be in an amount equal
34 to the full contract price agreed to be paid for such work or
35 improvement, except under subsection (2) of this section, and shall be
36 to the state of Washington, except as otherwise provided in RCW
37 39.08.100, and except in cases of cities and towns, in which cases such

1 municipalities may by general ordinance fix and determine the amount of
2 such bond and to whom such bond shall run: PROVIDED, The same shall
3 not be for a less amount than twenty-five percent of the contract price
4 of any such improvement, and may designate that the same shall be
5 payable to such city, and not to the state of Washington, and all such
6 persons mentioned in RCW 39.08.010 shall have a right of action in his,
7 her, or their own name or names on such bond for work done by such
8 laborers or mechanics, and for materials furnished or provisions and
9 goods supplied and furnished in the prosecution of such work, or the
10 making of such improvements: PROVIDED, That such persons shall not
11 have any right of action on such bond for any sum whatever, unless
12 within thirty days from and after the completion of the contract with
13 an acceptance of the work by the affirmative action of the board,
14 council, commission, trustees, officer, or body acting for the state,
15 county or municipality, or other public body, city, town or district,
16 the laborer, mechanic or subcontractor, or ((~~materialman~~)) material
17 supplier, or person claiming to have supplied materials, provisions or
18 goods for the prosecution of such work, or the making of such
19 improvement, shall present to and file with such board, council,
20 commission, trustees or body acting for the state, county or
21 municipality, or other public body, city, town or district, a notice in
22 writing in substance as follows:

23 To (here insert the name of the state, county or
24 municipality or other public body, city, town or district):
25 Notice is hereby given that the undersigned (here insert
26 the name of the laborer, mechanic or subcontractor, or
27 ((~~materialman~~)) material supplier, or person claiming to
28 have furnished labor, materials or provisions for or upon
29 such contract or work) has a claim in the sum of
30 dollars (here insert the amount) against the bond taken from
31 (here insert the name of the principal and surety or
32 sureties upon such bond) for the work of (here insert
33 a brief mention or description of the work concerning which
34 said bond was taken).

35 (here to be signed)

36 Such notice shall be signed by the person or corporation making the
37 claim or giving the notice, and said notice, after being presented and

1 filed, shall be a public record open to inspection by any person, and
2 in any suit or action brought against such surety or sureties by any
3 such person or corporation to recover for any of the items hereinbefore
4 specified, the claimant shall be entitled to recover in addition to all
5 other costs, attorney's fees in such sum as the court shall adjudge
6 reasonable: PROVIDED, HOWEVER, That no attorney's fees shall be
7 allowed in any suit or action brought or instituted before the
8 expiration of thirty days following the date of filing of the notice
9 hereinbefore mentioned: PROVIDED FURTHER, That any city may avail
10 itself of the provisions of RCW 39.08.010 through 39.08.030,
11 notwithstanding any charter provisions in conflict herewith: AND
12 PROVIDED FURTHER, That any city or town may impose any other or further
13 conditions and obligations in such bond as may be deemed necessary for
14 its proper protection in the fulfillment of the terms of the contract
15 secured thereby, and not in conflict herewith.

16 (2) Under the job order contracting procedure described in RCW
17 39.10.130, bonds will be in an amount not less than the dollar value of
18 all open work orders.

19 **Sec. 90.** RCW 47.28.030 and 1999 c 15 s 1 are each amended to read
20 as follows:

21 A state highway shall be constructed, altered, repaired, or
22 improved, and improvements located on property acquired for right of
23 way purposes may be repaired or renovated pending the use of such right
24 of way for highway purposes, by contract or state forces. The work or
25 portions thereof may be done by state forces when the estimated costs
26 thereof (~~(is [are])~~) are less than fifty thousand dollars and effective
27 July 1, 2005, sixty thousand dollars: PROVIDED, That when delay of
28 performance of such work would jeopardize a state highway or constitute
29 a danger to the traveling public, the work may be done by state forces
30 when the estimated cost thereof is less than eighty thousand dollars
31 and effective July 1, 2005, one hundred thousand dollars. When the
32 department of transportation determines to do the work by state forces,
33 it shall enter a statement upon its records to that effect, stating the
34 reasons therefor. To enable a larger number of small businesses, and
35 minority, and women contractors to effectively compete for department
36 of transportation contracts, the department may adopt rules providing
37 for bids and award of contracts for the performance of work, or

1 furnishing equipment, materials, supplies, or operating services
2 whenever any work is to be performed and the engineer's estimate
3 indicates the cost of the work would not exceed eighty thousand dollars
4 and effective July 1, 2005, one hundred thousand dollars. The rules
5 adopted under this section:

6 (1) Shall provide for competitive bids to the extent that
7 competitive sources are available except when delay of performance
8 would jeopardize life or property or inconvenience the traveling
9 public; and

10 (2) Need not require the furnishing of a bid deposit nor a
11 performance bond, but if a performance bond is not required then
12 progress payments to the contractor may be required to be made based on
13 submittal of paid invoices to substantiate proof that disbursements
14 have been made to laborers, ((~~materialmen~~)) material suppliers,
15 mechanics, and subcontractors from the previous partial payment; and

16 (3) May establish prequalification standards and procedures as an
17 alternative to those set forth in RCW 47.28.070, but the
18 prequalification standards and procedures under RCW 47.28.070 shall
19 always be sufficient.

20 The department of transportation shall comply with such goals and
21 rules as may be adopted by the office of minority and women's business
22 enterprises to implement chapter 39.19 RCW with respect to contracts
23 entered into under this chapter. The department may adopt such rules
24 as may be necessary to comply with the rules adopted by the office of
25 minority and women's business enterprises under chapter 39.19 RCW.

26 **Sec. 91.** RCW 60.28.010 and 1986 c 181 s 6 are each amended to read
27 as follows:

28 (1) Contracts for public improvements or work, other than for
29 professional services, by the state, or any county, city, town,
30 district, board, or other public body, herein referred to as "public
31 body", shall provide, and there shall be reserved by the public body
32 from the moneys earned by the contractor on estimates during the
33 progress of the improvement or work, a sum not to exceed five percent,
34 said sum to be retained by the state, county, city, town, district,
35 board, or other public body, as a trust fund for the protection and
36 payment of any person or persons, mechanic, subcontractor or
37 ((~~materialman~~)) material supplier who shall perform any labor upon such

1 contract or the doing of said work, and all persons who shall supply
2 such person or persons or subcontractors with provisions and supplies
3 for the carrying on of such work, and the state with respect to taxes
4 imposed pursuant to Title 82 RCW which may be due from such contractor.
5 Every person performing labor or furnishing supplies toward the
6 completion of said improvement or work shall have a lien upon said
7 moneys so reserved: PROVIDED, That such notice of the lien of such
8 claimant shall be given in the manner and within the time provided in
9 RCW 39.08.030 as now existing and in accordance with any amendments
10 that may hereafter be made thereto: PROVIDED FURTHER, That the board,
11 council, commission, trustees, officer or body acting for the state,
12 county or municipality or other public body; (a) at any time after
13 fifty percent of the original contract work has been completed, if it
14 finds that satisfactory progress is being made, may make any of the
15 partial payments which would otherwise be subsequently made in full;
16 but in no event shall the amount to be retained be reduced to less than
17 five percent of the amount of the moneys earned by the contractor:
18 PROVIDED, That the contractor may request that retainage be reduced to
19 one hundred percent of the value of the work remaining on the project;
20 and (b) thirty days after completion and acceptance of all contract
21 work other than landscaping, may release and pay in full the amounts
22 retained during the performance of the contract (other than continuing
23 retention of five percent of the moneys earned for landscaping) subject
24 to the provisions of RCW 60.28.020.

25 (2) The moneys reserved under the provisions of subsection (1) of
26 this section, at the option of the contractor, shall be:

27 (a) Retained in a fund by the public body until thirty days
28 following the final acceptance of said improvement or work as
29 completed;

30 (b) Deposited by the public body in an interest bearing account in
31 a bank, mutual savings bank, or savings and loan association, not
32 subject to withdrawal until after the final acceptance of said
33 improvement or work as completed, or until agreed to by both parties:
34 PROVIDED, That interest on such account shall be paid to the
35 contractor;

36 (c) Placed in escrow with a bank or trust company by the public
37 body until thirty days following the final acceptance of said
38 improvement or work as completed. When the moneys reserved are to be

1 placed in escrow, the public body shall issue a check representing the
2 sum of the moneys reserved payable to the bank or trust company and the
3 contractor jointly. Such check shall be converted into bonds and
4 securities chosen by the contractor and approved by the public body and
5 such bonds and securities shall be held in escrow. Interest on such
6 bonds and securities shall be paid to the contractor as the said
7 interest accrues.

8 (3) The contractor or subcontractor may withhold payment of not
9 more than five percent from the moneys earned by any subcontractor or
10 sub-subcontractor or supplier contracted with by the contractor to
11 provide labor, materials, or equipment to the public project. Whenever
12 the contractor or subcontractor reserves funds earned by a
13 subcontractor or sub-subcontractor or supplier, the contractor or
14 subcontractor shall pay interest to the subcontractor or sub-
15 subcontractor or supplier at a rate equal to that received by the
16 contractor or subcontractor from reserved funds.

17 (4) With the consent of the public body the contractor may submit
18 a bond for all or any portion of the amount of funds retained by the
19 public body in a form acceptable to the public body. Such bond and any
20 proceeds therefrom shall be made subject to all claims and liens and in
21 the same manner and priority as set forth for retained percentages in
22 this chapter. The public body shall release the bonded portion of the
23 retained funds to the contractor within thirty days of accepting the
24 bond from the contractor. Whenever a public body accepts a bond in
25 lieu of retained funds from a contractor, the contractor shall accept
26 like bonds from any subcontractors or suppliers from which the
27 contractor has retained funds. The contractor shall then release the
28 funds retained from the subcontractor or supplier to the subcontractor
29 or supplier within thirty days of accepting the bond from the
30 subcontractor or supplier.

31 (5) If the public body administering a contract, after a
32 substantial portion of the work has been completed, finds that an
33 unreasonable delay will occur in the completion of the remaining
34 portion of the contract for any reason not the result of a breach
35 thereof, it may, if the contractor agrees, delete from the contract the
36 remaining work and accept as final the improvement at the stage of
37 completion then attained and make payment in proportion to the amount
38 of the work accomplished and in such case any amounts retained and

1 accumulated under this section shall be held for a period of thirty
2 days following such acceptance. In the event that the work shall have
3 been terminated before final completion as provided in this section,
4 the public body may thereafter enter into a new contract with the same
5 contractor to perform the remaining work or improvement for an amount
6 equal to or less than the cost of the remaining work as was provided
7 for in the original contract without advertisement or bid. The
8 provisions of this chapter 60.28 RCW shall be deemed exclusive and
9 shall supersede all provisions and regulations in conflict herewith.

10 (6) Whenever the department of transportation has contracted for
11 the construction of two or more ferry vessels, thirty days after
12 completion and final acceptance of each ferry vessel, the department
13 may release and pay in full the amounts retained in connection with the
14 construction of such vessel subject to the provisions of RCW 60.28.020:
15 PROVIDED, That the department of transportation may at its discretion
16 condition the release of funds retained in connection with the
17 completed ferry upon the contractor delivering a good and sufficient
18 bond with two or more sureties, or with a surety company, in the amount
19 of the retained funds to be released to the contractor, conditioned
20 that no taxes shall be certified or claims filed for work on such ferry
21 after a period of thirty days following final acceptance of such ferry;
22 and if such taxes are certified or claims filed, recovery may be had on
23 such bond by the department of revenue and the (~~materialmen~~) material
24 suppliers and laborers filing claims.

25 (7) Contracts on projects funded in whole or in part by farmers
26 home administration and subject to farmers home administration
27 regulations shall not be subject to subsections (1) through (6) of this
28 section.

29 **Sec. 92.** RCW 60.28.011 and 2003 c 301 s 7 are each amended to read
30 as follows:

31 (1) Public improvement contracts shall provide, and public bodies
32 shall reserve, a contract retainage not to exceed five percent of the
33 moneys earned by the contractor as a trust fund for the protection and
34 payment of: (a) The claims of any person arising under the contract;
35 and (b) the state with respect to taxes imposed pursuant to Title 82
36 RCW which may be due from such contractor.

1 (2) Every person performing labor or furnishing supplies toward the
2 completion of a public improvement contract shall have a lien upon
3 moneys reserved by a public body under the provisions of a public
4 improvement contract. However, the notice of the lien of the claimant
5 shall be given within forty-five days of completion of the contract
6 work, and in the manner provided in RCW 39.08.030.

7 (3) The contractor at any time may request the contract retainage
8 be reduced to one hundred percent of the value of the work remaining on
9 the project.

10 (a) After completion of all contract work other than landscaping,
11 the contractor may request that the public body release and pay in full
12 the amounts retained during the performance of the contract, and sixty
13 days thereafter the public body must release and pay in full the
14 amounts retained (other than continuing retention of five percent of
15 the moneys earned for landscaping) subject to the provisions of
16 chapters 39.12 and 60.28 RCW.

17 (b) Sixty days after completion of all contract work the public
18 body must release and pay in full the amounts retained during the
19 performance of the contract subject to the provisions of chapters 39.12
20 and 60.28 RCW.

21 (4) The moneys reserved by a public body under the provisions of a
22 public improvement contract, at the option of the contractor, shall be:

23 (a) Retained in a fund by the public body;

24 (b) Deposited by the public body in an interest bearing account in
25 a bank, mutual savings bank, or savings and loan association. Interest
26 on moneys reserved by a public body under the provision of a public
27 improvement contract shall be paid to the contractor;

28 (c) Placed in escrow with a bank or trust company by the public
29 body. When the moneys reserved are placed in escrow, the public body
30 shall issue a check representing the sum of the moneys reserved payable
31 to the bank or trust company and the contractor jointly. This check
32 shall be converted into bonds and securities chosen by the contractor
33 and approved by the public body and the bonds and securities shall be
34 held in escrow. Interest on the bonds and securities shall be paid to
35 the contractor as the interest accrues.

36 (5) The contractor or subcontractor may withhold payment of not
37 more than five percent from the moneys earned by any subcontractor or
38 sub-subcontractor or supplier contracted with by the contractor to

1 provide labor, materials, or equipment to the public project. Whenever
2 the contractor or subcontractor reserves funds earned by a
3 subcontractor or sub-subcontractor or supplier, the contractor or
4 subcontractor shall pay interest to the subcontractor or sub-
5 subcontractor or supplier at a rate equal to that received by the
6 contractor or subcontractor from reserved funds.

7 (6) A contractor may submit a bond for all or any portion of the
8 contract retainage in a form acceptable to the public body and from a
9 bonding company meeting standards established by the public body. The
10 public body shall accept a bond meeting these requirements unless the
11 public body can demonstrate good cause for refusing to accept it. This
12 bond and any proceeds therefrom are subject to all claims and liens and
13 in the same manner and priority as set forth for retained percentages
14 in this chapter. The public body shall release the bonded portion of
15 the retained funds to the contractor within thirty days of accepting
16 the bond from the contractor. Whenever a public body accepts a bond in
17 lieu of retained funds from a contractor, the contractor shall accept
18 like bonds from any subcontractors or suppliers from which the
19 contractor has retained funds. The contractor shall then release the
20 funds retained from the subcontractor or supplier to the subcontractor
21 or supplier within thirty days of accepting the bond from the
22 subcontractor or supplier.

23 (7) If the public body administering a contract, after a
24 substantial portion of the work has been completed, finds that an
25 unreasonable delay will occur in the completion of the remaining
26 portion of the contract for any reason not the result of a breach
27 thereof, it may, if the contractor agrees, delete from the contract the
28 remaining work and accept as final the improvement at the stage of
29 completion then attained and make payment in proportion to the amount
30 of the work accomplished and in this case any amounts retained and
31 accumulated under this section shall be held for a period of sixty days
32 following the completion. In the event that the work is terminated
33 before final completion as provided in this section, the public body
34 may thereafter enter into a new contract with the same contractor to
35 perform the remaining work or improvement for an amount equal to or
36 less than the cost of the remaining work as was provided for in the
37 original contract without advertisement or bid. The provisions of this

1 chapter are exclusive and shall supersede all provisions and
2 regulations in conflict herewith.

3 (8) Whenever the department of transportation has contracted for
4 the construction of two or more ferry vessels, sixty days after
5 completion of all contract work on each ferry vessel, the department
6 must release and pay in full the amounts retained in connection with
7 the construction of the vessel subject to the provisions of RCW
8 60.28.020 and chapter 39.12 RCW. However, the department of
9 transportation may at its discretion condition the release of funds
10 retained in connection with the completed ferry upon the contractor
11 delivering a good and sufficient bond with two or more sureties, or
12 with a surety company, in the amount of the retained funds to be
13 released to the contractor, conditioned that no taxes shall be
14 certified or claims filed for work on the ferry after a period of sixty
15 days following completion of the ferry; and if taxes are certified or
16 claims filed, recovery may be had on the bond by the department of
17 revenue and the (~~materialmen~~) material suppliers and laborers filing
18 claims.

19 (9) Except as provided in subsection (1) of this section,
20 reservation by a public body for any purpose from the moneys earned by
21 a contractor by fulfilling its responsibilities under public
22 improvement contracts is prohibited.

23 (10) Contracts on projects funded in whole or in part by farmers
24 home administration and subject to farmers home administration
25 regulations are not subject to subsections (1) through (9) of this
26 section.

27 (11) This subsection applies only to a public body that has
28 contracted for the construction of a facility using the general
29 contractor/construction manager procedure, as defined under RCW
30 39.10.061. If the work performed by a subcontractor on the project has
31 been completed within the first half of the time provided in the
32 general contractor/construction manager contract for completing the
33 work, the public body may accept the completion of the subcontract.
34 The public body must give public notice of this acceptance. After a
35 forty-five day period for giving notice of liens, and compliance with
36 the retainage release procedures in RCW 60.28.021, the public body may
37 release that portion of the retained funds associated with the

1 subcontract. Claims against the retained funds after the forty-five
2 day period are not valid.

3 (12) Unless the context clearly requires otherwise, the definitions
4 in this subsection apply throughout this section.

5 (a) "Contract retainage" means an amount reserved by a public body
6 from the moneys earned by a person under a public improvement contract.

7 (b) "Person" means a person or persons, mechanic, subcontractor, or
8 materialperson who performs labor or provides materials for a public
9 improvement contract, and any other person who supplies the person with
10 provisions or supplies for the carrying on of a public improvement
11 contract.

12 (c) "Public body" means the state, or a county, city, town,
13 district, board, or other public body.

14 (d) "Public improvement contract" means a contract for public
15 improvements or work, other than for professional services, or a work
16 order as defined in RCW 39.10.020.

17 **Sec. 93.** RCW 60.28.020 and 1975 1st ex.s. c 104 s 2 are each
18 amended to read as follows:

19 After the expiration of the thirty day period, and after receipt of
20 the department of revenue's certificate, and the public body is
21 satisfied that the taxes certified as due or to become due by the
22 department of revenue are discharged, and the claims of (~~materialmen~~)
23 material suppliers and laborers who have filed their claims, together
24 with a sum sufficient to defray the cost of foreclosing the liens of
25 such claims, and to pay attorneys' fees, have been paid, the public
26 body shall pay to the contractor the fund retained by it or release to
27 the contractor the securities and bonds held in escrow.

28 If such taxes have not been discharged or the claims, expenses, and
29 fees have not been paid, the public body shall either retain in its
30 fund, or in an interest bearing account, or retain in escrow, at the
31 option of the contractor, an amount equal to such unpaid taxes and
32 unpaid claims together with a sum sufficient to defray the costs and
33 attorney fees incurred in foreclosing the lien of such claims, and
34 shall pay, or release from escrow, the remainder to the contractor.

35 **Sec. 94.** RCW 60.28.021 and 1992 c 223 s 3 are each amended to read
36 as follows:

1 After the expiration of the forty-five day period for giving notice
2 of lien provided in RCW 60.28.011(2), and after receipt of the
3 department of revenue's certificate, and the public body is satisfied
4 that the taxes certified as due or to become due by the department of
5 revenue are discharged, and the claims of ((materialmen)) material
6 suppliers and laborers who have filed their claims, together with a sum
7 sufficient to defray the cost of foreclosing the liens of such claims,
8 and to pay attorneys' fees, have been paid, the public body may
9 withhold from the remaining retained amounts for claims the public body
10 may have against the contractor and shall pay the balance, if any, to
11 the contractor the fund retained by it or release to the contractor the
12 securities and bonds held in escrow.

13 If such taxes have not been discharged or the claims, expenses, and
14 fees have not been paid, the public body shall either retain in its
15 fund, or in an interest bearing account, or retain in escrow, at the
16 option of the contractor, an amount equal to such unpaid taxes and
17 unpaid claims together with a sum sufficient to defray the costs and
18 attorney fees incurred in foreclosing the lien of such claims, and
19 shall pay, or release from escrow, the remainder to the contractor.

20 **Sec. 95.** RCW 85.28.130 and Code 1881 s 2517 are each amended to
21 read as follows:

22 Persons owning or desiring to improve contiguous tracts of tide
23 marsh or swampy lands exposed to the overflow of the tide and capable
24 of being made dry, may separate their respective tracts by a dike or
25 ditch, which shall make and designate their common boundary. In all
26 such cases said dike or ditch shall be constructed at the equal cost
27 and expense of the respective parties, and either party failing to pay
28 his or her contributive share of such expense shall be liable to the
29 party constructing the dike or ditch for such contributive share, or so
30 much thereof as may remain due and unpaid, to be recovered in a civil
31 action in a court of competent jurisdiction and the party constructing
32 such dike shall also be entitled to a lien upon the tract of the party
33 failing to pay his or her contributive share for the construction of
34 said dike, or so much thereof as shall be due, which lien shall be
35 secured and enforced as liens of ((materialmen)) material suppliers and
36 mechanics are now by law enforced.

1 **Sec. 96.** RCW 85.28.140 and Code 1881 s 2518 are each amended to
2 read as follows:

3 Any person or persons who may hereafter take a tract of tide land
4 or marsh and shall desire to adopt as his or her boundary line any dike
5 or ditch heretofore constructed upon and entirely within the boundary
6 line of a neighboring contiguous tract he or she may join on to said
7 tract and adopt said dike as his or her boundary by paying to the owner
8 of the tract upon which said dike is constructed one-half of the cost
9 and expense of the construction thereof, and any person so adopting the
10 dike or ditch of another without contributing his or her half share of
11 the cost or expense thereof shall be liable for his or her said half
12 share, which may be recovered in a civil action in any court of
13 competent jurisdiction, or the owner of the dike or ditch so used may
14 secure a lien upon the tract of land bounded by said dike for the
15 amount due for the use of said dike in accordance with the provisions
16 of the law securing a lien to ((materialmen)) material suppliers and
17 mechanics: PROVIDED ALWAYS, That when such dike has become the common
18 boundary ((~~of two adjacent tracts, it shall be and remain the common~~
19 ~~boundary~~)) of two adjacent tracts, it shall be and remain the common
20 boundary and the persons owning the said tracts shall be mutually
21 liable for the expense of keeping it in repair, share and share alike.

22 NEW SECTION. **Sec. 97.** The office of the code reviser, in
23 consultation with the statute law committee, shall develop and
24 implement a plan to correct gender-specific references throughout the
25 Revised Code of Washington, submitting recommendations to the
26 legislature annually pursuant to RCW 1.08.025. The revision shall be
27 complete by June 30, 2015.

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