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**SUBSTITUTE SENATE BILL 5077**

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**State of Washington**

**63rd Legislature**

**2013 Regular Session**

**By** Senate Commerce & Labor (originally sponsored by Senators Kohl-Welles, Holmquist Newbry, and Keiser; by request of Statute Law Committee)

READ FIRST TIME 01/31/13.

1       AN ACT Relating to technical corrections to gender-based terms;  
2 amending RCW 2.48.210, 6.13.080, 8.16.090, 9.91.020, 13.34.105,  
3 13.50.010, 13.50.100, 13.50.140, 18.20.185, 18.20.305, 18.20.390,  
4 18.20.420, 18.27.090, 18.106.010, 18.106.020, 18.106.030, 18.106.040,  
5 18.106.050, 18.106.070, 18.106.075, 18.106.080, 18.106.090, 18.106.100,  
6 18.106.110, 18.106.150, 18.106.155, 19.28.006, 19.28.161, 19.28.191,  
7 19.28.201, 19.28.205, 19.28.211, 19.28.221, 19.28.231, 19.28.241,  
8 19.28.261, 20.01.030, 22.09.860, 24.34.010, 26.12.185, 26.44.030,  
9 26.44.220, 28A.175.075, 28A.175.140, 28A.230.020, 28A.300.136,  
10 28A.300.285, 28A.300.2851, 28B.10.053, 28B.15.102, 28B.45.020,  
11 28B.45.030, 28B.45.040, 28B.50.278, 28B.76.502, 28B.77.090, 28B.77.220,  
12 35.39.060, 35.50.260, 35A.37.010, 35A.42.040, 35A.84.010, 36.39.060,  
13 41.04.130, 41.26.110, 41.26.150, 43.06A.010, 43.06A.020, 43.06A.030,  
14 43.06A.050, 43.06A.060, 43.06A.070, 43.06A.080, 43.06A.085, 43.06A.090,  
15 43.06A.100, 43.06A.110, 43.06B.010, 43.06B.020, 43.06B.030, 43.06B.040,  
16 43.06B.050, 43.06B.060, 43.190.010, 43.190.030, 43.190.040, 43.190.050,  
17 43.190.060, 43.190.065, 43.190.070, 43.190.080, 43.190.090, 43.190.110,  
18 43.190.120, 43.215.520, 44.04.220, 48.02.093, 48.18A.070, 50.22.010,  
19 51.04.063, 51.14.300, 51.14.310, 51.14.320, 51.14.330, 51.14.340,  
20 51.14.350, 51.14.360, 51.14.370, 51.14.380, 51.14.390, 51.14.400,  
21 51.44.150, 59.20.210, 60.13.020, 60.13.040, 60.13.050, 60.13.060,

1 60.36.030, 60.36.040, 60.42.040, 62A.2-201, 62A.2-210, 62A.2-304,  
2 62A.2-305, 62A.2-308, 62A.2-311, 62A.2-312, 62A.2-313, 62A.2-316,  
3 62A.2-318, 62A.2-319, 62A.2-320, 62A.2-324, 62A.2-325, 62A.2-328,  
4 62A.2-402, 62A.2-501, 62A.2-502, 62A.2-504, 62A.2-507, 62A.2-508,  
5 62A.2-510, 62A.2-602, 62A.2-603, 62A.2-604, 62A.2-606, 62A.2-607,  
6 62A.2-608, 62A.2-609, 62A.2-610, 62A.2-611, 62A.2-612, 62A.2-613,  
7 62A.2-615, 62A.2-616, 62A.2-702, 62A.2-704, 62A.2-706, 62A.2-707,  
8 62A.2-709, 62A.2-711, 62A.2-712, 62A.2-714, 62A.2-716, 62A.2-717,  
9 62A.2-718, 62A.2-722, 62A.2-723, 62A.11-109, 64.34.364, 66.20.120,  
10 67.08.080, 67.16.200, 70.97.040, 70.97.100, 70.128.150, 70.128.163,  
11 70.128.200, 70.129.030, 70.129.090, 70.129.110, 70.129.160, 70.129.170,  
12 71.24.350, 73.16.061, 73.20.010, 74.04.011, 74.04.014, 74.04.080,  
13 74.04.350, 74.04.385, 74.04.480, 74.08.050, 74.08.280, 74.08.340,  
14 74.08.370, 74.09.210, 74.09.230, 74.12.010, 74.12.250, 74.13.334,  
15 74.13.368, 74.13.640, 74.13A.025, 74.13A.040, 74.13A.075, 74.15.140,  
16 74.20.260, 74.20A.040, 74.20A.130, 74.20A.150, 74.34.095, 74.34.200,  
17 76.09.100, 76.36.100, 74.36.110, 74.36.120, 74.36.130, 74.38.040,  
18 74.38.050, 74.39A.060, 74.39A.380, 74.42.450, 74.42.640, 76.09.320,  
19 76.14.080, 76.14.090, 76.14.100, 76.14.110, 76.42.030, 76.52.020,  
20 77.04.060, 77.12.370, 77.12.620, 77.12.760, 77.15.570, 77.32.155,  
21 77.65.280, 77.65.340, 77.95.030, 78.04.030, 78.08.080, 78.08.100,  
22 78.12.070, 78.16.030, 78.16.040, 78.52.550, 78.60.110, 78.60.170,  
23 78.60.250, 79.02.150, 79.14.060, 79.22.120, 79.24.030, 79.24.150,  
24 79.24.660, 79.44.050, 79.44.100, 79A.05.085, 79A.05.105, 79A.05.700,  
25 80.01.020, 80.01.100, 80.04.020, 80.04.040, 80.04.050, 80.04.070,  
26 80.04.120, 80.04.170, 80.04.280, 80.04.460, 80.04.470, 80.04.510,  
27 80.08.110, 80.32.100, 80.50.080, 81.04.020, 81.04.040, 81.04.050,  
28 81.04.070, 81.04.120, 81.04.280, 81.04.460, 81.04.500, 81.04.510,  
29 81.08.110, 81.24.070, 81.28.290, 81.40.060, 81.40.110, 81.44.070,  
30 81.48.060, 81.48.070, 81.52.050, 81.53.010, 81.53.030, 81.53.120,  
31 81.53.261, 81.64.160, 81.77.020, 81.80.100, 81.80.355, 81.96.030,  
32 82.03.050, 82.03.060, 82.03.080, 82.04.290, 82.04.425, 82.08.0266,  
33 82.08.0269, 82.08.100, 82.12.070, 82.24.210, 82.24.250, 82.32.070,  
34 82.32.120, 82.32.170, 82.32.260, 82.32.270, 82.32.310, 82.36.110,  
35 82.36.250, 82.36.410, 82.38.060, 82.38.275, 82.41.080, 82.42.040,  
36 82.42.100, 82.44.140, 82.50.520, 82.56.030, 82.56.040, 83.100.020,  
37 84.08.120, 84.08.140, 84.08.190, 84.09.040, 84.12.240, 84.16.032,  
38 84.36.300, 84.36.320, 84.36.400, 84.36.813, 84.36.850, 84.38.040,

1	84.38.060,	84.38.080,	84.38.090,	84.40.070,	84.40.110,	84.40.160,
2	84.40.185,	84.40.210,	84.40.220,	84.40.240,	84.40.370,	84.41.080,
3	84.41.120,	84.44.080,	84.48.018,	84.56.090,	84.56.210,	84.56.210,
4	84.56.270,	84.56.320,	84.60.040,	84.64.040,	84.64.130,	84.64.180,
5	84.68.110,	84.68.120,	84.68.150,	84.69.090,	85.05.076,	85.05.100,
6	85.05.120,	85.05.130,	85.05.150,	85.05.160,	85.05.180,	85.06.100,
7	85.06.120,	85.06.130,	85.06.150,	85.06.160,	85.06.180,	85.06.210,
8	85.06.250,	85.06.330,	85.06.550,	85.06.560,	85.06.570,	85.06.600,
9	85.06.630,	85.06.750,	85.07.070,	85.07.090,	85.07.120,	85.07.140,
10	85.08.340,	85.08.360,	85.08.400,	85.08.410,	85.08.420,	85.08.440,
11	85.08.490,	85.08.500,	85.08.570,	85.08.820,	85.08.840,	85.15.030,
12	85.15.090,	85.15.110,	85.15.150,	85.16.130,	85.16.150,	85.18.160,
13	85.16.210,	85.16.230,	85.18.040,	85.18.100,	85.18.120,	85.24.070,
14	85.24.075,	85.24.130,	85.24.140,	85.24.150,	85.24.160,	85.24.170,
15	85.24.180,	85.24.290,	85.28.030,	85.28.040,	85.28.060,	85.28.080,
16	85.28.090,	85.32.050,	85.32.060,	85.32.170,	86.09.259,	86.09.292,
17	86.09.301,	86.09.304,	86.09.310,	86.09.319,	86.09.325,	86.09.328,
18	86.09.391,	86.09.430,	86.09.433,	86.09.448,	86.09.466,	86.09.493,
19	86.09.496,	86.09.499,	86.09.502,	86.09.508,	86.09.511,	86.09.556,
20	86.09.562,	86.09.619,	86.09.703,	86.13.030,	86.13.050,	86.13.060,
21	86.13.090,	86.13.100,	86.15.060,	86.15.130,	86.16.035,	86.24.030,
22	87.03.025,	87.03.031,	87.03.032,	87.03.033,	87.03.045,	87.03.075,
23	87.03.080,	87.03.081,	87.03.082,	87.03.090,	87.03.100,	87.03.110,
24	87.03.115,	87.03.175,	87.03.180,	87.03.245,	87.03.250,	87.03.255,
25	87.03.260,	87.03.270,	87.03.272,	87.03.280,	87.03.442,	87.03.570,
26	87.03.610,	87.03.660,	87.03.690,	87.03.760,	87.03.765,	87.03.820,
27	87.04.010,	87.22.065,	87.22.215,	87.25.030,	87.25.060,	87.25.100,
28	87.52.030,	87.52.040,	87.52.060,	87.53.100,	87.53.120,	87.53.150,
29	87.56.040,	87.56.180,	87.56.190,	87.56.203,	87.56.210,	87.64.010,
30	87.64.020,	87.64.040,	87.84.070,	88.08.060,	88.16.130,	88.24.010,
31	88.24.020,	88.24.030,	88.32.020,	88.32.040,	88.32.090,	88.32.100,
32	88.32.140,	88.32.160,	88.32.170,	88.32.190,	88.32.200,	88.32.210,
33	89.08.010,	89.08.170,	89.08.180,	89.08.200,	89.08.210,	89.12.020,
34	89.12.050,	89.12.150,	89.16.040,	89.16.045,	89.16.050,	89.30.025,
35	89.30.034,	89.30.055,	89.30.058,	89.30.109,	89.30.229,	89.30.259,
36	89.30.265,	89.30.301,	89.30.304,	89.30.307,	89.30.313,	89.30.316,
37	89.30.322,	89.30.325,	89.30.328,	89.30.352,	89.30.367,	89.30.382,
38	89.30.565,	89.30.604,	89.30.625,	89.30.649,	89.30.652,	89.30.655,

1 89.30.670, 89.30.676, 89.30.685, 89.30.700, 89.30.709, 89.30.721,  
2 89.30.724, 89.30.730, 89.30.790, 90.03.040, 90.03.070, 90.03.210,  
3 90.03.220, 90.03.250, 90.03.270, 90.03.410, 90.03.440, 90.03.450,  
4 90.08.040, 90.08.050, 90.08.060, 90.08.070, 90.14.061, 90.14.101,  
5 90.14.130, 90.14.170, 90.24.020, 90.24.050, 90.44.110, 90.44.130,  
6 90.48.095, 90.58.170, 91.08.030, 91.08.080, 91.08.130, 91.08.150,  
7 91.08.170, 91.08.220, 91.08.250, 91.08.250, 91.08.280, 91.08.340,  
8 91.08.370, 91.08.390, 91.08.400, 91.08.410, 91.08.430, 91.08.460,  
9 91.08.500, 91.08.510, 91.08.550, 91.08.560, 91.08.590, 91.08.600, and  
10 91.08.620; reenacting and amending RCW 19.28.041, 26.44.030, 27.53.030,  
11 28B.50.100, 60.13.010, 74.13.333, 80.50.150, 82.36.310, and 87.03.440;  
12 providing an effective date; and providing an expiration date.

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

14 **Sec. 1.** RCW 2.48.210 and 1921 c 126 s 12 are each amended to read  
15 as follows:

16 Every person before being admitted to practice law in this state  
17 shall take and subscribe the following oath:

18 I do solemnly swear:

19 I am a citizen of the United States and owe my allegiance thereto;

20 I will support the Constitution of the United States and the  
21 Constitution of the state of Washington;

22 I will maintain the respect due to courts of justice and judicial  
23 officers;

24 I will not counsel or maintain any suit or proceeding which shall  
25 appear to me to be unjust, nor any defense except such as I believe to  
26 be honestly debatable under the law of the land, unless it be in  
27 defense of a person charged with a public offense; I will employ for  
28 the purpose of maintaining the causes confided to me such means only as  
29 are consistent with truth and honor, and will never seek to mislead the  
30 judge or jury by any artifice or false statement of fact or law;

31 I will maintain the confidence and preserve inviolate the secrets  
32 of my client, and will accept no compensation in connection with his or  
33 her business except from him or her or with his or her knowledge and  
34 approval;

35 I will abstain from all offensive personality, and advance no fact

1 prejudicial to the honor or reputation of a party or witness, unless  
2 required by the justice of the cause with which I am charged;

3 I will never reject, from any consideration personal to myself, the  
4 cause of the defenseless or oppressed, or delay any (~~man's~~) person's  
5 cause for lucre or malice. So help me God.

6 **Sec. 2.** RCW 6.13.080 and 2008 c 6 s 635 are each amended to read  
7 as follows:

8 The homestead exemption is not available against an execution or  
9 forced sale in satisfaction of judgments obtained:

10 (1) On debts secured by mechanic's, laborer's, construction,  
11 maritime, automobile repair, (~~materialmen's~~) material supplier's, or  
12 vendor's liens arising out of and against the particular property  
13 claimed as a homestead;

14 (2) On debts secured (a) by security agreements describing as  
15 collateral the property that is claimed as a homestead or (b) by  
16 mortgages or deeds of trust on the premises that have been executed and  
17 acknowledged by both spouses or both domestic partners or by any  
18 claimant not married or in a state registered domestic partnership;

19 (3) On one spouse's or one domestic partner's or the community's  
20 debts existing at the time of that spouse's or that domestic partner's  
21 bankruptcy filing where (a) bankruptcy is filed by both spouses or both  
22 domestic partners within a six-month period, other than in a joint case  
23 or a case in which their assets are jointly administered, and (b) the  
24 other spouse or other domestic partner exempts property from property  
25 of the estate under the bankruptcy exemption provisions of 11 U.S.C.  
26 Sec. 522(d);

27 (4) On debts arising from a lawful court order or decree or  
28 administrative order establishing a child support obligation or  
29 obligation to pay maintenance;

30 (5) On debts owing to the state of Washington for recovery of  
31 medical assistance correctly paid on behalf of an individual consistent  
32 with 42 U.S.C. Sec. 1396p;

33 (6) On debts secured by a condominium's or homeowner association's  
34 lien. In order for an association to be exempt under this provision,  
35 the association must have provided a homeowner with notice that  
36 nonpayment of the association's assessment may result in foreclosure of  
37 the association lien and that the homestead protection under this

1 chapter shall not apply. An association has complied with this notice  
2 requirement by mailing the notice, by first-class mail, to the address  
3 of the owner's lot or unit. The notice required in this subsection  
4 shall be given within thirty days from the date the association learns  
5 of a new owner, but in all cases the notice must be given prior to the  
6 initiation of a foreclosure. The phrase "learns of a new owner" in  
7 this subsection means actual knowledge of the identity of a homeowner  
8 acquiring title after June 9, 1988, and does not require that an  
9 association affirmatively ascertain the identity of a homeowner.  
10 Failure to give the notice specified in this subsection affects an  
11 association's lien only for debts accrued up to the time an association  
12 complies with the notice provisions under this subsection; or

13 (7) On debts owed for taxes collected under chapters 82.08, 82.12,  
14 and 82.14 RCW but not remitted to the department of revenue.

15 **Sec. 3.** RCW 8.16.090 and 1909 p 374 s 9 are each amended to read  
16 as follows:

17 When ten of the jurors agree upon a verdict, the verdict so agreed  
18 upon shall be signed by the ((foreman)) jury foreperson, and the  
19 verdict so agreed upon shall be and stand as the verdict of the jury.

20 **Sec. 4.** RCW 9.91.020 and 2000 c 239 s 3 are each amended to read  
21 as follows:

22 Every person who, being employed upon any railway, as engineer,  
23 ((motorman)) motor operator, ((gripman)) grip operator, conductor,  
24 switch tender, ((fireman)) fire tender, bridge tender, flagger, or  
25 ((signalman)) signal operator, or having charge of stations, starting,  
26 regulating, or running trains upon a railway, or being employed as  
27 captain, engineer, or other officer of a vessel propelled by steam, or  
28 being the driver of any animal or vehicle upon any public highway,  
29 street, or other public place, is intoxicated while engaged in the  
30 discharge of any such duties, shall be guilty of a gross misdemeanor.

31 **Sec. 5.** RCW 13.34.105 and 2011 c 309 s 26 are each amended to read  
32 as follows:

33 (1) Unless otherwise directed by the court, the duties of the  
34 guardian ad litem for a child subject to a proceeding under this

1 chapter, including an attorney specifically appointed by the court to  
2 serve as a guardian ad litem, include but are not limited to the  
3 following:

4 (a) To investigate, collect relevant information about the child's  
5 situation, and report to the court factual information regarding the  
6 best interests of the child;

7 (b) To meet with, interview, or observe the child, depending on the  
8 child's age and developmental status, and report to the court any views  
9 or positions expressed by the child on issues pending before the court;

10 (c) To monitor all court orders for compliance and to bring to the  
11 court's attention any change in circumstances that may require a  
12 modification of the court's order;

13 (d) To report to the court information on the legal status of a  
14 child's membership in any Indian tribe or band;

15 (e) Court-appointed special advocates and guardians ad litem may  
16 make recommendations based upon an independent investigation regarding  
17 the best interests of the child, which the court may consider and weigh  
18 in conjunction with the recommendations of all of the parties;

19 (f) To represent and be an advocate for the best interests of the  
20 child;

21 (g) To inform the child, if the child is twelve years old or older,  
22 of his or her right to request counsel and to ask the child whether he  
23 or she wishes to have counsel, pursuant to RCW 13.34.100(6). The  
24 guardian ad litem shall report to the court that the child was notified  
25 of this right and indicate the child's position regarding appointment  
26 of counsel. The guardian ad litem shall report to the court his or her  
27 independent recommendation as to whether appointment of counsel is in  
28 the best interest of the child; and

29 (h) In the case of an Indian child as defined in RCW 13.38.040,  
30 know, understand, and advocate the best interests of the Indian child.

31 (2) A guardian ad litem shall be deemed an officer of the court for  
32 the purpose of immunity from civil liability.

33 (3) Except for information or records specified in RCW  
34 13.50.100(7), the guardian ad litem shall have access to all  
35 information available to the state or agency on the case. Upon  
36 presentation of the order of appointment by the guardian ad litem, any  
37 agency, hospital, school organization, division or department of the  
38 state, doctor, nurse, or other health care provider, psychologist,

1 psychiatrist, police department, or mental health clinic shall permit  
2 the guardian ad litem to inspect and copy any records relating to the  
3 child or children involved in the case, without the consent of the  
4 parent or guardian of the child, or of the child if the child is under  
5 the age of thirteen years, unless such access is otherwise specifically  
6 prohibited by law.

7 (4) A guardian ad litem may release confidential information,  
8 records, and reports to the office of the family and children's  
9 (~~ombudsman~~) ombuds for the purposes of carrying out its duties under  
10 chapter 43.06A RCW.

11 (5) The guardian ad litem shall release case information in  
12 accordance with the provisions of RCW 13.50.100.

13 **Sec. 6.** RCW 13.50.010 and 2011 1st sp.s. c 40 s 30 are each  
14 amended to read as follows:

15 (1) For purposes of this chapter:

16 (a) "Juvenile justice or care agency" means any of the following:  
17 Police, diversion units, court, prosecuting attorney, defense attorney,  
18 detention center, attorney general, the legislative children's  
19 oversight committee, the office of the family and children's  
20 (~~ombudsman~~) ombuds, the department of social and health services and  
21 its contracting agencies, schools; persons or public or private  
22 agencies having children committed to their custody; and any placement  
23 oversight committee created under RCW 72.05.415;

24 (b) "Official juvenile court file" means the legal file of the  
25 juvenile court containing the petition or information, motions,  
26 memorandums, briefs, findings of the court, and court orders;

27 (c) "Records" means the official juvenile court file, the social  
28 file, and records of any other juvenile justice or care agency in the  
29 case;

30 (d) "Social file" means the juvenile court file containing the  
31 records and reports of the probation counselor.

32 (2) Each petition or information filed with the court may include  
33 only one juvenile and each petition or information shall be filed under  
34 a separate docket number. The social file shall be filed separately  
35 from the official juvenile court file.

36 (3) It is the duty of any juvenile justice or care agency to  
37 maintain accurate records. To this end:



1 (a) The agency may never knowingly record inaccurate information.  
2 Any information in records maintained by the department of social and  
3 health services relating to a petition filed pursuant to chapter 13.34  
4 RCW that is found by the court to be false or inaccurate shall be  
5 corrected or expunged from such records by the agency;

6 (b) An agency shall take reasonable steps to assure the security of  
7 its records and prevent tampering with them; and

8 (c) An agency shall make reasonable efforts to insure the  
9 completeness of its records, including action taken by other agencies  
10 with respect to matters in its files.

11 (4) Each juvenile justice or care agency shall implement procedures  
12 consistent with the provisions of this chapter to facilitate inquiries  
13 concerning records.

14 (5) Any person who has reasonable cause to believe information  
15 concerning that person is included in the records of a juvenile justice  
16 or care agency and who has been denied access to those records by the  
17 agency may make a motion to the court for an order authorizing that  
18 person to inspect the juvenile justice or care agency record concerning  
19 that person. The court shall grant the motion to examine records  
20 unless it finds that in the interests of justice or in the best  
21 interests of the juvenile the records or parts of them should remain  
22 confidential.

23 (6) A juvenile, or his or her parents, or any person who has  
24 reasonable cause to believe information concerning that person is  
25 included in the records of a juvenile justice or care agency may make  
26 a motion to the court challenging the accuracy of any information  
27 concerning the moving party in the record or challenging the continued  
28 possession of the record by the agency. If the court grants the  
29 motion, it shall order the record or information to be corrected or  
30 destroyed.

31 (7) The person making a motion under subsection (5) or (6) of this  
32 section shall give reasonable notice of the motion to all parties to  
33 the original action and to any agency whose records will be affected by  
34 the motion.

35 (8) The court may permit inspection of records by, or release of  
36 information to, any clinic, hospital, or agency which has the subject  
37 person under care or treatment. The court may also permit inspection  
38 by or release to individuals or agencies, including juvenile justice

1 advisory committees of county law and justice councils, engaged in  
2 legitimate research for educational, scientific, or public purposes.  
3 The court shall release to the caseload forecast council records needed  
4 for its research and data-gathering functions. Access to records or  
5 information for research purposes shall be permitted only if the  
6 anonymity of all persons mentioned in the records or information will  
7 be preserved. Each person granted permission to inspect juvenile  
8 justice or care agency records for research purposes shall present a  
9 notarized statement to the court stating that the names of juveniles  
10 and parents will remain confidential.

11 (9) Juvenile detention facilities shall release records to the  
12 caseload forecast council upon request. The commission shall not  
13 disclose the names of any juveniles or parents mentioned in the records  
14 without the named individual's written permission.

15 (10) Requirements in this chapter relating to the court's authority  
16 to compel disclosure shall not apply to the legislative children's  
17 oversight committee or the office of the family and children's  
18 (~~ombudsman~~) ombuds.

19 (11) For the purpose of research only, the administrative office of  
20 the courts shall maintain an electronic research copy of all records in  
21 the judicial information system related to juveniles. Access to the  
22 research copy is restricted to the Washington state center for court  
23 research. The Washington state center for court research shall  
24 maintain the confidentiality of all confidential records and shall  
25 preserve the anonymity of all persons identified in the research copy.  
26 The research copy may not be subject to any records retention schedule  
27 and must include records destroyed or removed from the judicial  
28 information system pursuant to RCW 13.50.050 (17) and (18) and  
29 13.50.100(3).

30 (12) The court shall release to the Washington state office of  
31 public defense records needed to implement the agency's oversight,  
32 technical assistance, and other functions as required by RCW 2.70.020.  
33 Access to the records used as a basis for oversight, technical  
34 assistance, or other agency functions is restricted to the Washington  
35 state office of public defense. The Washington state office of public  
36 defense shall maintain the confidentiality of all confidential  
37 information included in the records.

1       **Sec. 7.** RCW 13.50.100 and 2003 c 105 s 2 are each amended to read  
2 as follows:

3       (1) This section governs records not covered by RCW 13.50.050.

4       (2) Records covered by this section shall be confidential and shall  
5 be released only pursuant to this section and RCW 13.50.010.

6       (3) Records retained or produced by any juvenile justice or care  
7 agency may be released to other participants in the juvenile justice or  
8 care system only when an investigation or case involving the juvenile  
9 in question is being pursued by the other participant or when that  
10 other participant is assigned the responsibility of supervising the  
11 juvenile. Records covered under this section and maintained by the  
12 juvenile courts which relate to the official actions of the agency may  
13 be entered in the statewide judicial information system. However,  
14 truancy records associated with a juvenile who has no other case  
15 history, and records of a juvenile's parents who have no other case  
16 history, shall be removed from the judicial information system when the  
17 juvenile is no longer subject to the compulsory attendance laws in  
18 chapter 28A.225 RCW. A county clerk is not liable for unauthorized  
19 release of this data by persons or agencies not in his or her employ or  
20 otherwise subject to his or her control, nor is the county clerk liable  
21 for inaccurate or incomplete information collected from litigants or  
22 other persons required to provide identifying data pursuant to this  
23 section.

24       (4) Subject to (a) of this subsection, the department of social and  
25 health services may release information retained in the course of  
26 conducting child protective services investigations to a family or  
27 juvenile court hearing a petition for custody under chapter 26.10 RCW.

28       (a) Information that may be released shall be limited to  
29 information regarding investigations in which: (i) The juvenile was an  
30 alleged victim of abandonment or abuse or neglect; or (ii) the  
31 petitioner for custody of the juvenile, or any individual aged sixteen  
32 or older residing in the petitioner's household, is the subject of a  
33 founded or currently pending child protective services investigation  
34 made by the department subsequent to October 1, 1998.

35       (b) Additional information may only be released with the written  
36 consent of the subject of the investigation and the juvenile alleged to  
37 be the victim of abandonment or abuse and neglect, or the parent,

1 custodian, guardian, or personal representative of the juvenile, or by  
2 court order obtained with notice to all interested parties.

3 (5) Any disclosure of records or information by the department of  
4 social and health services pursuant to this section shall not be deemed  
5 a waiver of any confidentiality or privilege attached to the records or  
6 information by operation of any state or federal statute or regulation,  
7 and any recipient of such records or information shall maintain it in  
8 such a manner as to comply with such state and federal statutes and  
9 regulations and to protect against unauthorized disclosure.

10 (6) A contracting agency or service provider of the department of  
11 social and health services that provides counseling, psychological,  
12 psychiatric, or medical services may release to the office of the  
13 family and children's (~~ombudsman~~) ombuds information or records  
14 relating to services provided to a juvenile who is dependent under  
15 chapter 13.34 RCW without the consent of the parent or guardian of the  
16 juvenile, or of the juvenile if the juvenile is under the age of  
17 thirteen years, unless such release is otherwise specifically  
18 prohibited by law.

19 (7) A juvenile, his or her parents, the juvenile's attorney, and  
20 the juvenile's parent's attorney, shall, upon request, be given access  
21 to all records and information collected or retained by a juvenile  
22 justice or care agency which pertain to the juvenile except:

23 (a) If it is determined by the agency that release of this  
24 information is likely to cause severe psychological or physical harm to  
25 the juvenile or his or her parents the agency may withhold the  
26 information subject to other order of the court: PROVIDED, That if the  
27 court determines that limited release of the information is  
28 appropriate, the court may specify terms and conditions for the release  
29 of the information; or

30 (b) If the information or record has been obtained by a juvenile  
31 justice or care agency in connection with the provision of counseling,  
32 psychological, psychiatric, or medical services to the juvenile, when  
33 the services have been sought voluntarily by the juvenile, and the  
34 juvenile has a legal right to receive those services without the  
35 consent of any person or agency, then the information or record may not  
36 be disclosed to the juvenile's parents without the informed consent of  
37 the juvenile unless otherwise authorized by law; or

1 (c) That the department of social and health services may delete  
2 the name and identifying information regarding persons or organizations  
3 who have reported alleged child abuse or neglect.

4 (8) A juvenile or his or her parent denied access to any records  
5 following an agency determination under subsection (7) of this section  
6 may file a motion in juvenile court requesting access to the records.  
7 The court shall grant the motion unless it finds access may not be  
8 permitted according to the standards found in subsection (7)(a) and (b)  
9 of this section.

10 (9) The person making a motion under subsection (8) of this section  
11 shall give reasonable notice of the motion to all parties to the  
12 original action and to any agency whose records will be affected by the  
13 motion.

14 (10) Subject to the rules of discovery in civil cases, any party to  
15 a proceeding seeking a declaration of dependency or a termination of  
16 the parent-child relationship and any party's counsel and the guardian  
17 ad litem of any party, shall have access to the records of any natural  
18 or adoptive child of the parent, subject to the limitations in  
19 subsection (7) of this section. A party denied access to records may  
20 request judicial review of the denial. If the party prevails, he or  
21 she shall be awarded attorneys' fees, costs, and an amount not less  
22 than five dollars and not more than one hundred dollars for each day  
23 the records were wrongfully denied.

24 (11) No unfounded allegation of child abuse or neglect as defined  
25 in RCW 26.44.020(~~(+12+)~~) (1) may be disclosed to a child-placing  
26 agency, private adoption agency, or any other licensed provider.

27 **Sec. 8.** RCW 13.50.140 and 1999 c 390 s 8 are each amended to read  
28 as follows:

29 Any communication or advice privileged under RCW 5.60.060 that is  
30 disclosed by the office of the attorney general or the department of  
31 social and health services to the office of the family and children's  
32 (~~(ombudsman)~~) ombuds may not be deemed to be a waiver of the privilege  
33 as to others.

34 **Sec. 9.** RCW 18.20.185 and 2001 c 193 s 2 are each amended to read  
35 as follows:

1 (1) The department shall establish and maintain a toll-free  
2 telephone number for receiving complaints regarding a facility that the  
3 department licenses.

4 (2) All facilities that are licensed under this chapter shall post  
5 in a place and manner clearly visible to residents and visitors the  
6 department's toll-free complaint telephone number and the toll-free  
7 number and program description of the long-term care ((ombudsman))  
8 ombuds as provided by RCW 43.190.050.

9 (3) The department shall investigate complaints if the subject of  
10 the complaint is within its authority unless the department determines  
11 that: (a) The complaint is intended to willfully harass a licensee or  
12 employee of the licensee; or (b) there is no reasonable basis for  
13 investigation; or (c) corrective action has been taken as determined by  
14 the ((ombudsman)) ombuds or the department.

15 (4) The department shall refer complaints to appropriate state  
16 agencies, law enforcement agencies, the attorney general, the long-term  
17 care ((ombudsman)) ombuds, or other entities if the department lacks  
18 authority to investigate or if its investigation reveals that a follow-  
19 up referral to one or more of these entities is appropriate.

20 (5) The department shall adopt rules that include the following  
21 complaint investigation protocols:

22 (a) Upon receipt of a complaint, the department shall make a  
23 preliminary review of the complaint, assess the severity of the  
24 complaint, and assign an appropriate response time. Complaints  
25 involving imminent danger to the health, safety, or well-being of a  
26 resident must be responded to within two days. When appropriate, the  
27 department shall make an on-site investigation within a reasonable time  
28 after receipt of the complaint or otherwise ensure that complaints are  
29 responded to.

30 (b) The complainant must be: Promptly contacted by the department,  
31 unless anonymous or unavailable despite several attempts by the  
32 department, and informed of the right to discuss alleged violations  
33 with the inspector and to provide other information the complainant  
34 believes will assist the inspector; informed of the department's course  
35 of action; and informed of the right to receive a written copy of the  
36 investigation report.

37 (c) In conducting the investigation, the department shall interview  
38 the complainant, unless anonymous, and shall use its best efforts to

1 interview the resident or residents allegedly harmed by the violations,  
2 and, in addition to facility staff, any available independent sources  
3 of relevant information, including if appropriate the family members of  
4 the resident.

5 (d) Substantiated complaints involving harm to a resident, if an  
6 applicable law or regulation has been violated, shall be subject to one  
7 or more of the actions provided in RCW 18.20.190. Whenever  
8 appropriate, the department shall also give consultation and technical  
9 assistance to the facility.

10 (e) After a department finding of a violation for which a stop  
11 placement has been imposed, the department shall make an on-site  
12 revisit of the provider within fifteen working days from the request  
13 for revisit, to ensure correction of the violation. For violations  
14 that are serious or recurring or uncorrected following a previous  
15 citation, and create actual or threatened harm to one or more  
16 residents' well-being, including violations of residents' rights, the  
17 department shall make an on-site revisit as soon as appropriate to  
18 ensure correction of the violation. Verification of correction of all  
19 other violations may be made by either a department on-site revisit or  
20 by written or photographic documentation found by the department to be  
21 credible. This subsection does not prevent the department from  
22 enforcing license suspensions or revocations. Nothing in this  
23 subsection shall interfere with or diminish the department's authority  
24 and duty to ensure that the provider adequately cares for residents,  
25 including to make departmental on-site revisits as needed to ensure  
26 that the provider protects residents, and to enforce compliance with  
27 this chapter.

28 (f) Substantiated complaints of neglect, abuse, exploitation, or  
29 abandonment of residents, or suspected criminal violations, shall also  
30 be referred by the department to the appropriate law enforcement  
31 agencies, the attorney general, and appropriate professional  
32 disciplining authority.

33 (6) The department may provide the substance of the complaint to  
34 the licensee before the completion of the investigation by the  
35 department unless such disclosure would reveal the identity of a  
36 complainant, witness, or resident who chooses to remain anonymous.  
37 Neither the substance of the complaint provided to the licensee or  
38 contractor nor any copy of the complaint or related report published,

1 released, or made otherwise available shall disclose, or reasonably  
2 lead to the disclosure of, the name, title, or identity of any  
3 complainant, or other person mentioned in the complaint, except that  
4 the name of the provider and the name or names of any officer,  
5 employee, or agent of the department conducting the investigation shall  
6 be disclosed after the investigation has been closed and the complaint  
7 has been substantiated. The department may disclose the identity of  
8 the complainant if such disclosure is requested in writing by the  
9 complainant. Nothing in this subsection shall be construed to  
10 interfere with the obligation of the long-term care ((ombudsman))  
11 ombuds program to monitor the department's licensing, contract, and  
12 complaint investigation files for long-term care facilities.

13 (7) The resident has the right to be free of interference,  
14 coercion, discrimination, and reprisal from a facility in exercising  
15 his or her rights, including the right to voice grievances about  
16 treatment furnished or not furnished. A facility licensed under this  
17 chapter shall not discriminate or retaliate in any manner against a  
18 resident, employee, or any other person on the basis or for the reason  
19 that such resident or any other person made a complaint to the  
20 department, the attorney general, law enforcement agencies, or the  
21 long-term care ((ombudsman)) ombuds, provided information, or otherwise  
22 cooperated with the investigation of such a complaint. Any attempt to  
23 discharge a resident against the resident's wishes, or any type of  
24 retaliatory treatment of a resident by whom or upon whose behalf a  
25 complaint substantiated by the department has been made to the  
26 department, the attorney general, law enforcement agencies, or the  
27 long-term care ((ombudsman)) ombuds, within one year of the filing of  
28 the complaint, raises a rebuttable presumption that such action was in  
29 retaliation for the filing of the complaint. "Retaliatory treatment"  
30 means, but is not limited to, monitoring a resident's phone, mail, or  
31 visits; involuntary seclusion or isolation; transferring a resident to  
32 a different room unless requested or based upon legitimate management  
33 reasons; withholding or threatening to withhold food or treatment  
34 unless authorized by a terminally ill resident or his or her  
35 representative pursuant to law; or persistently delaying responses to  
36 a resident's request for service or assistance. A facility licensed  
37 under this chapter shall not willfully interfere with the performance



1 of official duties by a long-term care (~~ombudsman~~) ombuds. The  
2 department shall sanction and may impose a civil penalty of not more  
3 than three thousand dollars for a violation of this subsection.

4 **Sec. 10.** RCW 18.20.305 and 2011 c 366 s 4 are each amended to read  
5 as follows:

6 (1) (~~A boarding home~~) An assisted living facility must provide  
7 each nonresident a disclosure statement upon admission and at the time  
8 that additional services are requested by a nonresident.

9 (2) The disclosure statement shall notify the nonresident that:

10 (a) The resident rights of chapter 70.129 RCW do not apply to  
11 nonresidents;

12 (b) Licensing requirements for boarding homes under this chapter do  
13 not apply to nonresident units; and

14 (c) The jurisdiction of the long-term care (~~ombudsman~~) ombuds  
15 does not apply to nonresidents and nonresident units.

16 **Sec. 11.** RCW 18.20.390 and 2012 c 10 s 28 are each amended to read  
17 as follows:

18 (1) To ensure the proper delivery of services and the maintenance  
19 and improvement in quality of care through self-review, any assisted  
20 living facility licensed under this chapter may maintain a quality  
21 assurance committee that, at a minimum, includes:

22 (a) A licensed registered nurse under chapter 18.79 RCW;

23 (b) The administrator; and

24 (c) Three other members from the staff of the assisted living  
25 facility.

26 (2) When established, the quality assurance committee shall meet at  
27 least quarterly to identify issues that may adversely affect quality of  
28 care and services to residents and to develop and implement plans of  
29 action to correct identified quality concerns or deficiencies in the  
30 quality of care provided to residents.

31 (3) To promote quality of care through self-review without the fear  
32 of reprisal, and to enhance the objectivity of the review process, the  
33 department shall not require, and the long-term care (~~ombudsman~~)  
34 ombuds program shall not request, disclosure of any quality assurance  
35 committee records or reports, unless the disclosure is related to the  
36 committee's compliance with this section, if:

1 (a) The records or reports are not maintained pursuant to statutory  
2 or regulatory mandate; and

3 (b) The records or reports are created for and collected and  
4 maintained by the committee.

5 (4) If the assisted living facility refuses to release records or  
6 reports that would otherwise be protected under this section, the  
7 department may then request only that information that is necessary to  
8 determine whether the assisted living facility has a quality assurance  
9 committee and to determine that it is operating in compliance with this  
10 section. However, if the assisted living facility offers the  
11 department documents generated by, or for, the quality assurance  
12 committee as evidence of compliance with assisted living facility  
13 requirements, the documents are protected as quality assurance  
14 committee documents under subsections (6) and (8) of this section when  
15 in the possession of the department. The department is not liable for  
16 an inadvertent disclosure, a disclosure related to a required federal  
17 or state audit, or disclosure of documents incorrectly marked as  
18 quality assurance committee documents by the facility.

19 (5) Good faith attempts by the committee to identify and correct  
20 quality deficiencies shall not be used as a basis for sanctions.

21 (6) Information and documents, including the analysis of complaints  
22 and incident reports, created specifically for, and collected and  
23 maintained by, a quality assurance committee are not subject to  
24 discovery or introduction into evidence in any civil action, and no  
25 person who was in attendance at a meeting of such committee or who  
26 participated in the creation, collection, or maintenance of information  
27 or documents specifically for the committee shall be permitted or  
28 required to testify as to the content of such proceedings or the  
29 documents and information prepared specifically for the committee.  
30 This subsection does not preclude:

31 (a) In any civil action, the discovery of the identity of persons  
32 involved in the care that is the basis of the civil action whose  
33 involvement was independent of any quality improvement committee  
34 activity;

35 (b) In any civil action, the testimony of any person concerning the  
36 facts which form the basis for the institution of such proceedings of  
37 which the person had personal knowledge acquired independently of their  
38 participation in the quality assurance committee activities.

1 (7) A quality assurance committee under subsection (1) of this  
2 section, RCW 70.41.200, 74.42.640, 4.24.250, or 43.70.510 may share  
3 information and documents, including the analysis of complaints and  
4 incident reports, created specifically for, and collected and  
5 maintained by, the committee, with one or more other quality assurance  
6 committees created under subsection (1) of this section, RCW 70.41.200,  
7 74.42.640, 4.24.250, or 43.70.510 for the improvement of the quality of  
8 care and services rendered to assisted living facility residents.  
9 Information and documents disclosed by one quality assurance committee  
10 to another quality assurance committee and any information and  
11 documents created or maintained as a result of the sharing of  
12 information and documents shall not be subject to the discovery process  
13 and confidentiality shall be respected as required by subsections (6)  
14 and (8) of this section, RCW 43.70.510(4), 70.41.200(3), 4.24.250(1),  
15 and 74.42.640 (7) and (9). The privacy protections of chapter 70.02  
16 RCW and the federal health insurance portability and accountability act  
17 of 1996 and its implementing regulations apply to the sharing of  
18 individually identifiable patient information held by a coordinated  
19 quality improvement program. Any rules necessary to implement this  
20 section shall meet the requirements of applicable federal and state  
21 privacy laws.

22 (8) Information and documents, including the analysis of complaints  
23 and incident reports, created specifically for, and collected and  
24 maintained by, a quality assurance committee are exempt from disclosure  
25 under chapter 42.56 RCW.

26 (9) Notwithstanding any records created for the quality assurance  
27 committee, the facility shall fully set forth in the resident's  
28 records, available to the resident, the department, and others as  
29 permitted by law, the facts concerning any incident of injury or loss  
30 to the resident, the steps taken by the facility to address the  
31 resident's needs, and the resident outcome.

32 **Sec. 12.** RCW 18.20.420 and 2012 c 10 s 31 are each amended to read  
33 as follows:

34 (1) If the department determines that the health, safety, or  
35 welfare of residents is immediately jeopardized by an assisted living  
36 facility's failure or refusal to comply with the requirements of this  
37 chapter or the rules adopted under this chapter, and the department

1 summarily suspends the assisted living facility license, the department  
2 may appoint a temporary manager of the assisted living facility, or the  
3 licensee may, subject to the department's approval, voluntarily  
4 participate in the temporary management program.

5 The purposes of the temporary management program are as follows:

6 (a) To mitigate dislocation and transfer trauma of residents while  
7 the department and licensee may pursue dispute resolution or appeal of  
8 a summary suspension of license;

9 (b) To facilitate the continuity of safe and appropriate resident  
10 care and services;

11 (c) To protect the health, safety, and welfare of residents, by  
12 providing time for an orderly closure of the assisted living facility,  
13 or for the deficiencies that necessitated temporary management to be  
14 corrected; and

15 (d) To preserve a residential option that meets a specialized  
16 service need or is in a geographical area that has a lack of available  
17 providers.

18 (2) The department may recruit, approve, and appoint qualified  
19 individuals, partnerships, corporations, and other entities interested  
20 in serving as a temporary manager of an assisted living facility.  
21 These individuals and entities shall satisfy the criteria established  
22 under this chapter or by the department for approving licensees. The  
23 department shall not approve or appoint any person, including  
24 partnerships and other entities, if that person is affiliated with the  
25 assisted living facility subject to the temporary management, or has  
26 owned or operated an assisted living facility ordered into temporary  
27 management or receivership in any state. When approving or appointing  
28 a temporary manager, the department shall consider the temporary  
29 manager's past experience in long-term care, the quality of care  
30 provided, the temporary manager's availability, and the person's  
31 familiarity with applicable state and federal laws. Subject to the  
32 provisions of this section and RCW 18.20.430, the department's  
33 authority to approve or appoint a temporary manager is discretionary  
34 and not subject to the administrative procedure act, chapter 34.05 RCW.

35 (3) When the department appoints a temporary manager, the  
36 department shall enter into a contract with the temporary manager and  
37 shall order the licensee to cease operating the assisted living  
38 facility and immediately turn over to the temporary manager possession

1 and control of the assisted living facility, including but not limited  
2 to all resident care records, financial records, and other records  
3 necessary for operation of the facility while temporary management is  
4 in effect. If the department has not appointed a temporary manager and  
5 the licensee elects to participate in the temporary management program,  
6 the licensee shall select the temporary manager, subject to the  
7 department's approval, and enter into a contract with the temporary  
8 manager, consistent with this section. The department has the  
9 discretion to approve or revoke any temporary management arrangements  
10 made by the licensee.

11 (4) When the department appoints a temporary manager, the costs  
12 associated with the temporary management may be paid for through the  
13 assisted living facility temporary management account established by  
14 RCW 18.20.430, or from other departmental funds, or a combination  
15 thereof. All funds must be administered according to department  
16 procedures. The department may enter into an agreement with the  
17 licensee allowing the licensee to pay for some of the costs associated  
18 with a temporary manager appointed by the department. If the  
19 department has not appointed a temporary manager and the licensee  
20 elects to participate in the temporary management program, the licensee  
21 is responsible for all costs related to administering the temporary  
22 management program at the assisted living facility and contracting with  
23 the temporary manager.

24 (5) The temporary manager shall assume full responsibility for the  
25 daily operations of the assisted living facility and is responsible for  
26 correcting cited deficiencies and ensuring that all minimum licensing  
27 requirements are met. The temporary manager must comply with all state  
28 and federal laws and regulations applicable to assisted living  
29 facilities. The temporary manager shall protect the health, safety,  
30 and welfare of the residents for the duration of the temporary  
31 management and shall perform all acts reasonably necessary to ensure  
32 residents' needs are met. The temporary management contract shall  
33 address the responsibility of the temporary manager to pay past due  
34 debts. The temporary manager's specific responsibilities may include,  
35 but are not limited to:

36 (a) Receiving and expending in a prudent and business-like manner  
37 all current revenues of the assisted living facility, provided that

1 priority is given to debts and expenditures directly related to  
2 providing care and meeting residents' needs;

3 (b) Hiring and managing all consultants and employees and firing  
4 them for good cause;

5 (c) Making necessary purchases, repairs, and replacements, provided  
6 that such expenditures in excess of five thousand dollars by a  
7 temporary manager appointed by the department must be approved by the  
8 department;

9 (d) Entering into contracts necessary for the operation of the  
10 assisted living facility;

11 (e) Preserving resident trust funds and resident records; and

12 (f) Preparing all department-required reports, including a detailed  
13 monthly accounting of all expenditures and liabilities, which shall be  
14 sent to the department and the licensee.

15 (6) The licensee and department shall provide written notification  
16 immediately to all residents, resident representatives, interested  
17 family members, and the state long-term care (~~ombudsman~~) ombuds  
18 program of the temporary management and the reasons for it. This  
19 notification shall include notice that residents may move from the  
20 assisted living facility without notifying the licensee or temporary  
21 manager in advance, and without incurring any charges, fees, or costs  
22 otherwise available for insufficient advance notice, during the  
23 temporary management period. The notification shall also inform  
24 residents and their families or representatives that the temporary  
25 management team will provide residents help with relocation and  
26 appropriate discharge planning and coordination if desired. The  
27 department shall provide assistance with relocation to residents who  
28 are department clients and may provide such assistance to other  
29 residents. The temporary manager shall meet regularly with staff,  
30 residents, residents' representatives, and families to inform them of  
31 the plans for and progress achieved in the correction of deficiencies,  
32 and of the plans for facility closure or continued operation.

33 (7) The department shall terminate temporary management:

34 (a) After sixty days unless good cause is shown to continue the  
35 temporary management. Good cause for continuing the temporary  
36 management exists when returning the assisted living facility to its  
37 former licensee would subject residents to a threat to health, safety,  
38 or welfare;

1 (b) When all residents are transferred and the assisted living  
2 facility is closed;

3 (c) When deficiencies threatening residents' health, safety, or  
4 welfare are eliminated and the former licensee agrees to  
5 department-specified conditions regarding the continued facility  
6 operation; or

7 (d) When a new licensee assumes control of the assisted living  
8 facility.

9 Nothing in this section precludes the department from revoking its  
10 approval of the temporary management or exercising its licensing  
11 enforcement authority under this chapter. The department's decision  
12 whether to approve or to revoke a temporary management arrangement is  
13 not subject to the administrative procedure act, chapter 34.05 RCW.

14 (8) The department shall indemnify, defend, and hold harmless any  
15 temporary manager appointed or approved under this section against  
16 claims made against the temporary manager for any actions by the  
17 temporary manager or its agents that do not amount to intentional torts  
18 or criminal behavior.

19 (9) The department may adopt rules implementing this section. In  
20 the development of rules or policies implementing this section, the  
21 department shall consult with residents and their representatives,  
22 resident advocates, financial professionals, assisted living facility  
23 providers, and organizations representing assisted living facilities.

24 **Sec. 13.** RCW 18.27.090 and 2007 c 436 s 6 are each amended to read  
25 as follows:

26 The registration provisions of this chapter do not apply to:

27 (1) An authorized representative of the United States government,  
28 the state of Washington, or any incorporated city, town, county,  
29 township, irrigation district, reclamation district, or other municipal  
30 or political corporation or subdivision of this state;

31 (2) Officers of a court when they are acting within the scope of  
32 their office;

33 (3) Public utilities operating under the regulations of the  
34 utilities and transportation commission in construction, maintenance,  
35 or development work incidental to their own business;

36 (4) Any construction, repair, or operation incidental to the  
37 discovering or producing of petroleum or gas, or the drilling, testing,

1 abandoning, or other operation of any petroleum or gas well or any  
2 surface or underground mine or mineral deposit when performed by an  
3 owner or lessee;

4 (5) The sale of any finished products, materials, or articles of  
5 merchandise that are not fabricated into and do not become a part of a  
6 structure under the common law of fixtures;

7 (6) Any construction, alteration, improvement, or repair of  
8 personal property performed by the registered or legal owner, or by a  
9 mobile/manufactured home retail dealer or manufacturer licensed under  
10 chapter 46.70 RCW who shall warranty service and repairs under chapter  
11 46.70 RCW;

12 (7) Any construction, alteration, improvement, or repair carried on  
13 within the limits and boundaries of any site or reservation under the  
14 legal jurisdiction of the federal government;

15 (8) Any person who only furnished materials, supplies, or equipment  
16 without fabricating them into, or consuming them in the performance of,  
17 the work of the contractor;

18 (9) Any work or operation on one undertaking or project by one or  
19 more contracts, the aggregate contract price of which for labor and  
20 materials and all other items is less than five hundred dollars, such  
21 work or operations being considered as of a casual, minor, or  
22 inconsequential nature. The exemption prescribed in this subsection  
23 does not apply in any instance wherein the work or construction is only  
24 a part of a larger or major operation, whether undertaken by the same  
25 or a different contractor, or in which a division of the operation is  
26 made into contracts of amounts less than five hundred dollars for the  
27 purpose of evasion of this chapter or otherwise. The exemption  
28 prescribed in this subsection does not apply to a person who advertises  
29 or puts out any sign or card or other device which might indicate to  
30 the public that he or she is a contractor, or that he or she is  
31 qualified to engage in the business of contractor;

32 (10) Any construction or operation incidental to the construction  
33 and repair of irrigation and drainage ditches of regularly constituted  
34 irrigation districts or reclamation districts; or to farming, dairying,  
35 agriculture, viticulture, horticulture, or stock or poultry raising; or  
36 to clearing or other work upon land in rural districts for fire  
37 prevention purposes; except when any of the above work is performed by  
38 a registered contractor;



1 (11) An owner who contracts for a project with a registered  
2 contractor, except that this exemption shall not deprive the owner of  
3 the protections of this chapter against registered and unregistered  
4 contractors. The exemption prescribed in this subsection does not  
5 apply to a person who performs the activities of a contractor for the  
6 purpose of leasing or selling improved property he or she has owned for  
7 less than twelve months;

8 (12) Any person working on his or her own property, whether  
9 occupied by him or her or not, and any person working on his or her  
10 personal residence, whether owned by him or her or not but this  
11 exemption shall not apply to any person who performs the activities of  
12 a contractor on his or her own property for the purpose of selling,  
13 demolishing, or leasing the property;

14 (13) An owner who performs maintenance, repair, and alteration work  
15 in or upon his or her own properties, or who uses his or her own  
16 employees to do such work;

17 (14) A licensed architect or civil or professional engineer acting  
18 solely in his or her professional capacity, an electrician certified  
19 under the laws of the state of Washington, or a plumber certified under  
20 the laws of the state of Washington or licensed by a political  
21 subdivision of the state of Washington while operating within the  
22 boundaries of such political subdivision. The exemption provided in  
23 this subsection is applicable only when the person certified is  
24 operating within the scope of his or her certification;

25 (15) Any person who engages in the activities herein regulated as  
26 an employee of a registered contractor with wages as his or her sole  
27 compensation or as an employee with wages as his or her sole  
28 compensation;

29 (16) Contractors on highway projects who have been prequalified as  
30 required by RCW 47.28.070, with the department of transportation to  
31 perform highway construction, reconstruction, or maintenance work;

32 (17) A mobile/manufactured home dealer or manufacturer who  
33 subcontracts the installation, set-up, or repair work to actively  
34 registered contractors. This exemption only applies to the  
35 installation, set-up, or repair of the mobile/manufactured homes that  
36 were manufactured or sold by the mobile/manufactured home dealer or  
37 manufacturer;

1 (18) An entity who holds a valid electrical contractor's license  
2 under chapter 19.28 RCW that employs a certified (~~journeyman~~) journey  
3 level electrician, a certified residential specialty electrician, or an  
4 electrical trainee meeting the requirements of chapter 19.28 RCW to  
5 perform plumbing work that is incidentally, directly, and immediately  
6 appropriate to the like-in-kind replacement of a household appliance or  
7 other small household utilization equipment that requires limited  
8 electric power and limited waste and/or water connections. An  
9 electrical trainee must be supervised by a certified electrician while  
10 performing plumbing work.

11 **Sec. 14.** RCW 18.106.010 and 2006 c 185 s 1 are each amended to  
12 read as follows:

13 The definitions in this section apply throughout this chapter  
14 unless the context clearly requires otherwise.

15 (1) "Advisory board" means the state advisory board of plumbers.

16 (2) "Contractor" means any person, corporate or otherwise, who  
17 engages in, or offers or advertises to engage in, any work covered by  
18 the provisions of this chapter by way of trade or business, or any  
19 person, corporate or otherwise, who employs anyone, or offers or  
20 advertises to employ anyone, to engage in any work covered by the  
21 provisions of this chapter.

22 (3) "Department" means the department of labor and industries.

23 (4) "Director" means the director of department of labor and  
24 industries.

25 (5) "~~(Journeyman)~~ Journey level plumber" means any person who has  
26 been issued a certificate of competency by the department of labor and  
27 industries as provided in this chapter.

28 (6) "Like-in-kind" means having similar characteristics such as  
29 plumbing size, type, and function, and being in the same location.

30 (7) "Medical gas piping" means oxygen, nitrous oxide, high pressure  
31 nitrogen, medical compressed air, and medical vacuum systems.

32 (8) "Medical gas piping installer" means a (~~journeyman~~) journey  
33 level plumber who has been issued a medical gas piping installer  
34 endorsement.

35 (9) "Plumbing" means that craft involved in installing, altering,  
36 repairing and renovating potable water systems, liquid waste systems,

1 and medical gas piping systems within a building. Installation in a  
2 water system of water softening or water treatment equipment is not  
3 within the meaning of plumbing as used in this chapter.

4 (10) "Specialty plumber" means anyone who has been issued a  
5 specialty certificate of competency limited to:

6 (a) Installation, maintenance, and repair of the plumbing of  
7 single-family dwellings, duplexes, and apartment buildings that do not  
8 exceed three stories;

9 (b) Maintenance and repair of backflow prevention assemblies; or

10 (c) A domestic water pumping system consisting of the installation,  
11 maintenance, and repair of the pressurization, treatment, and  
12 filtration components of a domestic water system consisting of: One or  
13 more pumps; pressure, storage, and other tanks; filtration and  
14 treatment equipment; if appropriate, a pitless adapter; along with  
15 valves, transducers, and other plumbing components that:

16 (i) Are used to acquire, treat, store, or move water suitable for  
17 either drinking or other domestic purposes, including irrigation, to:

18 (A) A single-family dwelling, duplex, or other similar place of  
19 residence; (B) a public water system, as defined in RCW 70.119.020 and  
20 as limited under RCW 70.119.040; or (C) a farm owned and operated by a  
21 person whose primary residence is located within thirty miles of any  
22 part of the farm;

23 (ii) Are located within the interior space, including but not  
24 limited to an attic, basement, crawl space, or garage, of a residential  
25 structure, which space is separated from the living area of the  
26 residence by a lockable entrance and fixed walls, ceiling, or floor;

27 (iii) If located within the interior space of a residential  
28 structure, are connected to a plumbing distribution system supplied and  
29 installed into the interior space by either: (A) A person who,  
30 pursuant to RCW 18.106.070 or 18.106.090, possesses a valid temporary  
31 permit or certificate of competency as a (~~journeyman~~) journey level  
32 plumber, specialty plumber, or trainee, as defined in this chapter; or  
33 (B) a person exempt from the requirement to obtain a certified plumber  
34 to do such plumbing work under RCW 18.106.150.

35 **Sec. 15.** RCW 18.106.020 and 2009 c 36 s 2 are each amended to read  
36 as follows:

37 (1) No person may engage in or offer to engage in the trade of

1 plumbing without having a ((~~journeyman~~)) journey level certificate,  
2 specialty certificate, temporary permit, or trainee certificate and  
3 photo identification in his or her possession. The department may  
4 establish by rule a requirement that the person also wear and visibly  
5 display his or her certificate or permit. A trainee must be supervised  
6 by a person who has a ((~~journeyman~~)) journey level certificate,  
7 specialty certificate, or temporary permit, as specified in RCW  
8 18.106.070. No contractor may employ a person to engage in or offer to  
9 engage in the trade of plumbing unless the person employed has a  
10 ((~~journeyman~~)) journey level certificate, specialty certificate,  
11 temporary permit, or trainee certificate. This section does not apply  
12 to a contractor who is contracting for work on his or her own  
13 residence. Until July 1, 2007, the department shall issue a written  
14 warning to any specialty plumber defined by RCW 18.106.010(10)(c) not  
15 having a valid plumber certification. The warning will state that the  
16 individual must apply for a plumber training certificate or be  
17 qualified for and apply for plumber certification under the  
18 requirements in RCW 18.106.040 within thirty calendar days of the  
19 warning. Only one warning will be issued to any individual. If the  
20 individual fails to comply with this section, the department shall  
21 issue a penalty or penalties as authorized by this chapter.

22 (2) No person may engage in or offer to engage in medical gas  
23 piping installation without having a certificate of competency as a  
24 ((~~journeyman~~)) journey level plumber and a medical gas piping installer  
25 endorsement and photo identification in his or her possession. The  
26 department may establish by rule a requirement that the person also  
27 wear and visibly display his or her endorsement. A trainee may engage  
28 in medical gas piping installation if he or she has a training  
29 certificate and is supervised by a person with a medical gas piping  
30 installer endorsement. No contractor may employ a person to engage in  
31 or offer to engage in medical gas piping installation unless the person  
32 employed has a certificate of competency as a ((~~journeyman~~)) journey  
33 level plumber and a medical gas piping installer endorsement.

34 (3) No contractor may advertise, offer to do work, submit a bid, or  
35 perform any work under this chapter without being registered as a  
36 contractor under chapter 18.27 RCW.

37 (4) Violation of this section is an infraction. Each day in which  
38 a person engages in the trade of plumbing in violation of this section

1 or employs a person in violation of this section is a separate  
2 infraction. Each worksite at which a person engages in the trade of  
3 plumbing in violation of this section or at which a person is employed  
4 in violation of this section is a separate infraction.

5 (5) Notices of infractions for violations of this section may be  
6 issued to:

7 (a) The person engaging in or offering to engage in the trade of  
8 plumbing in violation of this section;

9 (b) The contractor in violation of this section; and

10 (c) The contractor's employee who authorized the work assignment of  
11 the person employed in violation of this section.

12 **Sec. 16.** RCW 18.106.030 and 2011 c 336 s 504 are each amended to  
13 read as follows:

14 Any person desiring to be issued a certificate of competency as  
15 provided in this chapter shall deliver evidence in a form prescribed by  
16 the department affirming that said person has had sufficient experience  
17 in as well as demonstrated general competency in the trade of plumbing  
18 or specialty plumbing so as to qualify him or her to make an  
19 application for a certificate of competency as a (~~journeyman~~) journey  
20 level plumber or specialty plumber. Completion of a course of study in  
21 the plumbing trade in the armed services of the United States or at a  
22 school accredited by the workforce training and education coordinating  
23 board shall constitute sufficient evidence of experience and competency  
24 to enable such person to make application for a certificate of  
25 competency.

26 Any person desiring to be issued a medical gas piping installer  
27 endorsement shall deliver evidence in a form prescribed by the  
28 department affirming that the person has met the requirements  
29 established by the department for a medical gas piping installer  
30 endorsement.

31 In addition to supplying the evidence as prescribed in this  
32 section, each applicant for a certificate of competency shall submit an  
33 application for such certificate on such form and in such manner as  
34 shall be prescribed by the director of the department.

35 **Sec. 17.** RCW 18.106.040 and 2006 c 185 s 2 are each amended to  
36 read as follows:

1 (1) Upon receipt of the application and evidence set forth in RCW  
2 18.106.030, the director shall review the same and make a determination  
3 as to whether the applicant is eligible to take an examination for the  
4 certificate of competency. To be eligible to take the examination:

5 (a) Each applicant for a ((~~journeyman~~)) journey level plumber's  
6 certificate of competency shall furnish written evidence that he or she  
7 has completed a course of study in the plumbing trade in the armed  
8 services of the United States or at a school licensed by the workforce  
9 training and education coordinating board, or has had four or more  
10 years of experience under the direct supervision of a licensed  
11 ((~~journeyman~~)) journey level plumber.

12 (b) Each applicant for a specialty plumber's certificate of  
13 competency under RCW 18.106.010(10)(a) shall furnish written evidence  
14 that he or she has completed a course of study in the plumbing trade in  
15 the armed services of the United States or at a school licensed by the  
16 workforce training and education coordinating board under chapter  
17 28C.10 RCW, or that he or she has had at least three years practical  
18 experience in the specialty.

19 (c) Each applicant for a specialty plumber's certificate of  
20 competency under RCW 18.106.010(10) (b) or (c) shall furnish written  
21 evidence that he or she is eligible to take the examination. These  
22 eligibility requirements for the specialty plumbers defined by RCW  
23 18.106.010(10)(c) shall be one year of practical experience working on  
24 pumping systems not exceeding one hundred gallons per minute, and two  
25 years of practical experience working on pumping systems exceeding one  
26 hundred gallons per minute, or equivalent as determined by rule by the  
27 department in consultation with the advisory board, and that experience  
28 may be obtained at the same time the individual is meeting the  
29 experience required by RCW 19.28.191. The eligibility requirements for  
30 other specialty plumbers shall be established by rule by the director  
31 pursuant to subsection (2)(b) of this section.

32 (2)(a) The director shall establish reasonable rules for the  
33 examinations to be given applicants for certificates of competency. In  
34 establishing the rules, the director shall consult with the state  
35 advisory board of plumbers as established in RCW 18.106.110.

36 (b) The director shall establish reasonable criteria by rule for  
37 determining an applicant's eligibility to take an examination for the  
38 certificate of competency for specialty plumbers under subsection

1 (1)(c) of this section. In establishing the criteria, the director  
2 shall consult with the state advisory board of plumbers as established  
3 in RCW 18.106.110. These rules must take effect by December 31, 2006.

4 (3) Upon determination that the applicant is eligible to take the  
5 examination, the director shall so notify the applicant, indicating the  
6 time and place for taking the same.

7 (4) No other requirement for eligibility may be imposed.

8 **Sec. 18.** RCW 18.106.050 and 2006 c 185 s 3 are each amended to  
9 read as follows:

10 (1) The department, with the advice of the advisory board, shall  
11 prepare a written examination to be administered to applicants for  
12 certificates of competency for (~~journeyman~~) journey level plumber and  
13 specialty plumber. The examination shall be constructed to determine:

14 (a) Whether the applicant possesses varied general knowledge of the  
15 technical information and practical procedures that are identified with  
16 the trade of (~~journeyman~~) journey level plumber or specialty plumber;  
17 and

18 (b) Whether the applicant is familiar with the applicable plumbing  
19 codes and the administrative rules of the department pertaining to  
20 plumbing and plumbers.

21 (2) The department, with the consent of the advisory board, may  
22 enter into a contract with a nationally recognized testing agency to  
23 develop, administer, and score any examinations required by this  
24 chapter. All applicants shall, before taking an examination, pay the  
25 required examination fee. The department shall set the examination fee  
26 by contract with a nationally recognized testing agency. The fee shall  
27 cover but not exceed the costs of preparing and administering the  
28 examination and the materials necessary to conduct the practical  
29 elements of the examination. The department shall approve training  
30 courses and set the fees for training courses for examinations provided  
31 by this chapter.

32 (3) An examination to determine the competency of an applicant for  
33 a domestic water pumping system specialty plumbing certificate as  
34 defined by RCW 18.106.010(10)(c) must be established by the department  
35 in consultation with the advisory board by December 31, 2006. The  
36 department may include an examination for appropriate electrical safety  
37 and technical requirements as required by RCW 19.28.191 with the

1 examination required by this section. The department, in consultation  
2 with the advisory board, may accept the certification by a professional  
3 or trade association or other acceptable entity as meeting the  
4 examination requirement of this section. Individuals who can provide  
5 evidence to the department prior to January 1, 2007, that they have  
6 been employed in the pump and irrigation business as defined by RCW  
7 18.106.010(10)(c) for not less than four thousand hours in the most  
8 recent four calendar years shall be issued the appropriate certificate  
9 by the department upon receiving such documentation and applicable  
10 fees. The department shall establish a single document for those who  
11 have received both the plumbing specialty certification defined by this  
12 subsection and have also met the certification requirements for a pump  
13 and irrigation or domestic pump specialty electrician, showing that the  
14 individual has received both certifications.

15 (4) The department shall certify the results of the examinations  
16 provided by this chapter, and shall notify the applicant in writing  
17 whether he or she has passed or failed. Any applicant who has failed  
18 the examination may retake the examination, upon the terms and after a  
19 period of time that the director shall set by rule. The director may  
20 not limit the number of times that a person may take the examination.

21 **Sec. 19.** RCW 18.106.070 and 2009 c 36 s 3 are each amended to read  
22 as follows:

23 (1) The department shall issue a certificate of competency to all  
24 applicants who have passed the examination and have paid the fee for  
25 the certificate. The certificate may include a photograph of the  
26 holder. The certificate shall bear the date of issuance, and shall  
27 expire on the birthdate of the holder immediately following the date of  
28 issuance. The certificate shall be renewable every other year, upon  
29 application, on or before the birthdate of the holder, except for  
30 specialty plumbers defined by RCW 18.106.010(10)(c) who also have an  
31 electrical certification issued jointly as provided by RCW  
32 18.106.050(3) in which case their certificate shall be renewable every  
33 three years on or before the birthdate of the holder. The department  
34 shall renew a certificate of competency if the applicant: (a) Pays the  
35 renewal fee assessed by the department; and (b) during the past two  
36 years has completed sixteen hours of continuing education approved by  
37 the department with the advice of the advisory board, including four



1 hours related to electrical safety. For holders of the specialty  
2 plumber certificate under RCW 18.106.010(10)(c), the continuing  
3 education may comprise both electrical and plumbing education with a  
4 minimum of twelve of the required twenty-four hours of continuing  
5 education in plumbing. If a person fails to renew the certificate by  
6 the renewal date, he or she must pay a doubled fee. If the person does  
7 not renew the certificate within ninety days of the renewal date, he or  
8 she must retake the examination and pay the examination fee.

9 The ((~~journeyman~~)) journey level plumber and specialty plumber  
10 certificates of competency, the medical gas piping installer  
11 endorsement, and the temporary permit provided for in this chapter  
12 grant the holder the right to engage in the work of plumbing as a  
13 ((~~journeyman~~)) journey level plumber, specialty plumber, or medical gas  
14 piping installer, in accordance with their provisions throughout the  
15 state and within any of its political subdivisions on any job or any  
16 employment without additional proof of competency or any other license  
17 or permit or fee to engage in the work. This section does not preclude  
18 employees from adhering to a union security clause in any employment  
19 where such a requirement exists.

20 (2) A person who is indentured in an apprenticeship program  
21 approved under chapter 49.04 RCW for the plumbing construction trade or  
22 who is learning the plumbing construction trade may work in the  
23 plumbing construction trade if supervised by a certified ((~~journeyman~~))  
24 journey level plumber or a certified specialty plumber in that  
25 plumber's specialty. All apprentices and individuals learning the  
26 plumbing construction trade shall obtain a plumbing training  
27 certificate from the department. The certificate shall authorize the  
28 holder to learn the plumbing construction trade while under the direct  
29 supervision of a ((~~journeyman~~)) journey level plumber or a specialty  
30 plumber working in his or her specialty. The certificate may include  
31 a photograph of the holder. The holder of the plumbing training  
32 certificate shall renew the certificate annually. At the time of  
33 renewal, the holder shall provide the department with an accurate list  
34 of the holder's employers in the plumbing construction industry for the  
35 previous year and the number of hours worked for each employer. An  
36 annual fee shall be charged for the issuance or renewal of the  
37 certificate. The department shall set the fee by rule. The fee shall

1 cover but not exceed the cost of administering and enforcing the  
2 trainee certification and supervision requirements of this chapter.

3 (3) Any person who has been issued a plumbing training certificate  
4 under this chapter may work if that person is under supervision.  
5 Supervision shall consist of a person being on the same job site and  
6 under the control of either a ((journeyman)) journey level plumber or  
7 an appropriate specialty plumber who has an applicable certificate of  
8 competency issued under this chapter. Either a ((journeyman)) journey  
9 level plumber or an appropriate specialty plumber shall be on the same  
10 job site as the noncertified individual for a minimum of seventy-five  
11 percent of each working day unless otherwise provided in this chapter.  
12 The ratio of noncertified individuals to certified ((journeymen))  
13 journey level or specialty plumbers working on a job site shall be:  
14 (a) Not more than two noncertified plumbers working on any one job site  
15 for every certified specialty plumber or ((journeyman)) journey level  
16 plumber working as a specialty plumber; and (b) not more than one  
17 noncertified plumber working on any one job site for every certified  
18 ((journeyman)) journey level plumber working as a ((journeyman))  
19 journey level plumber.

20 An individual who has a current training certificate and who has  
21 successfully completed or is currently enrolled in an approved  
22 apprenticeship program or in a technical school program in the plumbing  
23 construction trade in a school approved by the workforce training and  
24 education coordinating board, may work without direct on-site  
25 supervision during the last six months of meeting the practical  
26 experience requirements of this chapter.

27 (4) An individual who has a current training certificate and who  
28 has successfully completed or is currently enrolled in a medical gas  
29 piping installer training course approved by the department may work on  
30 medical gas piping systems if the individual is under the direct  
31 supervision of a certified medical gas piping installer who holds a  
32 medical gas piping installer endorsement one hundred percent of a  
33 working day on a one-to-one ratio.

34 (5) The training to become a certified plumber must include not  
35 less than sixteen hours of classroom training established by the  
36 director with the advice of the advisory board. The classroom training  
37 must include, but not be limited to, electrical wiring safety,

1 grounding, bonding, and other related items plumbers need to know to  
2 work under RCW 19.28.091.

3 (6) All persons who are certified plumbers before January 1, 2003,  
4 are deemed to have received the classroom training required in  
5 subsection (5) of this section.

6 **Sec. 20.** RCW 18.106.075 and 1997 c 326 s 1 are each amended to  
7 read as follows:

8 The department shall adopt requirements that qualify a  
9 (~~journeyman~~) journey level plumber to be issued a medical gas piping  
10 installer endorsement.

11 **Sec. 21.** RCW 18.106.080 and 2011 c 336 s 505 are each amended to  
12 read as follows:

13 No examination shall be required of any applicant for a certificate  
14 of competency who, on July 16, 1973, was engaged in a bona fide  
15 business or trade of plumbing, or on said date held a valid  
16 (~~journeyman~~) journey level plumber's license issued by a political  
17 subdivision of the state of Washington and whose license is valid at  
18 the time of making his or her application for said certificate.  
19 Applicants qualifying under this section shall be issued a certificate  
20 by the department upon making an application as provided in RCW  
21 18.106.030 and paying the fee required under RCW 18.106.050: PROVIDED,  
22 That no applicant under this section shall be required to furnish such  
23 evidence as required by RCW 18.106.030.

24 **Sec. 22.** RCW 18.106.090 and 2009 c 36 s 4 are each amended to read  
25 as follows:

26 The department is authorized to grant and issue temporary permits  
27 in lieu of certificates of competency whenever a plumber coming into  
28 the state of Washington from another state requests the department for  
29 a temporary permit to engage in the trade of plumbing as a  
30 (~~journeyman~~) journey level plumber or as a specialty plumber during  
31 the period of time between filing of an application for a certificate  
32 as provided in RCW 18.106.030 as now or hereafter amended and taking  
33 the examination provided for in RCW 18.106.050. The temporary permit  
34 may include a photograph of the plumber. No temporary permit shall be  
35 issued to:

1 (1) Any person who has failed to pass the examination for a  
2 certificate of competency;

3 (2) Any applicant under this section who has not furnished the  
4 department with such evidence required under RCW 18.106.030;

5 (3) ~~((To))~~ Any ~~((Any))~~ apprentice plumber.

6 **Sec. 23.** RCW 18.106.100 and 2011 c 301 s 4 are each amended to  
7 read as follows:

8 (1) The department may revoke or suspend a certificate of  
9 competency for any of the following reasons:

10 (a) The certificate was obtained through error or fraud;

11 (b) The certificate holder is judged to be incompetent to carry on  
12 the trade of plumbing as a ~~((journeyman))~~ journey level plumber or  
13 specialty plumber;

14 (c) The certificate holder has violated any provision of this  
15 chapter or any rule adopted under this chapter.

16 (2) Before a certificate of competency is revoked or suspended, the  
17 department shall send written notice using a method by which the  
18 mailing can be tracked or the delivery can be confirmed to the  
19 certificate holder's last known address. The notice must list the  
20 allegations against the certificate holder and give him or her the  
21 opportunity to request a hearing before the advisory board. At the  
22 hearing, the department and the certificate holder have opportunity to  
23 produce witnesses and give testimony. The hearing must be conducted in  
24 accordance with chapter 34.05 RCW. The board shall render its decision  
25 based upon the testimony and evidence presented and shall notify the  
26 parties immediately upon reaching its decision. A majority of the  
27 board is necessary to render a decision.

28 (3) The department may deny renewal of a certificate of competency  
29 issued under this chapter if the applicant owes outstanding penalties  
30 for a final judgment under this chapter. The department shall notify  
31 the applicant of the denial using a method by which the mailing can be  
32 tracked or the delivery can be confirmed to the address on the  
33 application. The applicant may appeal the denial within twenty days by  
34 filing a notice of appeal with the department accompanied by a  
35 certified check for two hundred dollars which shall be returned to the  
36 applicant if the decision of the department is not upheld by the  
37 hearings officer. The office of administrative hearings shall conduct

1 the hearing under chapter 34.05 RCW. If the hearings officer sustains  
2 the decision of the department, the two hundred dollars must be applied  
3 to the cost of the hearing.

4 **Sec. 24.** RCW 18.106.110 and 2011 1st sp.s. c 21 s 21 are each  
5 amended to read as follows:

6 (1) There is created a state advisory board of plumbers, to be  
7 composed of seven members appointed by the director. Two members shall  
8 be ((~~journeyman~~)) journey level plumbers, one member shall be a  
9 specialty plumber, three members shall be persons conducting a plumbing  
10 business, at least one of which shall be primarily engaged in a  
11 specialty plumbing business, and one member from the general public who  
12 is familiar with the business and trade of plumbing.

13 (2) The term of one ((~~journeyman~~)) journey level plumber expires  
14 July 1, 1995; the term of the second ((~~journeyman~~)) journey level  
15 plumber expires July 1, 2000; the term of the specialty plumber expires  
16 July 1, 2008; the term of one person conducting a plumbing business  
17 expires July 1, 1996; the term of the second person conducting a  
18 plumbing business expires July 1, 2000; the term of the third person  
19 conducting a plumbing business expires July 1, 2007; and the term of  
20 the public member expires July 1, 1997. Thereafter, upon the  
21 expiration of said terms, the director shall appoint a new member to  
22 serve for a period of three years. However, to ensure that the board  
23 can continue to act, a member whose term expires shall continue to  
24 serve until his or her replacement is appointed. In the case of any  
25 vacancy on the board for any reason, the director shall appoint a new  
26 member to serve out the term of the person whose position has become  
27 vacant.

28 (3) The advisory board shall carry out all the functions and duties  
29 enumerated in this chapter, as well as generally advise the department  
30 on all matters relative to this chapter.

31 (4) Each member of the advisory board shall receive travel expenses  
32 in accordance with the provisions of RCW 43.03.050 and 43.03.060 as now  
33 existing or hereafter amended for each day in which such member is  
34 actually engaged in attendance upon the meetings of the advisory board.

35 **Sec. 25.** RCW 18.106.150 and 2003 c 399 s 402 are each amended to  
36 read as follows:

1 (1) Nothing in this chapter shall be construed to require that a  
2 person obtain a license or a certified plumber in order to do plumbing  
3 work at his or her residence or farm or place of business or on other  
4 property owned by him or her.

5 (2) A current certificate of competency or apprentice permit is not  
6 required for:

7 (a) Persons performing plumbing work on a farm; or

8 (b) Certified (~~journeyman~~) journey level electricians, certified  
9 residential specialty electricians, or electrical trainees working for  
10 an electrical contractor and performing exempt work under RCW  
11 18.27.090(18).

12 (3) Nothing in this chapter shall be intended to derogate from or  
13 dispense with the requirements of any valid plumbing code enacted by a  
14 political subdivision of the state, except that no code shall require  
15 the holder of a certificate of competency to demonstrate any additional  
16 proof of competency or obtain any other license or pay any fee in order  
17 to engage in the trade of plumbing.

18 (4) This chapter shall not apply to common carriers subject to Part  
19 I of the Interstate Commerce Act, nor to their officers and employees.

20 (5) Nothing in this chapter shall be construed to apply to any  
21 farm, business, industrial plant, or corporation doing plumbing work on  
22 premises it owns or operates.

23 (6) Nothing in this chapter shall be construed to restrict the  
24 right of any householder to assist or receive assistance from a friend,  
25 neighbor, relative, or other person when none of the individuals doing  
26 such plumbing hold themselves out as engaged in the trade or business  
27 of plumbing.

28 **Sec. 26.** RCW 18.106.155 and 1977 ex.s. c 149 s 11 are each amended  
29 to read as follows:

30 The director may, upon payment of the appropriate fees, grant a  
31 certificate of competency without examination to any applicant who is  
32 a registered (~~journeyman~~) journey level plumber or specialty plumber  
33 in any other state whose requirements for registration are at least  
34 substantially equivalent to the requirements of this state, and which  
35 extends the same privileges of reciprocity to (~~journeymen~~) journey  
36 level plumbers or specialty plumbers registered in this state.

1       **Sec. 27.** RCW 19.28.006 and 2003 c 399 s 101 are each amended to  
2 read as follows:

3       The definitions in this section apply throughout this subchapter.

4       (1) "Administrator" means a person designated by an electrical  
5 contractor to supervise electrical work and electricians in accordance  
6 with the rules adopted under this chapter.

7       (2) "Basic electrical work" means the work classified in (a) and  
8 (b) of this subsection as class A and class B basic electrical work:

9       (a) "Class A basic electrical work" means the like-in-kind  
10 replacement of a: Contactor, relay, timer, starter, circuit board, or  
11 similar control component; household appliance; circuit breaker; fuse;  
12 residential luminaire; lamp; snap switch; dimmer; receptacle outlet;  
13 thermostat; heating element; luminaire ballast with an exact same  
14 ballast; ten horsepower or smaller motor; or wiring, appliances,  
15 devices, or equipment as specified by rule.

16       (b) "Class B basic electrical work" means work other than class A  
17 basic electrical work that requires minimal electrical circuit  
18 modifications and has limited exposure hazards. Class B basic  
19 electrical work includes the following:

20       (i) Extension of not more than one branch electrical circuit  
21 limited to one hundred twenty volts and twenty amps each where:

22       (A) No cover inspection is necessary; and

23       (B) The extension does not supply more than two outlets;

24       (ii) Like-in-kind replacement of a single luminaire not exceeding  
25 two hundred seventy-seven volts and twenty amps;

26       (iii) Like-in-kind replacement of a motor larger than ten  
27 horsepower;

28       (iv) The following low voltage systems:

29       (A) Repair and replacement of devices not exceeding one hundred  
30 volt-amperes in Class 2, Class 3, or power limited low voltage systems  
31 in one and two-family dwellings;

32       (B) Repair and replacement of the following devices not exceeding  
33 one hundred volt-amperes in Class 2, Class 3, or power limited low  
34 voltage systems in other buildings, provided the equipment is not for  
35 fire alarm or nurse call systems and is not located in an area  
36 classified as hazardous by the national electrical code; or

37       (v) Wiring, appliances, devices, or equipment as specified by rule.

38       (3) "Board" means the electrical board under RCW 19.28.311.

1 (4) "Chapter" or "subchapter" means the subchapter, if no chapter  
2 number is referenced.

3 (5) "Department" means the department of labor and industries.

4 (6) "Director" means the director of the department or the  
5 director's designee.

6 (7) "Electrical construction trade" includes, but is not limited  
7 to, installing or maintaining electrical wires and equipment that are  
8 used for light, heat, or power and installing and maintaining remote  
9 control, signaling, power limited, or communication circuits or  
10 systems.

11 (8) "Electrical contractor" means a person, firm, partnership,  
12 corporation, or other entity that offers to undertake, undertakes,  
13 submits a bid for, or does the work of installing or maintaining wires  
14 or equipment that convey electrical current.

15 (9) "Equipment" means any equipment or apparatus that directly  
16 uses, conducts, insulates, or is operated by electricity but does not  
17 mean: Plug-in appliances; or plug-in equipment as determined by the  
18 department by rule.

19 (10) "Industrial control panel" means a factory-wired or user-wired  
20 assembly of industrial control equipment such as motor controllers,  
21 switches, relays, power supplies, computers, cathode ray tubes,  
22 transducers, and auxiliary devices. The panel may include disconnect  
23 means and motor branch circuit protective devices.

24 (11) "~~((Journeyman))~~ Journey level electrician" means a person who  
25 has been issued a ~~((journeyman))~~ journey level electrician certificate  
26 of competency by the department.

27 (12) "Like-in-kind" means having similar characteristics such as  
28 voltage requirements, current draw, and function, and being in the same  
29 location.

30 (13) "Master electrician" means either a master ~~((journeyman))~~  
31 journey level electrician or master specialty electrician.

32 (14) "Master ~~((journeyman))~~ journey level electrician" means a  
33 person who has been issued a master ~~((journeyman))~~ journey level  
34 electrician certificate of competency by the department and who may be  
35 designated by an electrical contractor to supervise electrical work and  
36 electricians in accordance with rules adopted under this chapter.

37 (15) "Master specialty electrician" means a person who has been  
38 issued a specialty electrician certificate of competency by the



1 department and who may be designated by an electrical contractor to  
2 supervise electrical work and electricians in accordance with rules  
3 adopted under this chapter.

4 (16) "Specialty electrician" means a person who has been issued a  
5 specialty electrician certificate of competency by the department.

6 **Sec. 28.** RCW 19.28.041 and 2006 c 224 s 1 and 2006 c 185 s 5 are  
7 each reenacted and amended to read as follows:

8 (1) It is unlawful for any person, firm, partnership, corporation,  
9 or other entity to advertise, offer to do work, submit a bid, engage  
10 in, conduct, or carry on the business of installing or maintaining  
11 wires or equipment to convey electric current, or installing or  
12 maintaining equipment to be operated by electric current as it pertains  
13 to the electrical industry, without having an unrevoked, unsuspended,  
14 and unexpired electrical contractor license, issued by the department  
15 in accordance with this chapter. All electrical contractor licenses  
16 expire twenty-four calendar months following the day of their issue.  
17 The department may issue an electrical contractor(~~s~~) license for a  
18 period of less than twenty-four months only for the purpose of  
19 equalizing the number of electrical contractor licenses that expire  
20 each month. Application for an electrical contractor license shall be  
21 made in writing to the department, accompanied by the required fee.  
22 The application shall state:

23 (a) The name and address of the applicant; in case of firms or  
24 partnerships, the names of the individuals composing the firm or  
25 partnership; in case of corporations, the names of the managing  
26 officials thereof;

27 (b) The location of the place of business of the applicant and the  
28 name under which the business is conducted;

29 (c) Employer social security number;

30 (d) Evidence of workers' compensation coverage for the applicant's  
31 employees working in Washington, as follows:

32 (i) The applicant's industrial insurance account number issued by  
33 the department;

34 (ii) The applicant's self-insurer number issued by the department;  
35 or

36 (iii) For applicants domiciled in a state or province of Canada  
37 subject to an agreement entered into under RCW 51.12.120(7), as

1 permitted by the agreement, filing a certificate of coverage issued by  
2 the agency that administers the workers' compensation law in the  
3 applicant's state or province of domicile certifying that the applicant  
4 has secured the payment of compensation under the other state's or  
5 province's workers' compensation law;

6 (e) Employment security department number;

7 (f) State excise tax registration number;

8 (g) Unified business identifier (UBI) account number may be  
9 substituted for the information required by (d) of this subsection if  
10 the applicant will not employ employees in Washington, and by (e) and  
11 (f) of this subsection; and

12 (h) Whether a general or specialty electrical contractor license is  
13 sought and, if the latter, the type of specialty. Electrical  
14 contractor specialties include, but are not limited to: Residential,  
15 pump and irrigation, limited energy system, signs, nonresidential  
16 maintenance, restricted nonresidential maintenance, appliance repair,  
17 and a combination specialty. A general electrical contractor license  
18 shall grant to the holder the right to engage in, conduct, or carry on  
19 the business of installing or maintaining wires or equipment to carry  
20 electric current, and installing or maintaining equipment, or  
21 installing or maintaining material to fasten or insulate such wires or  
22 equipment to be operated by electric current, in the state of  
23 Washington. A specialty electrical contractor license shall grant to  
24 the holder a limited right to engage in, conduct, or carry on the  
25 business of installing or maintaining wires or equipment to carry  
26 electrical current, and installing or maintaining equipment; or  
27 installing or maintaining material to fasten or insulate such wires or  
28 equipment to be operated by electric current in the state of Washington  
29 as expressly allowed by the license.

30 (2) The department may verify the workers' compensation coverage  
31 information provided by the applicant under subsection (1)(d) of this  
32 section, including but not limited to information regarding the  
33 coverage of an individual employee of the applicant. If coverage is  
34 provided under the laws of another state, the department may notify the  
35 other state that the applicant is employing employees in Washington.

36 (3) The application for an electrical contractor license shall be  
37 accompanied by a bond in the sum of four thousand dollars with the  
38 state of Washington named as obligee in the bond, with good and

1 sufficient surety, to be approved by the department. The bond shall at  
2 all times be kept in full force and effect, and any cancellation or  
3 revocation thereof, or withdrawal of the surety therefrom, suspends the  
4 license issued to the principal until a new bond has been filed and  
5 approved as provided in this section. Upon approval of a bond, the  
6 department shall on the next business day deposit the fee accompanying  
7 the application in the electrical license fund and shall file the bond  
8 in the office. The department shall upon request furnish to any  
9 person, firm, partnership, corporation, or other entity a certified  
10 copy of the bond upon the payment of a fee that the department shall  
11 set by rule. The fee shall cover but not exceed the cost of furnishing  
12 the certified copy. The bond shall be conditioned that in any  
13 installation or maintenance of wires or equipment to convey electrical  
14 current, and equipment to be operated by electrical current, the  
15 principal will comply with the provisions of this chapter and with any  
16 electrical ordinance, building code, or regulation of a city or town  
17 adopted pursuant to RCW 19.28.010(3) that is in effect at the time of  
18 entering into a contract. The bond shall be conditioned further that  
19 the principal will pay for all labor, including employee benefits, and  
20 material furnished or used upon the work, taxes and contributions to  
21 the state of Washington, and all damages that may be sustained by any  
22 person, firm, partnership, corporation, or other entity due to a  
23 failure of the principal to make the installation or maintenance in  
24 accordance with this chapter or any applicable ordinance, building  
25 code, or regulation of a city or town adopted pursuant to RCW  
26 19.28.010(3). In lieu of the surety bond required by this section, the  
27 license applicant may file with the department a cash deposit or other  
28 negotiable security acceptable to the department. If the license  
29 applicant has filed a cash deposit, the department shall deposit the  
30 funds in a special trust savings account in a commercial bank, mutual  
31 savings bank, or savings and loan association and shall pay annually to  
32 the depositor the interest derived from the account.

33 (4) The department shall issue general or specialty electrical  
34 contractor licenses to applicants meeting all of the requirements of  
35 this chapter. The provisions of this chapter relating to the licensing  
36 of any person, firm, partnership, corporation, or other entity  
37 including the requirement of a bond with the state of Washington named  
38 as obligee therein and the collection of a fee therefor, are exclusive,

1 and no political subdivision of the state of Washington may require or  
2 issue any licenses or bonds or charge any fee for the same or a similar  
3 purpose. No person, firm, partnership, corporation, or other entity  
4 holding more than one specialty contractor license under this chapter  
5 may be required to pay an annual fee for more than one such license or  
6 to post more than one four thousand dollar bond, equivalent cash  
7 deposit, or other negotiable security.

8 (5) To obtain a general or specialty electrical contractor license,  
9 the applicant must designate an individual who currently possesses a  
10 valid master (~~journeyman~~) journey level electrician's certificate of  
11 competency, master specialty electrician's certificate of competency in  
12 the specialty for which application has been made, or administrator's  
13 certificate as a general electrical contractor administrator or as a  
14 specialty electrical contractor administrator in the specialty for  
15 which application has been made.

16 (6) Administrator certificate specialties include, but are not  
17 limited to: Residential, pump and irrigation or domestic pump, limited  
18 energy system, signs, nonresidential maintenance, restricted  
19 nonresidential maintenance, appliance repair, and combination  
20 specialty. To obtain an administrator's certificate, an individual  
21 must pass an examination as set forth in RCW 19.28.051 unless the  
22 applicant was a licensed electrical contractor at any time during 1974.  
23 Applicants who were electrical contractors licensed by the state of  
24 Washington at any time during 1974 are entitled to receive a general  
25 electrical contractor administrator's certificate without examination  
26 if the applicants apply prior to January 1, 1984. The board of  
27 electrical examiners shall certify to the department the names of all  
28 persons who are entitled to either a general or specialty electrical  
29 contractor administrator's certificate.

30 (7) For a contractor doing domestic water pumping system work as  
31 defined by RCW 18.106.010(10)(c), the department shall consider the  
32 requirements of subsections (1)(a) through (h), (2), and (3) of this  
33 section to have been met to be a pump and irrigation or domestic pump  
34 licensed electrical contractor if the contractor has met the contractor  
35 registration requirements of chapter 18.27 RCW. The department shall  
36 establish a single registration/licensing document for those who  
37 qualify for both general contractor registration as defined in chapter

1 18.27 RCW and a pump and irrigation or domestic pump electrical  
2 contractor license as defined by this chapter.

3 **Sec. 29.** RCW 19.28.161 and 2010 c 33 s 1 are each amended to read  
4 as follows:

5 (1) No person may engage in the electrical construction trade  
6 without having a valid master (~~((journeyman))~~) journey level electrician  
7 certificate of competency, (~~((journeyman))~~) journey level electrician  
8 certificate of competency, master specialty electrician certificate of  
9 competency, or specialty electrician certificate of competency issued  
10 by the department in accordance with this chapter. Electrician  
11 certificate of competency specialties include, but are not limited to:  
12 Residential, pump and irrigation, limited energy system, signs,  
13 nonresidential maintenance, restricted nonresidential maintenance, and  
14 appliance repair. Until July 1, 2007, the department of labor and  
15 industries shall issue a written warning to any specialty pump and  
16 irrigation or domestic pump electrician not having a valid electrician  
17 certification. The warning will state that the individual must apply  
18 for an electrical training certificate or be qualified for and apply  
19 for electrician certification under the requirements in RCW  
20 19.28.191(1)(g) within thirty calendar days of the warning. Only one  
21 warning will be issued to any individual. If the individual fails to  
22 comply with this section, the department shall issue a penalty as  
23 defined in RCW 19.28.271 to the individual.

24 (2) A person who is indentured in an apprenticeship program  
25 approved under chapter 49.04 RCW for the electrical construction trade  
26 or who is learning the electrical construction trade may work in the  
27 electrical construction trade if supervised by a certified master  
28 (~~((journeyman))~~) journey level electrician, (~~((journeyman))~~) journey level  
29 electrician, master specialty electrician in that electrician's  
30 specialty, or specialty electrician in that electrician's specialty.  
31 All apprentices and individuals learning the electrical construction  
32 trade shall obtain an electrical training certificate from the  
33 department. The certificate shall authorize the holder to learn the  
34 electrical construction trade while under the direct supervision of a  
35 master (~~((journeyman))~~) journey level electrician, (~~((journeyman))~~) journey  
36 level electrician, master specialty electrician working in that  
37 electrician's specialty, or specialty electrician working in that

1 electrician's specialty. The certificate may include a photograph of  
2 the holder. The holder of the electrical training certificate shall  
3 renew the certificate biennially. At the time of renewal, the holder  
4 shall provide the department with an accurate list of the holder's  
5 employers in the electrical construction industry for the previous  
6 biennial period and the number of hours worked for each employer. The  
7 holder shall also provide proof of sixteen hours of: Approved  
8 classroom training covering this chapter, the national electrical code,  
9 or electrical theory; or equivalent classroom training taken as part of  
10 an approved apprenticeship program under chapter 49.04 RCW or an  
11 approved electrical training program under RCW 19.28.191(1)(h). The  
12 number of hours of approved classroom training required for certificate  
13 renewal shall increase as follows: (a) Beginning on July 1, 2011, the  
14 holder of an electrical training certificate shall provide the  
15 department with proof of thirty-two hours of approved classroom  
16 training; and (b) beginning on July 1, 2013, the holder of an  
17 electrical training certificate shall provide the department with proof  
18 of forty-eight hours of approved classroom training. At the request of  
19 the chairs of the house of representatives commerce and labor committee  
20 and the senate labor, commerce and consumer protection committee, or  
21 their successor committees, the department of labor and industries  
22 shall provide information on the implementation of the new classroom  
23 training requirements for electrical trainees to both committees by  
24 December 1, 2012. A biennial fee shall be charged for the issuance or  
25 renewal of the certificate. The department shall set the fee by rule.  
26 The fee shall cover but not exceed the cost of administering and  
27 enforcing the trainee certification and supervision requirements of  
28 this chapter. Apprentices and individuals learning the electrical  
29 construction trade shall have their electrical training certificates in  
30 their possession at all times that they are performing electrical work.  
31 They shall show their certificates to an authorized representative of  
32 the department at the representative's request.

33 (3) Any person who has been issued an electrical training  
34 certificate under this chapter may work if that person is under  
35 supervision. Supervision shall consist of a person being on the same  
36 job site and under the control of either a certified master  
37 (~~journeyman~~) journey level electrician, (~~journeyman~~) journey level  
38 electrician, master specialty electrician working in that electrician's

1 specialty, or specialty electrician working in that electrician's  
2 specialty. Either a certified master ((~~journeyman~~)) journey level  
3 electrician, ((~~journeyman~~)) journey level electrician, master specialty  
4 electrician working in that electrician's specialty, or specialty  
5 electrician working in that electrician's specialty shall be on the  
6 same job site as the noncertified individual for a minimum of seventy-  
7 five percent of each working day unless otherwise provided in this  
8 chapter.

9 (4) The ratio of noncertified individuals to certified master  
10 ((~~journeymen~~)) journey level electricians, ((~~journeymen~~)) journey level  
11 electricians, master specialty electricians, or specialty electricians  
12 on any one job site is as follows:

13 (a) When working as a specialty electrician, not more than two  
14 noncertified individuals for every certified master specialty  
15 electrician working in that electrician's specialty, specialty  
16 electrician working in that electrician's specialty, master  
17 ((~~journeyman~~)) journey level electrician, or ((~~journeyman~~)) journey  
18 level electrician, except that the ratio requirements are one certified  
19 master specialty electrician working in that electrician's specialty,  
20 specialty electrician working in that electrician's specialty, master  
21 ((~~journeyman~~)) journey level electrician, or ((~~journeyman~~)) journey  
22 level electrician working as a specialty electrician to no more than  
23 four students enrolled in and working as part of an electrical  
24 construction program at public community or technical colleges, or not-  
25 for-profit nationally accredited trade or technical schools licensed by  
26 the workforce training and education coordinating board under chapter  
27 28C.10 RCW. In meeting the ratio requirements for students enrolled in  
28 an electrical construction program at a trade school, a trade school  
29 may receive input and advice from the electrical board; and

30 (b) When working as a ((~~journeyman~~)) journey level electrician, not  
31 more than one noncertified individual for every certified master  
32 ((~~journeyman~~)) journey level electrician or ((~~journeyman~~)) journey  
33 level electrician, except that the ratio requirements shall be one  
34 certified master ((~~journeyman~~)) journey level electrician or  
35 ((~~journeyman~~)) journey level electrician to no more than four students  
36 enrolled in and working as part of an electrical construction program  
37 at public community or technical colleges, or not-for-profit nationally  
38 accredited trade or technical schools licensed by the workforce

1 training and education coordinating board under chapter 28C.10 RCW. In  
2 meeting the ratio requirements for students enrolled in an electrical  
3 construction program at a trade school, a trade school may receive  
4 input and advice from the electrical board.

5 An individual who has a current training certificate and who has  
6 successfully completed or is currently enrolled in an approved  
7 apprenticeship program or in an electrical construction program at  
8 public community or technical colleges, or not-for-profit nationally  
9 accredited technical or trade schools licensed by the workforce  
10 training and education coordinating board under chapter 28C.10 RCW, may  
11 work without direct on-site supervision during the last six months of  
12 meeting the practical experience requirements of this chapter.

13 (5) For the residential (as specified in WAC 296-46B-920(2)(a)),  
14 pump and irrigation (as specified in WAC 296-46B-920(2)(b)), sign (as  
15 specified in WAC 296-46B-920(2)(d)), limited energy (as specified in  
16 WAC 296-46B-920(2)(e)), nonresidential maintenance (as specified in WAC  
17 296-46B-920(2)(g)), restricted nonresidential maintenance as determined  
18 by the department in rule, or other new nonresidential specialties, not  
19 including appliance repair, as determined by the department in rule,  
20 either a master (~~journeyman~~) journey level electrician,  
21 (~~journeyman~~) journey level electrician, master specialty electrician  
22 working in that electrician's specialty, or specialty electrician  
23 working in that electrician's specialty must be on the same job site as  
24 the noncertified individual for a minimum of seventy-five percent of  
25 each working day. Other specialties must meet the requirements  
26 specified in RCW 19.28.191(1)(g)(ii). When the ratio of certified  
27 electricians to noncertified individuals on a job site is one certified  
28 electrician to three or four noncertified individuals, the certified  
29 electrician must:

30 (a) Directly supervise and instruct the noncertified individuals  
31 and the certified electrician may not directly make or engage in an  
32 electrical installation; and

33 (b) Be on the same job site as the noncertified individual for a  
34 minimum of one hundred percent of each working day.

35 (6) The electrical contractor shall accurately verify and attest to  
36 the electrical trainee hours worked by electrical trainees on behalf of  
37 the electrical contractor.



1       **Sec. 30.** RCW 19.28.191 and 2006 c 185 s 7 are each amended to read  
2 as follows:

3       (1) Upon receipt of the application, the department shall review  
4 the application and determine whether the applicant is eligible to take  
5 an examination for the master ((~~journeyman~~)) journey level electrician,  
6 ((~~journeyman~~)) journey level electrician, master specialty electrician,  
7 or specialty electrician certificate of competency.

8       (a) Before July 1, 2005, an applicant who possesses a valid  
9 ((~~journeyman~~)) journey level electrician certificate of competency in  
10 effect for the previous four years and a valid general administrator's  
11 certificate may apply for a master ((~~journeyman~~)) journey level  
12 electrician certificate of competency without examination.

13       (b) Before July 1, 2005, an applicant who possesses a valid  
14 specialty electrician certificate of competency, in the specialty  
15 applied for, for the previous two years and a valid specialty  
16 administrator's certificate, in the specialty applied for, may apply  
17 for a master specialty electrician certificate of competency without  
18 examination.

19       (c) Before December 1, 2003, the following persons may obtain an  
20 equipment repair specialty electrician certificate of competency  
21 without examination:

22       (i) A person who has successfully completed an apprenticeship  
23 program approved under chapter 49.04 RCW for the machinist trade; and

24       (ii) A person who provides evidence in a form prescribed by the  
25 department affirming that: (A) He or she was employed as of April 1,  
26 2003, by a factory-authorized equipment dealer or service company; and  
27 (B) he or she has worked in equipment repair for a minimum of four  
28 thousand hours.

29       (d) To be eligible to take the examination for a master  
30 ((~~journeyman~~)) journey level electrician certificate of competency, the  
31 applicant must have possessed a valid ((~~journeyman~~)) journey level  
32 electrician certificate of competency for four years.

33       (e) To be eligible to take the examination for a master specialty  
34 electrician certificate of competency, the applicant must have  
35 possessed a valid specialty electrician certificate of competency, in  
36 the specialty applied for, for two years.

37       (f) To be eligible to take the examination for a ((~~journeyman~~))  
38 journey level certificate of competency, the applicant must have:

1 (i) Worked in the electrical construction trade for a minimum of  
2 eight thousand hours, of which four thousand hours shall be in  
3 industrial or commercial electrical installation under the supervision  
4 of a master ((~~journeyman~~)) journey level electrician or ((~~journeyman~~))  
5 journey level electrician and not more than a total of four thousand  
6 hours in all specialties under the supervision of a master  
7 ((~~journeyman~~)) journey level electrician, ((~~journeyman~~)) journey level  
8 electrician, master specialty electrician working in that electrician's  
9 specialty, or specialty electrician working in that electrician's  
10 specialty. Specialty electricians with less than a four thousand hour  
11 work experience requirement cannot credit the time required to obtain  
12 that specialty towards qualifying to become a ((~~journeyman~~)) journey  
13 level electrician; or

14 (ii) Successfully completed an apprenticeship program approved  
15 under chapter 49.04 RCW for the electrical construction trade.

16 (g) To be eligible to take the examination for a specialty  
17 electrician certificate of competency, the applicant must have:

18 (i) Worked in the residential (as specified in WAC 296-46B-  
19 920(2)(a)), pump and irrigation (as specified in WAC 296-46B-  
20 920(2)(b)), sign (as specified in WAC 296-46B-920(2)(d)), limited  
21 energy (as specified in WAC 296-46B-920(2)(e)), nonresidential  
22 maintenance (as specified in WAC 296-46B-920(2)(g)), or other new  
23 nonresidential specialties as determined by the department in rule  
24 under the supervision of a master ((~~journeyman~~)) journey level  
25 electrician, ((~~journeyman~~)) journey level electrician, master specialty  
26 electrician working in that electrician's specialty, or specialty  
27 electrician working in that electrician's specialty for a minimum of  
28 four thousand hours;

29 (ii) Worked in the appliance repair specialty as determined by the  
30 department in rule, restricted nonresidential maintenance as determined  
31 by the department in rule, the equipment repair specialty as determined  
32 by the department in rule, the pump and irrigation specialty other than  
33 as defined by (g)(i) of this subsection or domestic pump specialty as  
34 determined by the department in rule, or a specialty other than the  
35 designated specialties in (g)(i) of this subsection for a minimum of  
36 the initial ninety days, or longer if set by rule by the department.  
37 The restricted nonresidential maintenance specialty is limited to a  
38 maximum of 277 volts and 20 amperes for lighting branch circuits and/or

1 a maximum of 250 volts and 60 amperes for other circuits, but excludes  
2 the replacement or repair of circuit breakers. The initial period must  
3 be spent under one hundred percent supervision of a master  
4 ((journeyman)) journey level electrician, ((journeyman)) journey level  
5 electrician, master specialty electrician working in that electrician's  
6 specialty, or specialty electrician working in that electrician's  
7 specialty. After this initial period, a person may take the specialty  
8 examination. If the person passes the examination, the person may work  
9 unsupervised for the balance of the minimum hours required for  
10 certification. A person may not be certified as a specialty  
11 electrician in the appliance repair specialty or in a specialty other  
12 than the designated specialities in (g)(i) of this subsection, however,  
13 until the person has worked a minimum of two thousand hours in that  
14 specialty, or longer if set by rule by the department;

15 (iii) Successfully completed an approved apprenticeship program  
16 under chapter 49.04 RCW for the applicant's specialty in the electrical  
17 construction trade; or

18 (iv) In meeting the training requirements for the pump and  
19 irrigation or domestic pump specialties, the individual shall be  
20 allowed to obtain the experience required by this section at the same  
21 time the individual is meeting the experience required by RCW  
22 18.106.040(1)(c). After meeting the training requirements provided in  
23 this section, the individual may take the examination and upon passing  
24 the examination, meeting additional training requirements as may still  
25 be required for those seeking a pump and irrigation, or a domestic pump  
26 specialty certificate as defined by rule, and paying the applicable  
27 fees, the individual must be issued the appropriate certificate. The  
28 department may include an examination for specialty plumbing  
29 certificate defined in RCW 18.106.010(10)(c) with the examination  
30 required by this section. The department, by rule and in consultation  
31 with the electrical board, may establish additional equivalent ways to  
32 gain the experience requirements required by this subsection.  
33 Individuals who are able to provide evidence to the department, prior  
34 to January 1, 2007, that they have been employed as a pump installer in  
35 the pump and irrigation or domestic pump business by an appropriately  
36 licensed electrical contractor, registered general contractor defined  
37 by chapter 18.27 RCW, or appropriate general specialty contractor  
38 defined by chapter 18.27 RCW for not less than eight thousand hours in

1 the most recent six calendar years shall be issued the appropriate  
2 certificate by the department upon receiving such documentation and  
3 applicable fees. The department shall establish a single document for  
4 those who have received both an electrical specialty certification as  
5 defined by this subsection and have also met the certification  
6 requirements for the specialty plumber as defined by RCW  
7 18.106.010(10)(c), showing that the individual has received both  
8 certifications. No other experience or training requirements may be  
9 imposed.

10 (h) Any applicant for a (~~journeyman~~) journey level electrician  
11 certificate of competency who has successfully completed a two-year  
12 program in the electrical construction trade at public community or  
13 technical colleges, or not-for-profit nationally accredited technical  
14 or trade schools licensed by the workforce training and education  
15 coordinating board under chapter 28C.10 RCW, may substitute up to two  
16 years of the technical or trade school program for two years of work  
17 experience under a master (~~journeyman~~) journey level electrician or  
18 (~~journeyman~~) journey level electrician. The applicant shall obtain  
19 the additional two years of work experience required in industrial or  
20 commercial electrical installation prior to the beginning, or after the  
21 completion, of the technical school program. Any applicant who has  
22 received training in the electrical construction trade in the armed  
23 service of the United States may be eligible to apply armed service  
24 work experience towards qualification to take the examination for the  
25 (~~journeyman~~) journey level electrician certificate of competency.

26 (i) An applicant for a specialty electrician certificate of  
27 competency who, after January 1, 2000, has successfully completed a  
28 two-year program in the electrical construction trade at a public  
29 community or technical college, or a not-for-profit nationally  
30 accredited technical or trade school licensed by the workforce training  
31 and education coordinating board under chapter 28C.10 RCW, may  
32 substitute up to one year of the technical or trade school program for  
33 one year of work experience under a master (~~journeyman~~) journey level  
34 electrician, (~~journeyman~~) journey level electrician, master specialty  
35 electrician working in that electrician's specialty, or specialty  
36 electrician working in that electrician's specialty. Any applicant who  
37 has received training in the electrical construction trade in the armed

1 services of the United States may be eligible to apply armed service  
2 work experience towards qualification to take the examination for an  
3 appropriate specialty electrician certificate of competency.

4 (j) The department must determine whether hours of training and  
5 experience in the armed services or school program are in the  
6 electrical construction trade and appropriate as a substitute for hours  
7 of work experience. The department must use the following criteria for  
8 evaluating the equivalence of classroom electrical training programs  
9 and work in the electrical construction trade:

10 (i) A two-year electrical training program must consist of three  
11 thousand or more hours.

12 (ii) In a two-year electrical training program, a minimum of two  
13 thousand four hundred hours of student/instructor contact time must be  
14 technical electrical instruction directly related to the scope of work  
15 of the electrical specialty. Student/instructor contact time includes  
16 lecture and in-school lab.

17 (iii) The department may not allow credit for a program that  
18 accepts more than one thousand hours transferred from another school's  
19 program.

20 (iv) Electrical specialty training school programs of less than two  
21 years will have all of the above student/instructor contact time hours  
22 proportionately reduced. Such programs may not apply to more than  
23 fifty percent of the work experience required to attain certification.

24 (v) Electrical training programs of less than two years may not be  
25 credited towards qualification for ((journeyman)) journey level  
26 electrician unless the training program is used to gain qualification  
27 for a four thousand hour electrical specialty.

28 (k) No other requirement for eligibility may be imposed.

29 (2) The department shall establish reasonable rules for the  
30 examinations to be given applicants for certificates of competency. In  
31 establishing the rules, the department shall consult with the board.  
32 Upon determination that the applicant is eligible to take the  
33 examination, the department shall so notify the applicant, indicating  
34 the time and place for taking the examination.

35 (3) No noncertified individual may work unsupervised more than one  
36 year beyond the date when the trainee would be eligible to test for a  
37 certificate of competency if working on a full-time basis after

1 original application for the trainee certificate. For the purposes of  
2 this section, "full-time basis" means two thousand hours.

3 **Sec. 31.** RCW 19.28.201 and 2002 c 249 s 6 are each amended to read  
4 as follows:

5 The department, in coordination with the board, shall prepare an  
6 examination to be administered to applicants for master (~~journeyman~~)  
7 journey level electrician, (~~journeyman~~) journey level electrician,  
8 master specialty electrician, and specialty electrician certificates of  
9 competency.

10 The department, with the consent of the board, may enter into a  
11 contract with a professional testing agency to develop, administer, and  
12 score electrician certification examinations. The department may set  
13 the examination fee by contract with the professional testing agency.

14 The department must, at least four times annually, administer the  
15 examination to persons eligible to take it under RCW 19.28.191. The  
16 fee must cover, but not exceed, the costs of preparing and  
17 administering the examination.

18 The department must certify the results of the examination upon the  
19 terms and after such a period of time as the department, in cooperation  
20 with the board, deems necessary and proper.

21 (1)(a) The master electrician's certificates of competency  
22 examinations must include questions from the following categories to  
23 ensure proper safety and protection for the general public: (i)  
24 Safety; (ii) the state electrical code; and (iii) electrical theory.

25 (b) A person may take the master electrician examination as many  
26 times as necessary without limit. All applicants must, before taking  
27 the examination, pay the required examination fee to the agency  
28 administering the examination.

29 (2) The (~~journeyman~~) journey level electrician and specialty  
30 electrician examinations shall be constructed to determine:

31 (a) Whether the applicant possesses varied general knowledge of the  
32 technical information and practical procedures that are identified with  
33 the status of (~~journeyman~~) journey level electrician or specialty  
34 electrician; and

35 (b) Whether the applicant is sufficiently familiar with the  
36 applicable electrical codes and the rules of the department pertaining  
37 to electrical installations and electricians.

1 A person may take the examination as many times as necessary  
2 without limit. All applicants must, before taking the examination, pay  
3 the required examination fee to the agency administering the  
4 examination.

5 **Sec. 32.** RCW 19.28.205 and 2012 c 32 s 1 are each amended to read  
6 as follows:

7 (1) An applicant for a (~~journeyman~~) journey level certificate of  
8 competency under RCW 19.28.191(1)(f) or a specialty electrician  
9 certificate of competency under RCW 19.28.191(1)(g) must demonstrate to  
10 the satisfaction of the department completion of in-class education as  
11 follows:

12 (a) Twenty-four hours of in-class education if two thousand hours  
13 or more but less than four thousand hours of work are required for the  
14 certificate;

15 (b) Forty-eight hours of in-class education if four thousand or  
16 more but less than six thousand hours of work are required for the  
17 certificate;

18 (c) Seventy-two hours of in-class education if six thousand or more  
19 but less than eight thousand hours of work are required for the  
20 certificate;

21 (d) Ninety-six hours of in-class education if eight thousand or  
22 more hours of work are required for the certificate.

23 (2) For purposes of this section, "in-class education" means  
24 approved classroom training covering this chapter, the national  
25 electric code, or electrical theory; or equivalent classroom training  
26 taken as part of an approved apprenticeship program under chapter 49.04  
27 RCW or an approved electrical training program under RCW  
28 19.28.191(1)(h).

29 (3) Classroom training taken to qualify for trainee certificate  
30 renewal under RCW 19.28.161 qualifies as in-class education under this  
31 section.

32 **Sec. 33.** RCW 19.28.211 and 2012 c 32 s 3 are each amended to read  
33 as follows:

34 (1) The department shall issue a certificate of competency to all  
35 applicants who have passed the examination provided in RCW 19.28.201,  
36 met the in-class education requirements of RCW 19.28.205 if applicable,

1 and who have complied with RCW 19.28.161 through 19.28.271 and the  
2 rules adopted under this chapter. The certificate may include a  
3 photograph of the holder. The certificate shall bear the date of  
4 issuance, and shall expire on the holder's birthday. The certificate  
5 shall be renewed every three years, upon application, on or before the  
6 holder's birthdate. A fee shall be assessed for each certificate and  
7 for each annual renewal.

8 (2) If the certificate holder demonstrates to the department that  
9 he or she has satisfactorily completed an annual eight-hour continuing  
10 education course, the certificate may be renewed without examination by  
11 appropriate application unless the certificate has been revoked,  
12 suspended, or not renewed within ninety days after the expiration date.  
13 For pump and irrigation or domestic pump specialty electricians, the  
14 continuing education course may combine both electrical and plumbing  
15 education provided that there is a minimum of four hours of electrical  
16 training in the course.

17 (a) The contents and requirements for satisfactory completion of  
18 the continuing education course shall be determined by the director and  
19 approved by the board.

20 (b) The department shall accept proof of a certificate holder's  
21 satisfactory completion of a continuing education course offered in  
22 another state as meeting the requirements for maintaining a current  
23 Washington state certificate of competency if the department is  
24 satisfied the course is comparable in nature to that required in  
25 Washington state for maintaining a current certificate of competency.

26 (3) If the certificate is not renewed before the expiration date,  
27 the individual shall pay twice the usual fee. The department shall set  
28 the fees by rule for issuance and renewal of a certificate of  
29 competency. The fees shall cover but not exceed the costs of issuing  
30 the certificates and of administering and enforcing the electrician  
31 certification requirements of this chapter.

32 (4) The certificates of competency and temporary permits provided  
33 for in this chapter grant the holder the right to work in the  
34 electrical construction trade as a master electrician, (~~journeyman~~)  
35 journey level electrician, or specialty electrician in accordance with  
36 their provisions throughout the state and within any of its political  
37 subdivisions without additional proof of competency or any other  
38 license, permit, or fee to engage in such work.



1       **Sec. 34.** RCW 19.28.221 and 2001 c 211 s 15 are each amended to  
2 read as follows:

3       No examination shall be required of any applicant for a certificate  
4 of competency who, on July 16, 1973, was engaged in a bona fide  
5 business or trade as a ((~~journeyman~~)) journey level electrician in the  
6 state of Washington. Applicants qualifying under this section shall be  
7 issued a certificate by the department upon making an application as  
8 provided in RCW 19.28.181 and paying the fee required under RCW  
9 19.28.201: PROVIDED, That no applicant under this section shall be  
10 required to furnish such evidence as required by RCW 19.28.181.

11       **Sec. 35.** RCW 19.28.231 and 2009 c 36 s 9 are each amended to read  
12 as follows:

13       The department is authorized to grant and issue temporary permits  
14 in lieu of certificates of competency whenever an electrician coming  
15 into the state of Washington from another state requests the department  
16 for a temporary permit to engage in the electrical construction trade  
17 as an electrician during the period of time between filing of an  
18 application for a certificate as provided in RCW 19.28.181 and the date  
19 the results of taking the examination provided for in RCW 19.28.201 are  
20 furnished to the applicant. The temporary permit may include a  
21 photograph of the holder. The department is authorized to enter into  
22 reciprocal agreements with other states providing for the acceptance of  
23 such states' ((~~journeyman~~)) journey level and specialty electrician  
24 certificate of competency or its equivalent when such states  
25 requirements are equal to the standards set by this chapter. No  
26 temporary permit shall be issued to:

27       (1) Any person who has failed to pass the examination for a  
28 certificate of competency, except that any person who has failed the  
29 examination for competency under this section shall be entitled to  
30 continue to work under a temporary permit for ninety days if the person  
31 is enrolled in a ((~~journeyman~~)) journey level electrician refresher  
32 course and shows evidence to the department that he or she has not  
33 missed any classes. The person, after completing the ((~~journeyman~~))  
34 journey level electrician refresher course, shall be eligible to retake  
35 the examination for competency at the next scheduled time.

36       (2) Any applicant under this section who has not furnished the  
37 department with such evidence required under RCW 19.28.181.

1 (3) ~~((To))~~ Any ~~((Any))~~ apprentice electrician.

2 **Sec. 36.** RCW 19.28.241 and 2002 c 249 s 8 are each amended to read  
3 as follows:

4 (1) The department may revoke any certificate of competency upon  
5 the following grounds:

6 (a) The certificate was obtained through error or fraud;

7 (b) The holder thereof is judged to be incompetent to work in the  
8 electrical construction trade as a ~~((journeyman))~~ journey level  
9 electrician or specialty electrician;

10 (c) The holder thereof has violated any of the provisions of RCW  
11 19.28.161 through 19.28.271 or any rule adopted under this chapter; or

12 (d) The holder thereof has committed a serious violation of this  
13 chapter or any rule adopted under this chapter. A serious violation is  
14 a violation that presents imminent danger to the public.

15 (2) The department may deny an application for a certificate of  
16 competency for up to two years if the applicant's previous certificate  
17 of competency has been revoked.

18 (3) Before any certificate of competency shall be revoked, the  
19 holder shall be given written notice of the department's intention to  
20 do so, mailed by registered mail, return receipt requested, to the  
21 holder's last known address. The notice shall enumerate the  
22 allegations against the holder, and shall give the holder the  
23 opportunity to request a hearing before the board. At the hearing, the  
24 department and the holder may produce witnesses and give testimony.  
25 The hearing shall be conducted in accordance with chapter 34.05 RCW.  
26 The board shall render its decision based upon the testimony and  
27 evidence presented, and shall notify the parties immediately upon  
28 reaching its decision. A majority of the board shall be necessary to  
29 render a decision.

30 (4) The department shall immediately suspend the license or  
31 certificate of a person who has been certified pursuant to RCW  
32 74.20A.320 by the department of social and health services as a person  
33 who is not in compliance with a support order. If the person has  
34 continued to meet all other requirements for reinstatement during the  
35 suspension, reissuance of the license or certificate shall be automatic  
36 upon the department's receipt of a release issued by the department of

1 social and health services stating that the licensee is in compliance  
2 with the order.

3 **Sec. 37.** RCW 19.28.261 and 2007 c 218 s 83 are each amended to  
4 read as follows:

5 (1) Nothing in RCW 19.28.161 through 19.28.271 shall be construed  
6 to require that a person obtain a license or a certified electrician in  
7 order to do electrical work at his or her residence or farm or place of  
8 business or on other property owned by him or her unless the electrical  
9 work is on the construction of a new building intended for rent, sale,  
10 or lease. However, if the construction is of a new residential  
11 building with up to four units intended for rent, sale, or lease, the  
12 owner may receive an exemption from the requirement to obtain a license  
13 or use a certified electrician if he or she provides a signed affidavit  
14 to the department stating that he or she will be performing the work  
15 and will occupy one of the units as his or her principal residence.  
16 The owner shall apply to the department for this exemption and may only  
17 receive an exemption once every twenty-four months. It is intended  
18 that the owner receiving this exemption shall occupy the unit as his or  
19 her principal residence for twenty-four months after completion of the  
20 units.

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

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

31 (4) Nothing in RCW 19.28.161 through 19.28.271 shall be deemed to  
32 apply to the installation or maintenance of telephone, telegraph,  
33 radio, or television wires and equipment; nor to any electrical utility  
34 or its employees in the installation, repair, and maintenance of  
35 electrical wiring, circuits, and equipment by or for the utility, or  
36 comprising a part of its plants, lines, or systems.

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

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

7 (b) Employees of an employer while the employer is performing  
8 utility type work of the nature described in RCW 19.28.091 so long as  
9 such employees have registered in the state of Washington with or  
10 graduated from a state-approved outside lineworker apprenticeship  
11 course that is recognized by the department and that qualifies a person  
12 to perform such work;

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

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

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

22 (7) Nothing precludes any person who is exempt from the licensing  
23 requirements of this chapter under this section from obtaining a  
24 (~~journeyman~~) journey level or specialty certificate of competency if  
25 they otherwise meet the requirements of this chapter.

26 **Sec. 38.** RCW 20.01.030 and 2011 c 336 s 570 are each amended to  
27 read as follows:

28 This chapter does not apply to:

29 (1) Any cooperative marketing associations or federations  
30 incorporated under, or whose articles of incorporation and bylaws are  
31 equivalent to, the requirements of chapter 23.86 RCW, except as to that  
32 portion of the activities of the association or federation that involve  
33 the handling or dealing in the agricultural products of nonmembers of  
34 the organization: PROVIDED, That the associations or federations may  
35 purchase up to fifteen percent of their gross from nonmembers for the  
36 purpose of filling orders: PROVIDED FURTHER, That if the cooperative  
37 or association acts as a processor as defined in RCW 20.01.500(2) and

1 markets the processed agricultural crops on behalf of the grower or its  
2 own behalf, the association or federation is subject to the provisions  
3 of RCW 20.01.500 through 20.01.560 and the license provision of this  
4 chapter excluding bonding provisions: PROVIDED FURTHER, That none of  
5 the foregoing exemptions in this subsection apply to any such  
6 cooperative or federation dealing in or handling grain in any manner,  
7 and not licensed under the provisions of chapter 22.09 RCW;

8 (2) Any person who sells exclusively his or her own agricultural  
9 products as the producer thereof;

10 (3) Any public livestock market operating under a bond required by  
11 law or a bond required by the United States to secure the performance  
12 of the public livestock market's obligation. However, any such market  
13 operating as a livestock dealer or order buyer, or both, is subject to  
14 all provisions of this chapter except for the payment of the license  
15 fee required in RCW 20.01.040;

16 (4) Any retail merchant having a bona fide fixed or permanent place  
17 of business in this state, but only for the retail merchant's retail  
18 business conducted at such fixed or established place of business;

19 (5) Any person buying farm products for his or her own use or  
20 consumption;

21 (6) Any warehouse operator or grain dealer licensed under the state  
22 grain warehouse act, chapter 22.09 RCW, with respect to his or her  
23 handling of any agricultural product as defined under that chapter;

24 (7) Any (~~nurseryman~~) nursery dealer who is required to be  
25 licensed under the horticultural laws of the state with respect to his  
26 or her operations as such licensee;

27 (8) Any person licensed under the now existing dairy laws of the  
28 state with respect to his or her operations as such licensee;

29 (9) Any producer who purchases less than fifteen percent of his or  
30 her volume to complete orders;

31 (10) Any person, association, or corporation regulated under  
32 chapter 67.16 RCW and the rules adopted thereunder while performing  
33 acts regulated by that chapter and the rules adopted thereunder;

34 (11) Any domestic winery, as defined in RCW 66.04.010, licensed  
35 under Title 66 RCW, with respect to its transactions involving  
36 agricultural products used by the domestic winery in making wine.

1       **Sec. 39.** RCW 22.09.860 and 2011 c 336 s 649 are each amended to  
2 read as follows:

3       All railroad companies and warehouse operators operating in the  
4 cities provided for inspection by this chapter shall furnish ample and  
5 sufficient police protection to all their several terminal yards and  
6 terminal tracks to securely protect all cars containing commodities  
7 while the same are in their possession. They shall prohibit and  
8 restrain all unauthorized persons, whether under the guise of sweepers,  
9 or under any other pretext whatever, from entering or loitering in or  
10 about their railroad yards or tracks and from entering any car of  
11 commodities under their control, or removing commodities therefrom, and  
12 shall employ and detail such number of (~~watchmen~~) security guards as  
13 may be necessary for the purpose of carrying out the provisions of this  
14 section.

15       **Sec. 40.** RCW 24.34.010 and 2011 c 336 s 674 are each amended to  
16 read as follows:

17       Persons engaged in the production of agricultural products as  
18 farmers, planters, (~~ranchmen~~) ranchers, (~~dairymen~~) dairy farmers,  
19 nut growers, or fruit growers may act together in associations,  
20 corporate or otherwise, with or without capital stock, in collectively  
21 processing, preparing for market, handling, and marketing in intrastate  
22 commerce, such products of persons so engaged. Such associations may  
23 have marketing agencies in common; and such associations and their  
24 members may make the necessary contracts and agreements to effect such  
25 purposes: PROVIDED, That such associations are operated for the mutual  
26 benefit of the members thereof, as such producers, and conform to one  
27 or both of the following requirements:

28       First. That no member of the association is allowed more than one  
29 vote because of the amount of stock or membership capital he or she may  
30 own therein, or,

31       Second. That the association does not pay dividends on stock or  
32 membership capital in excess of eight percent per annum.

33       And in any case to the following:

34       Third. That the association shall not deal in the products of  
35 nonmembers to an amount greater in value than such as are handled by it  
36 for members.

1       **Sec. 41.** RCW 26.12.185 and 2000 c 124 s 9 are each amended to read  
2 as follows:

3       A guardian ad litem, court-appointed special advocate, or  
4 investigator under this title appointed under this chapter may release  
5 confidential information, records, and reports to the office of the  
6 family and children's (~~ombudsman~~) ombuds for the purposes of carrying  
7 out its duties under chapter 43.06A RCW.

8       **Sec. 42.** RCW 26.44.030 and 2012 c 55 s 1 are each amended to read  
9 as follows:

10       (1)(a) When any practitioner, county coroner or medical examiner,  
11 law enforcement officer, professional school personnel, registered or  
12 licensed nurse, social service counselor, psychologist, pharmacist,  
13 employee of the department of early learning, licensed or certified  
14 child care providers or their employees, employee of the department,  
15 juvenile probation officer, placement and liaison specialist,  
16 responsible living skills program staff, HOPE center staff, or state  
17 family and children's (~~ombudsman~~) ombuds or any volunteer in the  
18 (~~ombudsman's~~) ombuds's office has reasonable cause to believe that a  
19 child has suffered abuse or neglect, he or she shall report such  
20 incident, or cause a report to be made, to the proper law enforcement  
21 agency or to the department as provided in RCW 26.44.040.

22       (b) When any person, in his or her official supervisory capacity  
23 with a nonprofit or for-profit organization, has reasonable cause to  
24 believe that a child has suffered abuse or neglect caused by a person  
25 over whom he or she regularly exercises supervisory authority, he or  
26 she shall report such incident, or cause a report to be made, to the  
27 proper law enforcement agency, provided that the person alleged to have  
28 caused the abuse or neglect is employed by, contracted by, or  
29 volunteers with the organization and coaches, trains, educates, or  
30 counsels a child or children or regularly has unsupervised access to a  
31 child or children as part of the employment, contract, or voluntary  
32 service. No one shall be required to report under this section when he  
33 or she obtains the information solely as a result of a privileged  
34 communication as provided in RCW 5.60.060.

35       Nothing in this subsection (1)(b) shall limit a person's duty to  
36 report under (a) of this subsection.

1 For the purposes of this subsection, the following definitions  
2 apply:

3 (i) "Official supervisory capacity" means a position, status, or  
4 role created, recognized, or designated by any nonprofit or for-profit  
5 organization, either for financial gain or without financial gain,  
6 whose scope includes, but is not limited to, overseeing, directing, or  
7 managing another person who is employed by, contracted by, or  
8 volunteers with the nonprofit or for-profit organization.

9 (ii) "Regularly exercises supervisory authority" means to act in  
10 his or her official supervisory capacity on an ongoing or continuing  
11 basis with regards to a particular person.

12 (c) The reporting requirement also applies to department of  
13 corrections personnel who, in the course of their employment, observe  
14 offenders or the children with whom the offenders are in contact. If,  
15 as a result of observations or information received in the course of  
16 his or her employment, any department of corrections personnel has  
17 reasonable cause to believe that a child has suffered abuse or neglect,  
18 he or she shall report the incident, or cause a report to be made, to  
19 the proper law enforcement agency or to the department as provided in  
20 RCW 26.44.040.

21 (d) The reporting requirement shall also apply to any adult who has  
22 reasonable cause to believe that a child who resides with them, has  
23 suffered severe abuse, and is able or capable of making a report. For  
24 the purposes of this subsection, "severe abuse" means any of the  
25 following: Any single act of abuse that causes physical trauma of  
26 sufficient severity that, if left untreated, could cause death; any  
27 single act of sexual abuse that causes significant bleeding, deep  
28 bruising, or significant external or internal swelling; or more than  
29 one act of physical abuse, each of which causes bleeding, deep  
30 bruising, significant external or internal swelling, bone fracture, or  
31 unconsciousness.

32 (e) The reporting requirement also applies to guardians ad litem,  
33 including court-appointed special advocates, appointed under Titles 11,  
34 13, and 26 RCW, who in the course of their representation of children  
35 in these actions have reasonable cause to believe a child has been  
36 abused or neglected.

37 (f) The reporting requirement in (a) of this subsection also  
38 applies to administrative and academic or athletic department



1 employees, including student employees, of institutions of higher  
2 education, as defined in RCW 28B.10.016, and of private institutions of  
3 higher education.

4 (g) The report must be made at the first opportunity, but in no  
5 case longer than forty-eight hours after there is reasonable cause to  
6 believe that the child has suffered abuse or neglect. The report must  
7 include the identity of the accused if known.

8 (2) The reporting requirement of subsection (1) of this section  
9 does not apply to the discovery of abuse or neglect that occurred  
10 during childhood if it is discovered after the child has become an  
11 adult. However, if there is reasonable cause to believe other children  
12 are or may be at risk of abuse or neglect by the accused, the reporting  
13 requirement of subsection (1) of this section does apply.

14 (3) Any other person who has reasonable cause to believe that a  
15 child has suffered abuse or neglect may report such incident to the  
16 proper law enforcement agency or to the department of social and health  
17 services as provided in RCW 26.44.040.

18 (4) The department, upon receiving a report of an incident of  
19 alleged abuse or neglect pursuant to this chapter, involving a child  
20 who has died or has had physical injury or injuries inflicted upon him  
21 or her other than by accidental means or who has been subjected to  
22 alleged sexual abuse, shall report such incident to the proper law  
23 enforcement agency. In emergency cases, where the child's welfare is  
24 endangered, the department shall notify the proper law enforcement  
25 agency within twenty-four hours after a report is received by the  
26 department. In all other cases, the department shall notify the law  
27 enforcement agency within seventy-two hours after a report is received  
28 by the department. If the department makes an oral report, a written  
29 report must also be made to the proper law enforcement agency within  
30 five days thereafter.

31 (5) Any law enforcement agency receiving a report of an incident of  
32 alleged abuse or neglect pursuant to this chapter, involving a child  
33 who has died or has had physical injury or injuries inflicted upon him  
34 or her other than by accidental means, or who has been subjected to  
35 alleged sexual abuse, shall report such incident in writing as provided  
36 in RCW 26.44.040 to the proper county prosecutor or city attorney for  
37 appropriate action whenever the law enforcement agency's investigation  
38 reveals that a crime may have been committed. The law enforcement

1 agency shall also notify the department of all reports received and the  
2 law enforcement agency's disposition of them. In emergency cases,  
3 where the child's welfare is endangered, the law enforcement agency  
4 shall notify the department within twenty-four hours. In all other  
5 cases, the law enforcement agency shall notify the department within  
6 seventy-two hours after a report is received by the law enforcement  
7 agency.

8 (6) Any county prosecutor or city attorney receiving a report under  
9 subsection (5) of this section shall notify the victim, any persons the  
10 victim requests, and the local office of the department, of the  
11 decision to charge or decline to charge a crime, within five days of  
12 making the decision.

13 (7) The department may conduct ongoing case planning and  
14 consultation with those persons or agencies required to report under  
15 this section, with consultants designated by the department, and with  
16 designated representatives of Washington Indian tribes if the client  
17 information exchanged is pertinent to cases currently receiving child  
18 protective services. Upon request, the department shall conduct such  
19 planning and consultation with those persons required to report under  
20 this section if the department determines it is in the best interests  
21 of the child. Information considered privileged by statute and not  
22 directly related to reports required by this section must not be  
23 divulged without a valid written waiver of the privilege.

24 (8) Any case referred to the department by a physician licensed  
25 under chapter 18.57 or 18.71 RCW on the basis of an expert medical  
26 opinion that child abuse, neglect, or sexual assault has occurred and  
27 that the child's safety will be seriously endangered if returned home,  
28 the department shall file a dependency petition unless a second  
29 licensed physician of the parents' choice believes that such expert  
30 medical opinion is incorrect. If the parents fail to designate a  
31 second physician, the department may make the selection. If a  
32 physician finds that a child has suffered abuse or neglect but that  
33 such abuse or neglect does not constitute imminent danger to the  
34 child's health or safety, and the department agrees with the  
35 physician's assessment, the child may be left in the parents' home  
36 while the department proceeds with reasonable efforts to remedy  
37 parenting deficiencies.

1 (9) Persons or agencies exchanging information under subsection (7)  
2 of this section shall not further disseminate or release the  
3 information except as authorized by state or federal statute.  
4 Violation of this subsection is a misdemeanor.

5 (10) Upon receiving a report of alleged abuse or neglect, the  
6 department shall make reasonable efforts to learn the name, address,  
7 and telephone number of each person making a report of abuse or neglect  
8 under this section. The department shall provide assurances of  
9 appropriate confidentiality of the identification of persons reporting  
10 under this section. If the department is unable to learn the  
11 information required under this subsection, the department shall only  
12 investigate cases in which:

13 (a) The department believes there is a serious threat of  
14 substantial harm to the child;

15 (b) The report indicates conduct involving a criminal offense that  
16 has, or is about to occur, in which the child is the victim; or

17 (c) The department has a prior founded report of abuse or neglect  
18 with regard to a member of the household that is within three years of  
19 receipt of the referral.

20 (11)(a) For reports of alleged abuse or neglect that are accepted  
21 for investigation by the department, the investigation shall be  
22 conducted within time frames established by the department in rule. In  
23 no case shall the investigation extend longer than ninety days from the  
24 date the report is received, unless the investigation is being  
25 conducted under a written protocol pursuant to RCW 26.44.180 and a law  
26 enforcement agency or prosecuting attorney has determined that a longer  
27 investigation period is necessary. At the completion of the  
28 investigation, the department shall make a finding that the report of  
29 child abuse or neglect is founded or unfounded.

30 (b) If a court in a civil or criminal proceeding, considering the  
31 same facts or circumstances as are contained in the report being  
32 investigated by the department, makes a judicial finding by a  
33 preponderance of the evidence or higher that the subject of the pending  
34 investigation has abused or neglected the child, the department shall  
35 adopt the finding in its investigation.

36 (12) In conducting an investigation of alleged abuse or neglect,  
37 the department or law enforcement agency:

1 (a) May interview children. The interviews may be conducted on  
2 school premises, at day-care facilities, at the child's home, or at  
3 other suitable locations outside of the presence of parents. Parental  
4 notification of the interview must occur at the earliest possible point  
5 in the investigation that will not jeopardize the safety or protection  
6 of the child or the course of the investigation. Prior to commencing  
7 the interview the department or law enforcement agency shall determine  
8 whether the child wishes a third party to be present for the interview  
9 and, if so, shall make reasonable efforts to accommodate the child's  
10 wishes. Unless the child objects, the department or law enforcement  
11 agency shall make reasonable efforts to include a third party in any  
12 interview so long as the presence of the third party will not  
13 jeopardize the course of the investigation; and

14 (b) Shall have access to all relevant records of the child in the  
15 possession of mandated reporters and their employees.

16 (13) If a report of alleged abuse or neglect is founded and  
17 constitutes the third founded report received by the department within  
18 the last twelve months involving the same child or family, the  
19 department shall promptly notify the office of the family and  
20 children's ((ombudsman)) ombuds of the contents of the report. The  
21 department shall also notify the ((ombudsman)) ombuds of the  
22 disposition of the report.

23 (14) In investigating and responding to allegations of child abuse  
24 and neglect, the department may conduct background checks as authorized  
25 by state and federal law.

26 (15) The department shall maintain investigation records and  
27 conduct timely and periodic reviews of all founded cases of abuse and  
28 neglect. The department shall maintain a log of screened-out  
29 nonabusive cases.

30 (16) The department shall use a risk assessment process when  
31 investigating alleged child abuse and neglect referrals. The  
32 department shall present the risk factors at all hearings in which the  
33 placement of a dependent child is an issue. Substance abuse must be a  
34 risk factor. The department shall, within funds appropriated for this  
35 purpose, offer enhanced community-based services to persons who are  
36 determined not to require further state intervention.

37 (17) Upon receipt of a report of alleged abuse or neglect the law

1 enforcement agency may arrange to interview the person making the  
2 report and any collateral sources to determine if any malice is  
3 involved in the reporting.

4 (18) Upon receiving a report of alleged abuse or neglect involving  
5 a child under the court's jurisdiction under chapter 13.34 RCW, the  
6 department shall promptly notify the child's guardian ad litem of the  
7 report's contents. The department shall also notify the guardian ad  
8 litem of the disposition of the report. For purposes of this  
9 subsection, "guardian ad litem" has the meaning provided in RCW  
10 13.34.030.

11 **Sec. 43.** RCW 26.44.030 and 2012 c 259 s 3 and 2012 c 55 s 1 are  
12 each reenacted and amended to read as follows:

13 (1)(a) When any practitioner, county coroner or medical examiner,  
14 law enforcement officer, professional school personnel, registered or  
15 licensed nurse, social service counselor, psychologist, pharmacist,  
16 employee of the department of early learning, licensed or certified  
17 child care providers or their employees, employee of the department,  
18 juvenile probation officer, placement and liaison specialist,  
19 responsible living skills program staff, HOPE center staff, or state  
20 family and children's (~~ombudsman~~) ombuds or any volunteer in the  
21 (~~ombudsman's~~) ombuds's office has reasonable cause to believe that a  
22 child has suffered abuse or neglect, he or she shall report such  
23 incident, or cause a report to be made, to the proper law enforcement  
24 agency or to the department as provided in RCW 26.44.040.

25 (b) When any person, in his or her official supervisory capacity  
26 with a nonprofit or for-profit organization, has reasonable cause to  
27 believe that a child has suffered abuse or neglect caused by a person  
28 over whom he or she regularly exercises supervisory authority, he or  
29 she shall report such incident, or cause a report to be made, to the  
30 proper law enforcement agency, provided that the person alleged to have  
31 caused the abuse or neglect is employed by, contracted by, or  
32 volunteers with the organization and coaches, trains, educates, or  
33 counsels a child or children or regularly has unsupervised access to a  
34 child or children as part of the employment, contract, or voluntary  
35 service. No one shall be required to report under this section when he  
36 or she obtains the information solely as a result of a privileged  
37 communication as provided in RCW 5.60.060.

1 Nothing in this subsection (1)(b) shall limit a person's duty to  
2 report under (a) of this subsection.

3 For the purposes of this subsection, the following definitions  
4 apply:

5 (i) "Official supervisory capacity" means a position, status, or  
6 role created, recognized, or designated by any nonprofit or for-profit  
7 organization, either for financial gain or without financial gain,  
8 whose scope includes, but is not limited to, overseeing, directing, or  
9 managing another person who is employed by, contracted by, or  
10 volunteers with the nonprofit or for-profit organization.

11 (ii) "Regularly exercises supervisory authority" means to act in  
12 his or her official supervisory capacity on an ongoing or continuing  
13 basis with regards to a particular person.

14 (c) The reporting requirement also applies to department of  
15 corrections personnel who, in the course of their employment, observe  
16 offenders or the children with whom the offenders are in contact. If,  
17 as a result of observations or information received in the course of  
18 his or her employment, any department of corrections personnel has  
19 reasonable cause to believe that a child has suffered abuse or neglect,  
20 he or she shall report the incident, or cause a report to be made, to  
21 the proper law enforcement agency or to the department as provided in  
22 RCW 26.44.040.

23 (d) The reporting requirement shall also apply to any adult who has  
24 reasonable cause to believe that a child who resides with them, has  
25 suffered severe abuse, and is able or capable of making a report. For  
26 the purposes of this subsection, "severe abuse" means any of the  
27 following: Any single act of abuse that causes physical trauma of  
28 sufficient severity that, if left untreated, could cause death; any  
29 single act of sexual abuse that causes significant bleeding, deep  
30 bruising, or significant external or internal swelling; or more than  
31 one act of physical abuse, each of which causes bleeding, deep  
32 bruising, significant external or internal swelling, bone fracture, or  
33 unconsciousness.

34 (e) The reporting requirement also applies to guardians ad litem,  
35 including court-appointed special advocates, appointed under Titles 11,  
36 13, and 26 RCW, who in the course of their representation of children  
37 in these actions have reasonable cause to believe a child has been  
38 abused or neglected.

1 (f) The reporting requirement in (a) of this subsection also  
2 applies to administrative and academic or athletic department  
3 employees, including student employees, of institutions of higher  
4 education, as defined in RCW 28B.10.016, and of private institutions of  
5 higher education.

6 (g) The report must be made at the first opportunity, but in no  
7 case longer than forty-eight hours after there is reasonable cause to  
8 believe that the child has suffered abuse or neglect. The report must  
9 include the identity of the accused if known.

10 (2) The reporting requirement of subsection (1) of this section  
11 does not apply to the discovery of abuse or neglect that occurred  
12 during childhood if it is discovered after the child has become an  
13 adult. However, if there is reasonable cause to believe other children  
14 are or may be at risk of abuse or neglect by the accused, the reporting  
15 requirement of subsection (1) of this section does apply.

16 (3) Any other person who has reasonable cause to believe that a  
17 child has suffered abuse or neglect may report such incident to the  
18 proper law enforcement agency or to the department of social and health  
19 services as provided in RCW 26.44.040.

20 (4) The department, upon receiving a report of an incident of  
21 alleged abuse or neglect pursuant to this chapter, involving a child  
22 who has died or has had physical injury or injuries inflicted upon him  
23 or her other than by accidental means or who has been subjected to  
24 alleged sexual abuse, shall report such incident to the proper law  
25 enforcement agency. In emergency cases, where the child's welfare is  
26 endangered, the department shall notify the proper law enforcement  
27 agency within twenty-four hours after a report is received by the  
28 department. In all other cases, the department shall notify the law  
29 enforcement agency within seventy-two hours after a report is received  
30 by the department. If the department makes an oral report, a written  
31 report must also be made to the proper law enforcement agency within  
32 five days thereafter.

33 (5) Any law enforcement agency receiving a report of an incident of  
34 alleged abuse or neglect pursuant to this chapter, involving a child  
35 who has died or has had physical injury or injuries inflicted upon him  
36 or her other than by accidental means, or who has been subjected to  
37 alleged sexual abuse, shall report such incident in writing as provided  
38 in RCW 26.44.040 to the proper county prosecutor or city attorney for

1 appropriate action whenever the law enforcement agency's investigation  
2 reveals that a crime may have been committed. The law enforcement  
3 agency shall also notify the department of all reports received and the  
4 law enforcement agency's disposition of them. In emergency cases,  
5 where the child's welfare is endangered, the law enforcement agency  
6 shall notify the department within twenty-four hours. In all other  
7 cases, the law enforcement agency shall notify the department within  
8 seventy-two hours after a report is received by the law enforcement  
9 agency.

10 (6) Any county prosecutor or city attorney receiving a report under  
11 subsection (5) of this section shall notify the victim, any persons the  
12 victim requests, and the local office of the department, of the  
13 decision to charge or decline to charge a crime, within five days of  
14 making the decision.

15 (7) The department may conduct ongoing case planning and  
16 consultation with those persons or agencies required to report under  
17 this section, with consultants designated by the department, and with  
18 designated representatives of Washington Indian tribes if the client  
19 information exchanged is pertinent to cases currently receiving child  
20 protective services. Upon request, the department shall conduct such  
21 planning and consultation with those persons required to report under  
22 this section if the department determines it is in the best interests  
23 of the child. Information considered privileged by statute and not  
24 directly related to reports required by this section must not be  
25 divulged without a valid written waiver of the privilege.

26 (8) Any case referred to the department by a physician licensed  
27 under chapter 18.57 or 18.71 RCW on the basis of an expert medical  
28 opinion that child abuse, neglect, or sexual assault has occurred and  
29 that the child's safety will be seriously endangered if returned home,  
30 the department shall file a dependency petition unless a second  
31 licensed physician of the parents' choice believes that such expert  
32 medical opinion is incorrect. If the parents fail to designate a  
33 second physician, the department may make the selection. If a  
34 physician finds that a child has suffered abuse or neglect but that  
35 such abuse or neglect does not constitute imminent danger to the  
36 child's health or safety, and the department agrees with the  
37 physician's assessment, the child may be left in the parents' home



1 while the department proceeds with reasonable efforts to remedy  
2 parenting deficiencies.

3 (9) Persons or agencies exchanging information under subsection (7)  
4 of this section shall not further disseminate or release the  
5 information except as authorized by state or federal statute.  
6 Violation of this subsection is a misdemeanor.

7 (10) Upon receiving a report of alleged abuse or neglect, the  
8 department shall make reasonable efforts to learn the name, address,  
9 and telephone number of each person making a report of abuse or neglect  
10 under this section. The department shall provide assurances of  
11 appropriate confidentiality of the identification of persons reporting  
12 under this section. If the department is unable to learn the  
13 information required under this subsection, the department shall only  
14 investigate cases in which:

15 (a) The department believes there is a serious threat of  
16 substantial harm to the child;

17 (b) The report indicates conduct involving a criminal offense that  
18 has, or is about to occur, in which the child is the victim; or

19 (c) The department has a prior founded report of abuse or neglect  
20 with regard to a member of the household that is within three years of  
21 receipt of the referral.

22 (11)(a) Upon receiving a report of alleged abuse or neglect, the  
23 department shall use one of the following discrete responses to reports  
24 of child abuse or neglect that are screened in and accepted for  
25 departmental response:

26 (i) Investigation; or

27 (ii) Family assessment.

28 (b) In making the response in (a) of this subsection the department  
29 shall:

30 (i) Use a method by which to assign cases to investigation or  
31 family assessment which are based on an array of factors that may  
32 include the presence of: Imminent danger, level of risk, number of  
33 previous child abuse or neglect reports, or other presenting case  
34 characteristics, such as the type of alleged maltreatment and the age  
35 of the alleged victim. Age of the alleged victim shall not be used as  
36 the sole criterion for determining case assignment;

37 (ii) Allow for a change in response assignment based on new  
38 information that alters risk or safety level;

1 (iii) Allow families assigned to family assessment to choose to  
2 receive an investigation rather than a family assessment;

3 (iv) Provide a full investigation if a family refuses the initial  
4 family assessment;

5 (v) Provide voluntary services to families based on the results of  
6 the initial family assessment. If a family refuses voluntary services,  
7 and the department cannot identify specific facts related to risk or  
8 safety that warrant assignment to investigation under this chapter, and  
9 there is not a history of reports of child abuse or neglect related to  
10 the family, then the department must close the family assessment  
11 response case. However, if at any time the department identifies risk  
12 or safety factors that warrant an investigation under this chapter,  
13 then the family assessment response case must be reassigned to  
14 investigation;

15 (vi) Conduct an investigation, and not a family assessment, in  
16 response to an allegation that, the department determines based on the  
17 intake assessment:

18 (A) Poses a risk of "imminent harm" consistent with the definition  
19 provided in RCW 13.34.050, which includes, but is not limited to,  
20 sexual abuse and sexual exploitation as defined in this chapter;

21 (B) Poses a serious threat of substantial harm to a child;

22 (C) Constitutes conduct involving a criminal offense that has, or  
23 is about to occur, in which the child is the victim;

24 (D) The child is an abandoned child as defined in RCW 13.34.030;

25 (E) The child is an adjudicated dependent child as defined in RCW  
26 13.34.030, or the child is in a facility that is licensed, operated, or  
27 certified for care of children by the department under chapter 74.15  
28 RCW, or by the department of early learning.

29 (c) The department may not be held civilly liable for the decision  
30 to respond to an allegation of child abuse or neglect by using the  
31 family assessment response under this section unless the state or its  
32 officers, agents, or employees acted with reckless disregard.

33 (12)(a) For reports of alleged abuse or neglect that are accepted  
34 for investigation by the department, the investigation shall be  
35 conducted within time frames established by the department in rule. In  
36 no case shall the investigation extend longer than ninety days from the  
37 date the report is received, unless the investigation is being  
38 conducted under a written protocol pursuant to RCW 26.44.180 and a law

1 enforcement agency or prosecuting attorney has determined that a longer  
2 investigation period is necessary. At the completion of the  
3 investigation, the department shall make a finding that the report of  
4 child abuse or neglect is founded or unfounded.

5 (b) If a court in a civil or criminal proceeding, considering the  
6 same facts or circumstances as are contained in the report being  
7 investigated by the department, makes a judicial finding by a  
8 preponderance of the evidence or higher that the subject of the pending  
9 investigation has abused or neglected the child, the department shall  
10 adopt the finding in its investigation.

11 (13) For reports of alleged abuse or neglect that are responded to  
12 through family assessment response, the department shall:

13 (a) Provide the family with a written explanation of the procedure  
14 for assessment of the child and the family and its purposes;

15 (b) Collaborate with the family to identify family strengths,  
16 resources, and service needs, and develop a service plan with the goal  
17 of reducing risk of harm to the child and improving or restoring family  
18 well-being;

19 (c) Complete the family assessment response within forty-five days  
20 of receiving the report; however, upon parental agreement, the family  
21 assessment response period may be extended up to ninety days;

22 (d) Offer services to the family in a manner that makes it clear  
23 that acceptance of the services is voluntary;

24 (e) Implement the family assessment response in a consistent and  
25 cooperative manner;

26 (f) Have the parent or guardian sign an agreement to participate in  
27 services before services are initiated that informs the parents of  
28 their rights under family assessment response, all of their options,  
29 and the options the department has if the parents do not sign the  
30 consent form.

31 (14) In conducting an investigation or family assessment of alleged  
32 abuse or neglect, the department or law enforcement agency:

33 (a) May interview children. If the department determines that the  
34 response to the allegation will be family assessment response, the  
35 preferred practice is to request a parent's, guardian's, or custodian's  
36 permission to interview the child before conducting the child interview  
37 unless doing so would compromise the safety of the child or the  
38 integrity of the assessment. The interviews may be conducted on school

1 premises, at day-care facilities, at the child's home, or at other  
2 suitable locations outside of the presence of parents. If the  
3 allegation is investigated, parental notification of the interview must  
4 occur at the earliest possible point in the investigation that will not  
5 jeopardize the safety or protection of the child or the course of the  
6 investigation. Prior to commencing the interview the department or law  
7 enforcement agency shall determine whether the child wishes a third  
8 party to be present for the interview and, if so, shall make reasonable  
9 efforts to accommodate the child's wishes. Unless the child objects,  
10 the department or law enforcement agency shall make reasonable efforts  
11 to include a third party in any interview so long as the presence of  
12 the third party will not jeopardize the course of the investigation;  
13 and

14 (b) Shall have access to all relevant records of the child in the  
15 possession of mandated reporters and their employees.

16 (15) If a report of alleged abuse or neglect is founded and  
17 constitutes the third founded report received by the department within  
18 the last twelve months involving the same child or family, the  
19 department shall promptly notify the office of the family and  
20 children's ((ombudsman)) ombuds of the contents of the report. The  
21 department shall also notify the ((ombudsman)) ombuds of the  
22 disposition of the report.

23 (16) In investigating and responding to allegations of child abuse  
24 and neglect, the department may conduct background checks as authorized  
25 by state and federal law.

26 (17)(a) The department shall maintain investigation records and  
27 conduct timely and periodic reviews of all founded cases of abuse and  
28 neglect. The department shall maintain a log of screened-out  
29 nonabusive cases.

30 (b) In the family assessment response, the department shall not  
31 make a finding as to whether child abuse or neglect occurred. No one  
32 shall be named as a perpetrator and no investigative finding shall be  
33 entered in the department's child abuse or neglect database.

34 (18) The department shall use a risk assessment process when  
35 investigating alleged child abuse and neglect referrals. The  
36 department shall present the risk factors at all hearings in which the  
37 placement of a dependent child is an issue. Substance abuse must be a  
38 risk factor.

1 (19) Upon receipt of a report of alleged abuse or neglect the law  
2 enforcement agency may arrange to interview the person making the  
3 report and any collateral sources to determine if any malice is  
4 involved in the reporting.

5 (20) Upon receiving a report of alleged abuse or neglect involving  
6 a child under the court's jurisdiction under chapter 13.34 RCW, the  
7 department shall promptly notify the child's guardian ad litem of the  
8 report's contents. The department shall also notify the guardian ad  
9 litem of the disposition of the report. For purposes of this  
10 subsection, "guardian ad litem" has the meaning provided in RCW  
11 13.34.030.

12 **Sec. 44.** RCW 26.44.220 and 2005 c 345 s 1 are each amended to read  
13 as follows:

14 (1) Within existing resources, the department shall develop a  
15 curriculum designed to train staff of the department's children's  
16 administration who assess or provide services to adolescents on how to  
17 screen and respond to referrals to child protective services when those  
18 referrals may involve victims of abuse or neglect between the ages of  
19 eleven and eighteen. At a minimum, the curriculum developed pursuant  
20 to this section shall include:

21 (a) Review of relevant laws and regulations, including the  
22 requirement that the department investigate complaints if a parent's or  
23 caretaker's actions result in serious physical or emotional harm or  
24 present an imminent risk of serious harm to any person under eighteen;

25 (b) Review of policies of the department's children's  
26 administration that require assessment and screening of abuse and  
27 neglect referrals on the basis of risk and not age;

28 (c) Explanation of safety assessment and risk assessment models;

29 (d) Case studies of situations in which the department has received  
30 reports of alleged abuse or neglect of older children and adolescents;

31 (e) Discussion of best practices in screening and responding to  
32 referrals involving older children and adolescents; and

33 (f) Discussion of how abuse and neglect referrals related to  
34 adolescents are investigated and when law enforcement must be notified.

35 (2) As it develops its curriculum pursuant to this section, the  
36 department shall request that the office of the family and children's  
37 (~~ombudsman~~) ombuds review and comment on its proposed training

1 materials. The department shall consider the comments and  
2 recommendations of the office of the family and children's  
3 ((ombudsman)) ombuds as it develops the curriculum required by this  
4 section.

5 (3) The department shall complete the curriculum materials required  
6 by this section no later than December 31, 2005.

7 (4) Within existing resources, the department shall incorporate  
8 training on the curriculum developed pursuant to this section into  
9 existing training for child protective services workers who screen  
10 intake calls, children's administration staff responsible for assessing  
11 or providing services to older children and adolescents, and all new  
12 employees of the children's administration responsible for assessing or  
13 providing services to older children and adolescents.

14 **Sec. 45.** RCW 27.53.030 and 2011 c 219 s 1 are each reenacted and  
15 amended to read as follows:

16 The definitions in this section apply throughout this chapter  
17 unless the context clearly requires otherwise.

18 (1) "Amateur society" means any organization composed primarily of  
19 persons who are not professional archaeologists, whose primary interest  
20 is in the archaeological resources of the state, and which has been  
21 certified in writing by two professional archaeologists.

22 (2) "Archaeological object" means an object that comprises the  
23 physical evidence of an indigenous and subsequent culture, including  
24 material remains of past human life, including monuments, symbols,  
25 tools, facilities, and technological by-products.

26 (3) "Archaeological site" means a geographic locality in  
27 Washington, including but not limited to, submerged and submersible  
28 lands and the bed of the sea within the state's jurisdiction, that  
29 contains archaeological objects.

30 (4) "Archaeology" means systematic, scientific study of ((man's))  
31 humankind's past through material remains.

32 (5) "Department" means the department of archaeology and historic  
33 preservation, created in chapter 43.334 RCW.

34 (6) "Director" means the director of the department of archaeology  
35 and historic preservation, created in chapter 43.334 RCW.

36 (7) "Field investigation" means an on-site inspection by a  
37 professional archaeologist or by an individual under the direct

1 supervision of a professional archaeologist employing archaeological  
2 inspection techniques for both the surface and subsurface  
3 identification of archaeological resources and artifacts resulting in  
4 a professional archaeological report detailing the results of such  
5 inspection.

6 (8) "Historic" means peoples and cultures who are known through  
7 written documents in their own or other languages. As applied to  
8 underwater archaeological resources, the term "historic" shall include  
9 only those properties which are listed in or eligible for listing in  
10 the Washington state register of historic places (RCW 27.34.220) or the  
11 national register of historic places as defined in the national  
12 historic preservation act of 1966 (Title 1, Sec. 101, Public Law 89-  
13 665; 80 Stat. 915; 16 U.S.C. Sec. 470) as now or hereafter amended.

14 (9) "Historic archaeological resources" means those properties  
15 which are listed in or eligible for listing in the Washington state  
16 register of historic places (RCW 27.34.220) or the national register of  
17 historic places as defined in the national historic preservation act of  
18 1966 (Title 1, Sec. 101, Public Law 89-665; 80 Stat. 915; 16 U.S.C.  
19 Sec. 470) as now or hereafter amended.

20 (10) "Prehistoric" means peoples and cultures who are unknown  
21 through contemporaneous written documents in any language.

22 (11) "Professional archaeologist" means a person with  
23 qualifications meeting the federal secretary of the interior's  
24 standards for a professional archaeologist. Archaeologists not meeting  
25 this standard may be conditionally employed by working under the  
26 supervision of a professional archaeologist for a period of four years  
27 provided the employee is pursuing qualifications necessary to meet the  
28 federal secretary of the interior's standards for a professional  
29 archaeologist. During this four-year period, the professional  
30 archaeologist is responsible for all findings. The four-year period is  
31 not subject to renewal.

32 **Sec. 46.** RCW 28A.175.075 and 2010 c 243 s 4 are each amended to  
33 read as follows:

34 (1) The office of the superintendent of public instruction shall  
35 establish a state-level building bridges work group that includes K-12  
36 and state agencies that work with youth who have dropped out or are at  
37 risk of dropping out of school. The following agencies shall appoint

1 representatives to the work group: The office of the superintendent of  
2 public instruction, the workforce training and education coordinating  
3 board, the department of early learning, the employment security  
4 department, the state board for community and technical colleges, the  
5 department of health, the community mobilization office, and the  
6 children's services and behavioral health and recovery divisions of the  
7 department of social and health services. The work group should also  
8 consist of one representative from each of the following agencies and  
9 organizations: A statewide organization representing career and  
10 technical education programs including skill centers; the juvenile  
11 courts or the office of juvenile justice, or both; the Washington  
12 association of prosecuting attorneys; the Washington state office of  
13 public defense; accredited institutions of higher education; the  
14 educational service districts; the area workforce development councils;  
15 parent and educator associations; (~~achievement~~) educational  
16 opportunity gap oversight and accountability committee; office of the  
17 education (~~ombudsman~~) ombuds; local school districts; agencies or  
18 organizations that provide services to special education students;  
19 community organizations serving youth; federally recognized tribes and  
20 urban tribal centers; each of the major political caucuses of the  
21 senate and house of representatives; and the minority commissions.

22 (2) To assist and enhance the work of the building bridges programs  
23 established in RCW 28A.175.025, the state-level work group shall:

24 (a) Identify and make recommendations to the legislature for the  
25 reduction of fiscal, legal, and regulatory barriers that prevent  
26 coordination of program resources across agencies at the state and  
27 local level;

28 (b) Develop and track performance measures and benchmarks for each  
29 partner agency or organization across the state including performance  
30 measures and benchmarks based on student characteristics and outcomes  
31 specified in RCW 28A.175.035(1)(e); and

32 (c) Identify research-based and emerging best practices regarding  
33 prevention, intervention, and retrieval programs.

34 (3)(a) The work group shall report to the quality education  
35 council, appropriate committees of the legislature, and the governor on  
36 an annual basis beginning December 1, 2007, with proposed strategies  
37 for building K-12 dropout prevention, intervention, and reengagement



1 systems in local communities throughout the state including, but not  
2 limited to, recommendations for implementing emerging best practices,  
3 needed additional resources, and eliminating barriers.

4 (b) By September 15, 2010, the work group shall report on:

5 (i) A recommended state goal and annual state targets for the  
6 percentage of students graduating from high school;

7 (ii) A recommended state goal and annual state targets for the  
8 percentage of youth who have dropped out of school who should be  
9 reengaged in education and be college and work ready;

10 (iii) Recommended funding for supporting career guidance and the  
11 planning and implementation of K-12 dropout prevention, intervention,  
12 and reengagement systems in school districts and a plan for phasing the  
13 funding into the program of basic education, beginning in the 2011-2013  
14 biennium; and

15 (iv) A plan for phasing in the expansion of the current school  
16 improvement planning program to include state-funded, dropout-focused  
17 school improvement technical assistance for school districts in  
18 significant need of improvement regarding high school graduation rates.

19 (4) State agencies in the building bridges work group shall work  
20 together, wherever feasible, on the following activities to support  
21 school/family/community partnerships engaged in building K-12 dropout  
22 prevention, intervention, and reengagement systems:

23 (a) Providing opportunities for coordination and flexibility of  
24 program eligibility and funding criteria;

25 (b) Providing joint funding;

26 (c) Developing protocols and templates for model agreements on  
27 sharing records and data;

28 (d) Providing joint professional development opportunities that  
29 provide knowledge and training on:

30 (i) Research-based and promising practices;

31 (ii) The availability of programs and services for vulnerable  
32 youth; and

33 (iii) Cultural competence.

34 (5) The building bridges work group shall make recommendations to  
35 the governor and the legislature by December 1, 2010, on a state-level  
36 and regional infrastructure for coordinating services for vulnerable  
37 youth. Recommendations must address the following issues:

1 (a) Whether to adopt an official conceptual approach or framework  
2 for all entities working with vulnerable youth that can support  
3 coordinated planning and evaluation;

4 (b) The creation of a performance-based management system,  
5 including outcomes, indicators, and performance measures relating to  
6 vulnerable youth and programs serving them, including accountability  
7 for the dropout issue;

8 (c) The development of regional and/or county-level multipartner  
9 youth consortia with a specific charge to assist school districts and  
10 local communities in building K-12 comprehensive dropout prevention,  
11 intervention, and reengagement systems;

12 (d) The development of integrated or school-based one-stop shopping  
13 for services that would:

14 (i) Provide individualized attention to the neediest youth and  
15 prioritized access to services for students identified by a dropout  
16 early warning and intervention data system;

17 (ii) Establish protocols for coordinating data and services,  
18 including getting data release at time of intake and common assessment  
19 and referral processes; and

20 (iii) Build a system of single case managers across agencies;

21 (e) Launching a statewide media campaign on increasing the high  
22 school graduation rate; and

23 (f) Developing a statewide database of available services for  
24 vulnerable youth.

25 **Sec. 47.** RCW 28A.175.140 and 2011 c 288 s 4 are each amended to  
26 read as follows:

27 (1) The office of the superintendent of public instruction, in  
28 consultation with the state board of education, must:

29 (a) Calculate the annual extended graduation rate for each high  
30 school, which is the rate at which a class of students enters high  
31 school as (~~freshmen~~) first-year students and graduates with a high  
32 school diploma, including students who receive a high school diploma  
33 after the year they were expected to graduate. The office may  
34 statistically adjust the rate for student demographics in the high  
35 school, including the number of students eligible for free and reduced-  
36 price meals, special education and English language learner students,

1 students of various racial and ethnic backgrounds, and student  
2 mobility;

3 (b) Annually calculate the proportion of students at grade level  
4 for each high school, which shall be measured by the number of credits  
5 a student has accumulated at the end of each school year compared to  
6 the total number required for graduation. For the purposes of this  
7 subsection (1)(b), the office shall adopt a standard definition of "at  
8 grade level" for each high school grade;

9 (c) Annually calculate the proportion of students in each high  
10 school who are suspended or expelled from school, as reported by the  
11 high school. In-school suspensions shall not be included in the  
12 calculation. Improvement on the indicator under this subsection (1)(c)  
13 shall be measured by a reduction in the number of students suspended or  
14 expelled from school; and

15 (d) Beginning with the 2012-13 school year, annually measure  
16 student attendance in each high school as provided under RCW  
17 28A.300.046.

18 (2) The office of the superintendent of public instruction may add  
19 dropout prevention indicators to the list of indicators under  
20 subsection (1) of this section, such as student grades, state  
21 assessment mastery, or student retention.

22 (3) To the maximum extent possible, the office of the  
23 superintendent of public instruction shall rely on data collected  
24 through the comprehensive education data and research system to  
25 calculate the dropout prevention indicators under this section and  
26 shall minimize additional data collection from schools and school  
27 districts unless necessary to meet the requirements of this section.

28 (4) The office of the superintendent of public instruction shall  
29 develop a metric for measuring the performance of each high school on  
30 the indicators under subsection (1) of this section that assigns points  
31 for each indicator and results in a single numeric dropout prevention  
32 score for each high school. The office shall weight the extended  
33 graduation rate indicator within the metric so that a high school does  
34 not qualify for an award under RCW 28A.175.145 without an increase in  
35 its extended graduation rate. The metric used through the 2012-13  
36 school year shall include the indicators in subsection (1)(a) through  
37 (c) of this section and shall measure improvement against the 2010-11  
38 school year as the baseline year. Beginning in the 2013-14 school

1 year, the metric shall also include the indicator in subsection (1)(d)  
2 of this section, with improvement in this indicator measured against  
3 the 2012-13 school year as the baseline year. The office may establish  
4 a minimum level of improvement in a high school's dropout prevention  
5 score for the high school to qualify for a PASS program award under RCW  
6 28A.175.145.

7 **Sec. 48.** RCW 28A.230.020 and 2006 c 263 s 414 are each amended to  
8 read as follows:

9 All common schools shall give instruction in reading,  
10 (~~penmanship~~) handwriting, orthography, written and mental arithmetic,  
11 geography, the history of the United States, English grammar,  
12 physiology and hygiene with special reference to the effects of alcohol  
13 and drug abuse on the human system, science with special reference to  
14 the environment, and such other studies as may be prescribed by rule of  
15 the superintendent of public instruction. All teachers shall stress  
16 the importance of the cultivation of manners, the fundamental  
17 principles of honesty, honor, industry and economy, the minimum  
18 requisites for good health including the beneficial effect of physical  
19 exercise and methods to prevent exposure to and transmission of  
20 sexually transmitted diseases, and the worth of kindness to all living  
21 creatures and the land. The prevention of child abuse may be offered  
22 as part of the curriculum in the common schools.

23 **Sec. 49.** RCW 28A.300.136 and 2011 1st sp.s. c 21 s 33 are each  
24 amended to read as follows:

25 (1) An educational opportunity gap oversight and accountability  
26 committee is created to synthesize the findings and recommendations  
27 from the 2008 achievement gap studies into an implementation plan, and  
28 to recommend policies and strategies to the superintendent of public  
29 instruction, the professional educator standards board, and the state  
30 board of education to close the achievement gap.

31 (2) The committee shall recommend specific policies and strategies  
32 in at least the following areas:

33 (a) Supporting and facilitating parent and community involvement  
34 and outreach;

35 (b) Enhancing the cultural competency of current and future  
36 educators and the cultural relevance of curriculum and instruction;

1 (c) Expanding pathways and strategies to prepare and recruit  
2 diverse teachers and administrators;

3 (d) Recommending current programs and resources that should be  
4 redirected to narrow the gap;

5 (e) Identifying data elements and systems needed to monitor  
6 progress in closing the gap;

7 (f) Making closing the achievement gap part of the school and  
8 school district improvement process; and

9 (g) Exploring innovative school models that have shown success in  
10 closing the achievement gap.

11 (3) Taking a multidisciplinary approach, the committee may seek  
12 input and advice from other state and local agencies and organizations  
13 with expertise in health, social services, gang and violence  
14 prevention, substance abuse prevention, and other issues that  
15 disproportionately affect student achievement and student success.

16 (4) The educational opportunity gap oversight and accountability  
17 committee shall be composed of the following members:

18 (a) The chairs and ranking minority members of the house and senate  
19 education committees, or their designees;

20 (b) One additional member of the house of representatives appointed  
21 by the speaker of the house and one additional member of the senate  
22 appointed by the president of the senate;

23 (c) A representative of the office of the education (~~ombudsman~~)  
24 ombuds;

25 (d) A representative of the center for the improvement of student  
26 learning in the office of the superintendent of public instruction;

27 (e) A representative of federally recognized Indian tribes whose  
28 traditional lands and territories lie within the borders of Washington  
29 state, designated by the federally recognized tribes; and

30 (f) Four members appointed by the governor in consultation with the  
31 state ethnic commissions, who represent the following populations:  
32 African-Americans, Hispanic Americans, Asian Americans, and Pacific  
33 Islander Americans.

34 (5) The governor and the tribes are encouraged to designate members  
35 who have experience working in and with schools.

36 (6) The committee may convene ad hoc working groups to obtain  
37 additional input and participation from community members. Members of

1 ad hoc working groups shall serve without compensation and shall not be  
2 reimbursed for travel or other expenses.

3 (7) The chair or cochairs of the committee shall be selected by the  
4 members of the committee. Staff support for the committee shall be  
5 provided by the center for the improvement of student learning.  
6 Members of the committee shall serve without compensation but must be  
7 reimbursed as provided in RCW 43.03.050 and 43.03.060. Legislative  
8 members of the committee shall be reimbursed for travel expenses in  
9 accordance with RCW 44.04.120.

10 (8) The superintendent of public instruction, the state board of  
11 education, the professional educator standards board, and the quality  
12 education council shall work collaboratively with the educational  
13 opportunity gap oversight and accountability committee to close the  
14 achievement gap.

15 **Sec. 50.** RCW 28A.300.285 and 2010 c 239 s 2 are each amended to  
16 read as follows:

17 (1) By August 1, 2011, each school district shall adopt or amend if  
18 necessary a policy and procedure that at a minimum incorporates the  
19 revised model policy and procedure provided under subsection (4) of  
20 this section that prohibits the harassment, intimidation, or bullying  
21 of any student. It is the responsibility of each school district to  
22 share this policy with parents or guardians, students, volunteers, and  
23 school employees in accordance with rules adopted by the superintendent  
24 of public instruction. Each school district shall designate one person  
25 in the district as the primary contact regarding the antiharassment,  
26 intimidation, or bullying policy. The primary contact shall receive  
27 copies of all formal and informal complaints, have responsibility for  
28 assuring the implementation of the policy and procedure, and serve as  
29 the primary contact on the policy and procedures between the school  
30 district, the office of the education (~~ombudsman~~) ombuds, and the  
31 office of the superintendent of public instruction.

32 (2) "Harassment, intimidation, or bullying" means any intentional  
33 electronic, written, verbal, or physical act, including but not limited  
34 to one shown to be motivated by any characteristic in RCW 9A.36.080(3),  
35 or other distinguishing characteristics, when the intentional  
36 electronic, written, verbal, or physical act:

- 1 (a) Physically harms a student or damages the student's property;  
2 or  
3 (b) Has the effect of substantially interfering with a student's  
4 education; or  
5 (c) Is so severe, persistent, or pervasive that it creates an  
6 intimidating or threatening educational environment; or  
7 (d) Has the effect of substantially disrupting the orderly  
8 operation of the school.

9 Nothing in this section requires the affected student to actually  
10 possess a characteristic that is a basis for the harassment,  
11 intimidation, or bullying.

12 (3) The policy and procedure should be adopted or amended through  
13 a process that includes representation of parents or guardians, school  
14 employees, volunteers, students, administrators, and community  
15 representatives. It is recommended that each such policy emphasize  
16 positive character traits and values, including the importance of civil  
17 and respectful speech and conduct, and the responsibility of students  
18 to comply with the district's policy prohibiting harassment,  
19 intimidation, or bullying.

20 (4)(a) By August 1, 2010, the superintendent of public instruction,  
21 in consultation with representatives of parents, school personnel, the  
22 office of the education (~~ombudsman~~) ombuds, the Washington state  
23 school directors' association, and other interested parties, shall  
24 provide to the education committees of the legislature a revised and  
25 updated model harassment, intimidation, and bullying prevention policy  
26 and procedure. The superintendent of public instruction shall publish  
27 on its web site, with a link to the safety center web page, the revised  
28 and updated model harassment, intimidation, and bullying prevention  
29 policy and procedure, along with training and instructional materials  
30 on the components that shall be included in any district policy and  
31 procedure. The superintendent shall adopt rules regarding school  
32 districts' communication of the policy and procedure to parents,  
33 students, employees, and volunteers.

34 (b) The office of the superintendent of public instruction has the  
35 authority to update with new technologies access to this information in  
36 the safety center, to the extent resources are made available.

37 (c) Each school district shall by August 15, 2011, provide to the  
38 superintendent of public instruction a brief summary of its policies,

1 procedures, programs, partnerships, vendors, and instructional and  
2 training materials to be posted on the school safety center web site,  
3 and shall also provide the superintendent with a link to the school  
4 district's web site for further information. The district's primary  
5 contact for bullying and harassment issues shall annually by August  
6 15th verify posted information and links and notify the school safety  
7 center of any updates or changes.

8 (5) The Washington state school directors' association, with the  
9 assistance of the office of the superintendent of public instruction,  
10 shall convene an advisory committee to develop a model policy  
11 prohibiting acts of harassment, intimidation, or bullying that are  
12 conducted via electronic means by a student while on school grounds and  
13 during the school day. The policy shall include a requirement that  
14 materials meant to educate parents and students about the seriousness  
15 of cyberbullying be disseminated to parents or made available on the  
16 school district's web site. The school directors' association and the  
17 advisory committee shall develop sample materials for school districts  
18 to disseminate, which shall also include information on responsible and  
19 safe internet use as well as what options are available if a student is  
20 being bullied via electronic means((7)) including, but not limited to,  
21 reporting threats to local police and when to involve school officials,  
22 the internet service provider, or phone service provider. The school  
23 directors' association shall submit the model policy and sample  
24 materials, along with a recommendation for local adoption, to the  
25 governor and the legislature and shall post the model policy and sample  
26 materials on its web site by January 1, 2008. Each school district  
27 board of directors shall establish its own policy by August 1, 2008.

28 (6) As used in this section, "electronic" or "electronic means"  
29 means any communication where there is the transmission of information  
30 by wire, radio, optical cable, electromagnetic, or other similar means.

31 **Sec. 51.** RCW 28A.300.2851 and 2011 c 185 s 2 are each amended to  
32 read as follows:

33 (1) The office of the superintendent of public instruction and the  
34 office of the education ((~~ombudsman~~)) ombuds shall convene a work group  
35 on school bullying and harassment prevention to develop, recommend, and  
36 implement strategies to improve school climate and create respectful



1 learning environments in all public schools in Washington. The  
2 superintendent of public instruction or a designee shall serve as the  
3 chair of the work group.

4 (2) The work group shall:

5 (a) Consider whether additional disaggregated data should be  
6 collected regarding incidents of bullying and harassment or  
7 disciplinary actions and make recommendations to the office of the  
8 superintendent of public instruction for collection of such data;

9 (b) Examine possible procedures for anonymous reporting of  
10 incidents of bullying and harassment;

11 (c) Identify curriculum and best practices for school districts to  
12 improve school climate, create respectful learning environments, and  
13 train staff and students in de-escalation and intervention techniques;

14 (d) Identify curriculum and best practices for incorporating  
15 instruction about mental health, youth suicide prevention, and  
16 prevention of bullying and harassment;

17 (e) Recommend best practices for informing parents about the  
18 harassment, intimidation, and bullying prevention policy and procedure  
19 under RCW 28A.300.285 and involving parents in improving school  
20 climate;

21 (f) Recommend training for district personnel who are designated as  
22 the primary contact regarding the policy and procedure and for school  
23 resource officers and other school security personnel;

24 (g) Recommend educator preparation and certification requirements  
25 in harassment, intimidation, and bullying prevention and de-escalation  
26 and intervention techniques for teachers, educational staff associates,  
27 and school administrators;

28 (h) Examine and recommend policies for discipline of students and  
29 staff who harass, intimidate, or bully; and

30 (i) In collaboration with the state board for community and  
31 technical colleges, examine and recommend policies to protect K-12  
32 students attending community and technical colleges from harassment,  
33 intimidation, and bullying.

34 (3) The work group must include representatives from the state  
35 board of education, the Washington state parent teacher association,  
36 the Washington state association of school psychologists, school  
37 directors, school administrators, principals, teachers, school

1 counselors, classified school staff, youth, community organizations,  
2 and parents.

3 (4) The work group shall submit a biennial progress and status  
4 report to the governor and the education committees of the legislature,  
5 beginning December 1, 2011, with additional reports by December 1,  
6 2013, and December 1, 2015.

7 (5) The work group is terminated effective January 1, 2016.

8 **Sec. 52.** RCW 28B.10.053 and 2012 c 229 s 510 are each amended to  
9 read as follows:

10 (1) By December 1, 2011, and by June of each odd-numbered year  
11 thereafter, the institutions of higher education shall collaboratively  
12 develop a master list of postsecondary courses that can be fulfilled by  
13 taking the advanced placement, international baccalaureate, or other  
14 recognized college-level proficiency examinations, including but not  
15 limited to examinations by a national multidisciplinary science,  
16 technology, engineering, and mathematics program, and meeting the  
17 qualifying examination score or demonstrated competencies for lower  
18 division general education requirements or postsecondary professional  
19 technical requirements. The master list of postsecondary courses  
20 fulfilled by proficiency examinations or demonstrated competencies are  
21 those that fulfill lower division general education requirements or  
22 career and technical education requirements and qualify for  
23 postsecondary credit. From the master list, each institution shall  
24 create and publish a list of its courses that can be satisfied by  
25 successful proficiency examination scores or demonstrated competencies  
26 for lower division general education requirements or postsecondary  
27 professional technical requirements. The qualifying examination scores  
28 and demonstrated competencies shall be included in the published list.  
29 The requirements to develop a master list under this section do not  
30 apply if an institution has a clearly published policy of awarding  
31 credit for the advanced placement, international baccalaureate, or  
32 other recognized college-level placement exams and does not require  
33 those credits to meet specific course requirements but generally  
34 applies those credits towards degree requirements.

35 (2) To the maximum extent possible, institutions of higher  
36 education shall agree on examination qualifying scores and demonstrated  
37 competencies for the credits or courses under subsection (3) of this

1 section, with scores equivalent to qualified or well-qualified.  
2 Nothing in this subsection shall prevent an institution of higher  
3 education from adopting policies using higher scores for additional  
4 purposes.

5 (3) Each institution of higher education, in designing its  
6 certificate, technical degree program, two-year academic transfer  
7 program, or (~~freshman~~) first-year student and sophomore courses of a  
8 baccalaureate program or baccalaureate degree, must recognize the  
9 equivalencies of at least one year of course credit and maximize the  
10 application of the credits toward lower division general education  
11 requirements that can be earned through successfully demonstrating  
12 proficiency on examinations, including but not limited to advanced  
13 placement and international baccalaureate examinations. The successful  
14 completion of the examination and the award of credit shall be noted on  
15 the student's college transcript.

16 (4) Each institution of higher education must clearly include in  
17 its admissions materials and on its web site the credits or the  
18 institution's list of postsecondary courses that can be fulfilled by  
19 proficiency examinations or demonstrated competencies and the agreed-  
20 upon examination scores and demonstrated competencies that qualify for  
21 postsecondary credit. Each institution must provide the information to  
22 the student achievement council and state board for community and  
23 technical colleges in a form that the superintendent of public  
24 instruction is able to distribute to school districts.

25 **Sec. 53.** RCW 28B.15.102 and 2012 c 229 s 526 are each amended to  
26 read as follows:

27 (1) Beginning with the 2011-12 academic year, any four-year  
28 institution of higher education that increases tuition beyond levels  
29 assumed in the omnibus appropriations act is subject to the financial  
30 aid requirements included in this section and shall remain subject to  
31 these requirements through the 2018-19 academic year.

32 (2) Beginning July 1, 2011, each four-year institution of higher  
33 education that raises tuition beyond levels assumed in the omnibus  
34 appropriations act shall, in a manner consistent with the goal of  
35 enhancing the quality of and access to their institutions, provide  
36 financial aid to offset full-time tuition fees for resident  
37 undergraduate students as follows:

1 (a) Subtract from the full-time tuition fees an amount that is  
2 equal to the maximum amount of a state need grant award that would be  
3 given to an eligible student with a family income at or below fifty  
4 percent of the state's median family income as determined by the  
5 student achievement council; and

6 (b) Offset the remainder as follows:

7 (i) Students with demonstrated need whose family incomes are at or  
8 below fifty percent of the state's median family income shall receive  
9 financial aid equal to one hundred percent of the remainder if an  
10 institution's full-time tuition fees for resident undergraduate  
11 students is five percent or greater of the state's median family income  
12 for a family of four as provided by the student achievement council;

13 (ii) Students with demonstrated need whose family incomes are  
14 greater than fifty percent and no more than seventy percent of the  
15 state's median family income shall receive financial aid equal to  
16 seventy-five percent of the remainder if an institution's full-time  
17 tuition fees for resident undergraduate students is ten percent or  
18 greater of the state's median family income for a family of four as  
19 provided by the student achievement council;

20 (iii) Students with demonstrated need whose family incomes exceed  
21 seventy percent and are less than one hundred percent of the state's  
22 median family income shall receive financial aid equal to fifty percent  
23 of the remainder if an institution's full-time tuition fees for  
24 resident undergraduate students is fifteen percent or greater of the  
25 state's median family income for a family of four as provided by the  
26 student achievement council; and

27 (iv) Students with demonstrated need whose family incomes are at or  
28 exceed one hundred percent and are no more than one hundred twenty-five  
29 percent of the state's median family income shall receive financial aid  
30 equal to twenty-five percent of the remainder if an institution's  
31 full-time tuition fees for resident undergraduate students is twenty  
32 percent or greater of the state's median family income for a family of  
33 four as provided by the student achievement council.

34 (3) The financial aid required in subsection (2) of this section  
35 shall:

36 (a) Be reduced by the amount of other financial aid awards, not  
37 including the state need grant;

38 (b) Be prorated based on credit load; and

1 (c) Only be provided to students up to demonstrated need.

2 (4) Financial aid sources and methods may be:

3 (a) Tuition revenue or locally held funds;

4 (b) Tuition waivers created by a four-year institution of higher  
5 education for the specific purpose of serving low and middle-income  
6 students; or

7 (c) Local financial aid programs.

8 (5) Use of tuition waivers as specified in subsection (4)(b) of  
9 this section shall not be included in determining total state tuition  
10 waiver authority as defined in RCW 28B.15.910.

11 (6) By August 15, 2012, and August 15th every year thereafter,  
12 four-year institutions of higher education shall report to the governor  
13 and relevant committees of the legislature on the effectiveness of the  
14 various sources and methods of financial aid in mitigating tuition  
15 increases. A key purpose of these reports is to provide information  
16 regarding the results of the decision to grant tuition-setting  
17 authority to the four-year institutions of higher education and whether  
18 tuition setting authority should continue to be granted to the  
19 institutions or revert back to the legislature after consideration of  
20 the impacts on students, including educational access, affordability,  
21 and quality. These reports shall include:

22 (a) The amount of additional financial aid provided to middle-  
23 income and low-income students with demonstrated need in the aggregate  
24 and per student;

25 (b) An itemization of the sources and methods of financial aid  
26 provided by the four-year institution of higher education in the  
27 aggregate and per student;

28 (c) An analysis of the combined impact of federal tuition tax  
29 credits and financial aid provided by the institution of higher  
30 education on the net cost to students and their families resulting from  
31 tuition increases;

32 (d) In cases where tuition increases are greater than those assumed  
33 in the omnibus appropriations act at any four-year institution of  
34 higher education, the institution must include an explanation in its  
35 report of why this increase was necessary and how the institution will  
36 mitigate the effects of the increase. The institution must include in  
37 this section of its report a plan and specific timelines; and

1 (e) An analysis of changes in resident student enrollment patterns,  
2 participation rates, graduation rates, and debt load, by race and  
3 ethnicity, gender, state and county of origin, age, and socioeconomic  
4 status, and a plan to mitigate effects of reduced diversity due to  
5 tuition increases. This analysis shall include disaggregated data for  
6 resident students in the following income brackets:

7 (i) Up to seventy percent of the median family income;

8 (ii) Between seventy-one percent and one hundred twenty-five  
9 percent of the median family income; and

10 (iii) Above one hundred twenty-five percent of the median family  
11 income.

12 (7) Beginning in the 2012-13 academic year, the University of  
13 Washington shall enroll during each academic year at least the same  
14 number of resident (~~freshman~~) first-year undergraduate students at  
15 the Seattle campus, as defined in RCW 28B.15.012, as enrolled during  
16 the 2009-10 academic year. This requirement shall not apply to  
17 nonresident undergraduate and graduate and professional students.

18 **Sec. 54.** RCW 28B.45.020 and 2012 c 229 s 532 are each amended to  
19 read as follows:

20 (1) The University of Washington is responsible for ensuring the  
21 expansion of baccalaureate and graduate educational programs in the  
22 central Puget Sound area under rules or guidelines adopted by the  
23 student achievement council and in accordance with proportionality  
24 agreements emphasizing access for transfer students developed with the  
25 state board for community and technical colleges. The University of  
26 Washington shall meet that responsibility through the operation of at  
27 least two branch campuses. One branch campus shall be located in the  
28 Tacoma area. Another branch campus shall be collocated with Cascadia  
29 Community College in the Bothell-Woodinville area.

30 (2) At the University of Washington Tacoma, a top priority is  
31 expansion of upper division capacity for transfer students and graduate  
32 capacity and programs. Beginning in the fall of 2006, the campus may  
33 offer lower division courses linked to specific majors in fields not  
34 addressed at local community colleges. The campus shall admit lower  
35 division students through coadmission or coenrollment agreements with  
36 a community college, or through direct transfer for students who have  
37 accumulated approximately one year of transferable college credits. In

1 addition to offering lower division courses linked to specific majors  
2 as addressed above, the campus may also directly admit ((freshmen))  
3 first-year students and sophomores.

4 (3) At the University of Washington Bothell, a top priority is  
5 expansion of upper division capacity for transfer students and graduate  
6 capacity and programs. The campus shall also seek additional  
7 opportunities to collaborate with and maximize its colocation with  
8 Cascadia Community College. Beginning in the fall of 2006, the campus  
9 may offer lower division courses linked to specific majors in fields  
10 not addressed at local community colleges. The campus may admit lower  
11 division students through coadmission or coenrollment agreements with  
12 a community college, or through direct transfer for students who have  
13 accumulated approximately one year of transferable college credits. In  
14 addition to offering lower division courses linked to specific majors  
15 as addressed above, the campus may also directly admit ((freshmen))  
16 first-year students and sophomores.

17 **Sec. 55.** RCW 28B.45.030 and 2012 c 229 s 533 are each amended to  
18 read as follows:

19 (1) Washington State University is responsible for providing  
20 baccalaureate and graduate level higher education programs to the  
21 citizens of the Tri-Cities area, under rules or guidelines adopted by  
22 the student achievement council and in accordance with proportionality  
23 agreements emphasizing access for transfer students developed with the  
24 state board for community and technical colleges. Washington State  
25 University shall meet that responsibility through the operation of a  
26 branch campus in the Tri-Cities area. The branch campus shall replace  
27 and supersede the Tri-Cities university center. All land, facilities,  
28 equipment, and personnel of the Tri-Cities university center shall be  
29 transferred from the University of Washington to Washington State  
30 University.

31 (2) Beginning in the fall of 2007, the Washington State University  
32 Tri-Cities branch campus may directly admit ((freshman)) first-year  
33 students and sophomore students.

34 **Sec. 56.** RCW 28B.45.040 and 2012 c 229 s 534 are each amended to  
35 read as follows:

36 (1) Washington State University is responsible for providing

1 baccalaureate and graduate level higher education programs to the  
2 citizens of the southwest Washington area, under rules or guidelines  
3 adopted by the student achievement council and in accordance with  
4 proportionality agreements emphasizing access for transfer students  
5 developed with the state board for community and technical colleges.  
6 Washington State University shall meet that responsibility through the  
7 operation of a branch campus in the southwest Washington area.

8 (2) Washington State University Vancouver shall expand upper  
9 division capacity for transfer students and graduate capacity and  
10 programs and continue to collaborate with local community colleges on  
11 coadmission and coenrollment programs. In addition, beginning in the  
12 fall of 2006, the campus may admit lower division students directly.  
13 By simultaneously admitting (~~freshmen~~) first-year students and  
14 sophomores, increasing transfer enrollment, coadmitting transfer  
15 students, and expanding graduate and professional programs, the campus  
16 shall develop into a four-year institution serving the southwest  
17 Washington region.

18 **Sec. 57.** RCW 28B.50.278 and 2010 c 40 s 1 are each amended to read  
19 as follows:

20 (1) An opportunity employment and education center is established  
21 within the Seattle community college district.

22 (2) The center shall:

23 (a) House various educational and social service providers and  
24 integrate access to employment, counseling, and public benefit programs  
25 and services as well as education, training, financial aid, and  
26 counseling services offered through community colleges;

27 (b) Identify and form partnerships with community-based  
28 organizations that enhance the services and supports provided to  
29 individuals using the center; (~~and~~)

30 (c) Provide services including, but not limited to, employment  
31 security and workforce development council worksource services; job  
32 listing, referral, and placement; job coaching; employment counseling,  
33 testing, and career planning; unemployment insurance claim filing  
34 assistance; cash grant programs run by the department of social and  
35 health services; the basic food program; housing assistance; child  
36 support assistance; child care subsidies; WorkFirst and temporary  
37 assistance (~~to—[for]~~) for needy families; general assistance and



1 supplemental security income facilitation; vocational rehabilitation  
2 services and referrals; medicaid and medical services; alcoholism and  
3 drug addiction treatment and support act referrals; case management and  
4 mental health referrals; community college financial aid; support  
5 services; college counseling services related to career pathways and  
6 basic skills resources for English language learners; high school  
7 completion; and adult basic education; and

8 (d) In partnership with the state board for community and technical  
9 colleges, jointly develop evaluation criteria and performance  
10 indicators that demonstrate the degree to which the center is  
11 successfully integrating services and improving service delivery.

12 (3) The chancellor of the Seattle community college district and  
13 technical colleges, or the chancellor's designee, shall convene an  
14 opportunity policy work group charged with governing the opportunity  
15 employment and education center. The work group membership shall  
16 include, but not be limited to, representatives of the King county  
17 workforce development council, north Seattle community college, the  
18 employment security department, and the department of social and health  
19 services. A chair shall be chosen from among the work group's  
20 membership on an annual basis, with the ~~((chairmanship))~~ position of  
21 chair rotating among participating agencies. The work group shall:

22 (a) Determine protocols for service delivery, develop operating  
23 policies and procedures, develop cross-agency training for agency  
24 employees located at the center, and develop a plan for a common  
25 information technology framework that could allow for interagency  
26 access to files and information, including any common application and  
27 screening systems that facilitate access to state, federal, and local  
28 social service and educational programs, within current resources and  
29 to the extent federal privacy laws allow;

30 (b) Develop a release of information form that may be voluntarily  
31 completed by opportunity center clients to facilitate the information  
32 sharing outlined in ~~((subsection—(3))~~(a) of this ~~((section))~~  
33 subsection. The form is created to aid agencies housed at the  
34 opportunity center in determining client eligibility for various social  
35 and educational services. The form shall address the types of  
36 information to be shared, the agencies with which personal information  
37 can be shared, the length of time agencies may keep shared information

1 on file, and any other issue areas identified by the opportunity policy  
2 work group to comply with all applicable federal and state laws;

3 (c) Review national best practices for program operation and  
4 provide training to program providers both before opening the center  
5 and on an ongoing basis; and

6 (d) Jointly develop integrated solutions to provide more  
7 cost-efficient and customer friendly service delivery.

8 (4) Participating agencies shall identify and apply for any federal  
9 waivers necessary to facilitate the intended goals and operation of the  
10 center.

11 (5) The state board for community and technical colleges shall  
12 report to legislative committees with subject areas of commerce and  
13 labor, human services, and higher education on the following:

14 (a) By December 1, 2010, the board, in partnership with  
15 participating agencies, shall provide recommendations on a proposed  
16 site for an additional opportunity employment and education center; and

17 (b) By December 1, 2011, and annually thereafter, the board shall  
18 provide an evaluation of existing centers based on performance criteria  
19 identified by the board and the opportunity policy work group. The  
20 report shall also include data on any federal and state legislative  
21 barriers to integration.

22 (6) All future opportunity centers shall be governed by the  
23 provisions in this section and are subject to the same reporting  
24 requirements.

25 **Sec. 58.** RCW 28B.50.100 and 2012 c 228 s 5 and 2012 c 148 s 2 are  
26 each reenacted and amended to read as follows:

27 There is hereby created a board of trustees for each college  
28 district as set forth in this chapter. Each board of trustees shall be  
29 composed of five trustees, except as provided in RCW 28B.50.102, who  
30 shall be appointed by the governor for terms commencing October 1st of  
31 the year in which appointed. In making such appointments, the governor  
32 shall give consideration to geographical diversity, and representing  
33 labor, business, women, and racial and ethnic minorities, in the  
34 membership of the boards of trustees. The boards of trustees for  
35 districts containing technical colleges shall include at least one  
36 member from business and one member from labor.

1 The successors of the trustees initially appointed shall be  
2 appointed by the governor to serve for a term of five years except that  
3 any person appointed to fill a vacancy occurring prior to the  
4 expiration of any term shall be appointed only for the remainder of the  
5 term. Each member shall serve until a successor is appointed and  
6 qualified.

7 Every trustee shall be a resident and qualified elector of the  
8 college district. No trustee may be an employee of the community and  
9 technical college system, a member of the board of directors of any  
10 school district, or a member of the governing board of any public or  
11 private educational institution.

12 Each board of trustees shall organize itself by electing a  
13 (~~chairman~~) chair from its members. The board shall adopt a seal and  
14 may adopt such bylaws, rules, and regulations as it deems necessary for  
15 its own government. Three members of the board shall constitute a  
16 quorum, but a lesser number may adjourn from time to time and may  
17 compel the attendance of absent members in such manner as prescribed in  
18 its bylaws, rules, or regulations. The district president, or if there  
19 be none, the president of the college, shall serve as, or may designate  
20 another person to serve as, the secretary of the board, who shall not  
21 be deemed to be a member of the board.

22 Each board of trustees shall follow procedures for open public  
23 meetings in chapter 42.30 RCW. Each board shall provide time for  
24 public comment at each meeting.

25 Members of the boards of trustees may be removed for misconduct or  
26 malfeasance in office in the manner provided by RCW 28B.10.500.

27 **Sec. 59.** RCW 28B.76.502 and 2012 c 31 s 1 are each amended to read  
28 as follows:

29 (1) The office must provide a financial aid counseling curriculum  
30 to institutions of higher education with state need grant recipients.  
31 The curriculum must be available via a web site. The curriculum must  
32 include, but not be limited to:

33 (a) An explanation of the state need grant program rules, including  
34 maintaining satisfactory progress, repayment rules, and usage limits;

35 (b) Information on campus and private scholarships and work-study  
36 opportunities, including the application processes;

1 (c) An overview of student loan options with an emphasis on the  
2 repayment obligations a student borrower assumes regardless of program  
3 completion, including the likely consequences of default and sample  
4 monthly repayment amounts based on a range of student levels of  
5 indebtedness;

6 (d) An overview of financial literacy, including basic money  
7 management skills such as living within a budget and handling credit  
8 and debt;

9 (e) Average salaries for a wide range of jobs;

10 (f) Perspectives from a diverse group of students who are or were  
11 recipients of financial aid, including student loans; and

12 (g) Contact information for local financial aid resources and the  
13 federal student aid (~~ombudsman's~~) ombuds's office.

14 (2) By the 2013-14 academic year, the institution of higher  
15 education must take reasonable steps to ensure that each state need  
16 grant recipient receives information outlined in subsection (1)(a)  
17 through (g) of this section by directly referencing or linking to the  
18 web site on the conditions of award statement provided to each  
19 recipient.

20 (3) By July 1, 2013, the office must disseminate the curriculum to  
21 all institutions of higher education participating in the state need  
22 grant program. The institutions of higher education may require  
23 nonstate need grant recipients to participate in all or portions of the  
24 financial aid counseling.

25 **Sec. 60.** RCW 28B.77.090 and 2012 c 229 s 115 are each amended to  
26 read as follows:

27 (1) An accountability monitoring and reporting system is  
28 established as part of a continuing effort to make meaningful and  
29 substantial progress towards the achievement of long-term performance  
30 goals in higher education.

31 (2) To provide consistent, easily understood data among the public  
32 four-year institutions of higher education within Washington and in  
33 other states, the following data must be reported to the education data  
34 center annually by December 1st, and at a minimum include data  
35 recommended by a national organization representing state chief  
36 executives. The education data center in consultation with the council  
37 may change the data requirements to be consistent with best practices

1 across the country. This data must, to the maximum extent possible, be  
2 disaggregated by race and ethnicity, gender, state and county of  
3 origin, age, and socioeconomic status, and include the following for  
4 the four-year institutions of higher education:

5 (a) Bachelor's degrees awarded;

6 (b) Graduate and professional degrees awarded;

7 (c) Graduation rates: The number and percentage of students who  
8 graduate within four years for bachelor's degrees and within the  
9 extended time, which is six years for bachelor's degrees;

10 (d) Transfer rates: The annual number and percentage of students  
11 who transfer from a two-year to a four-year institution of higher  
12 education;

13 (e) Time and credits to degree: The average length of time in  
14 years and average number of credits that graduating students took to  
15 earn a bachelor's degree;

16 (f) Enrollment in remedial education: The number and percentage of  
17 entering first-time undergraduate students who place into and enroll in  
18 remedial mathematics, English, or both;

19 (g) Success beyond remedial education: The number and percentage  
20 of entering first-time undergraduate students who complete entry  
21 college-level math and English courses within the first two consecutive  
22 academic years;

23 (h) Credit accumulation: The number and percentage of first-time  
24 undergraduate students completing two quarters or one semester worth of  
25 credit during their first academic year;

26 (i) Retention rates: The number and percentage of entering  
27 undergraduate students who enroll consecutively from fall-to-spring and  
28 fall-to-fall at an institution of higher education;

29 (j) Course completion: The percentage of credit hours completed  
30 out of those attempted during an academic year;

31 (k) Program participation and degree completion rates in bachelor  
32 and advanced degree programs in the sciences, which includes  
33 agriculture and natural resources, biology and biomedical sciences,  
34 computer and information sciences, engineering and engineering  
35 technologies, health professions and clinical sciences, mathematics and  
36 statistics, and physical sciences and science technologies, including  
37 participation and degree completion rates for students from  
38 traditionally underrepresented populations;

1 (l) Annual enrollment: Annual unduplicated number of students  
2 enrolled over a twelve-month period at institutions of higher education  
3 including by student level;

4 (m) Annual first-time enrollment: Total first-time students  
5 enrolled in a four-year institution of higher education;

6 (n) Completion ratio: Annual ratio of undergraduate and graduate  
7 degrees and certificates, of at least one year in expected length,  
8 awarded per one hundred full-time equivalent undergraduate students at  
9 the state level;

10 (o) Market penetration: Annual ratio of undergraduate and graduate  
11 degrees and certificates, of at least one year in program length,  
12 awarded relative to the state's population age eighteen to twenty-four  
13 years old with a high school diploma;

14 (p) Student debt load: Median three-year distribution of debt  
15 load, excluding private loans or debts incurred before coming to the  
16 institution;

17 (q) Data related to enrollment, completion rates, participation  
18 rates, and debt load shall be disaggregated for students in the  
19 following income brackets to the maximum extent possible:

20 (i) Up to seventy percent of the median family income;

21 (ii) Between seventy-one percent and one hundred twenty-five  
22 percent of the median family income; and

23 (iii) Above one hundred twenty-five percent of the median family  
24 income; and

25 (r) Yearly percentage increases in the average cost of  
26 undergraduate instruction.

27 (3) Four-year institutions of higher education must count all  
28 students when collecting data, not only first-time, full-time  
29 (~~freshmen~~) first-year students.

30 (4) In conjunction with the office of financial management, all  
31 four-year institutions of higher education must display the data  
32 described in subsection (2) of this section in a uniform dashboard  
33 format on the office of financial management's web site no later than  
34 December 1, 2011, and updated thereafter annually by December 1st. To  
35 the maximum extent possible, the information must be viewable by race  
36 and ethnicity, gender, state and county of origin, age, and  
37 socioeconomic status. The information may be tailored to meet the

1 needs of various target audiences such as students, researchers, and  
2 the general public.

3 (5) The council shall use performance data from the education data  
4 center for the purposes of strategic planning, to report on progress  
5 toward achieving statewide goals, and to develop priorities proposed in  
6 the ten-year plan for higher education.

7 **Sec. 61.** RCW 28B.77.220 and 2012 c 229 s 541 are each amended to  
8 read as follows:

9 (1) The council must convene work groups to develop transfer  
10 associate degrees that will satisfy lower division requirements at  
11 public four-year institutions of higher education for specific academic  
12 majors. Work groups must include representatives from the state board  
13 for community and technical colleges and the council of presidents, as  
14 well as faculty from two and four-year institutions. Work groups may  
15 include representatives from independent four-year institutions.

16 (2) Each transfer associate degree developed under this section  
17 must enable a student to complete the lower-division courses or  
18 competencies for general education requirements and preparation for the  
19 major that a direct-entry student would typically complete in the  
20 ((freshman)) first-year student and sophomore years for that academic  
21 major.

22 (3) Completion of a transfer associate degree does not guarantee a  
23 student admission into an institution of higher education or admission  
24 into a major, minor, or professional program at an institution of  
25 higher education that has competitive admission standards for the  
26 program based on grade point average or other performance criteria.

27 (4) During the 2004-05 academic year, the work groups must develop  
28 transfer degrees for elementary education, engineering, and nursing.  
29 As necessary based on demand or identified need, the council must  
30 convene additional groups to identify and develop additional transfer  
31 degrees. The council must give priority to majors in high demand by  
32 transfer students and majors that the general direct transfer agreement  
33 associate degree does not adequately prepare students to enter  
34 automatically upon transfer.

35 (5) The council, in collaboration with the intercollege relations  
36 commission, must collect and maintain lists of courses offered by each

1 community and technical college and public four-year institution of  
2 higher education that fall within each transfer associate degree.

3 (6) The council must monitor implementation of transfer associate  
4 degrees by public four-year institutions to ensure compliance with  
5 subsection (2) of this section.

6 (7) Beginning January 10, 2005, the council must submit a progress  
7 report on the development of transfer associate degrees to the higher  
8 education committees of the house of representatives and the senate.  
9 The first progress report must include measurable benchmark indicators  
10 to monitor the effectiveness of the initiatives in improving transfer  
11 and baseline data for those indicators before the implementation of the  
12 initiatives. Subsequent reports must be submitted by January 10<sup>th</sup> of  
13 each odd-numbered year and must monitor progress on the indicators,  
14 describe development of additional transfer associate degrees, and  
15 provide other data on improvements in transfer efficiency.

16 **Sec. 62.** RCW 35.39.060 and 2009 c 549 s 2076 are each amended to  
17 read as follows:

18 Any city or town now or hereafter operating an employees' pension  
19 system with the approval of the board otherwise responsible for  
20 management of its respective funds may invest, reinvest, manage,  
21 contract, sell, or exchange investments acquired. Investments shall be  
22 made in accordance with investment policy duly established and  
23 published by the board. In discharging its duties under this section,  
24 the board shall act with the care, skill, prudence, and diligence under  
25 the circumstances then prevailing that a prudent (~~man or woman~~)  
26 person acting in a like capacity and familiar with such matters would  
27 use in the conduct of an enterprise of a like character and with like  
28 aims; shall diversify the investments of the employees' pension system  
29 so as to minimize the risk of large losses; and shall act in accordance  
30 with the documents and instruments governing the employees' pension  
31 system, insofar as such documents and instruments are consistent with  
32 the provisions of this title.

33 **Sec. 63.** RCW 35.50.260 and 1997 c 393 s 3 are each amended to read  
34 as follows:

35 In foreclosing local improvement assessments the action shall be  
36 tried to the court without a jury. If the parties interested in any



1 particular lot, tract, or parcel default, the court may enter judgment  
2 of foreclosure and sale as to such parties and lots, tracts, or parcels  
3 and the action may proceed as to the remaining defendants and lots,  
4 tracts, or parcels. Judgment and order of sale may be entered as to  
5 any one or more separate lots, tracts, or parcels involved in the  
6 action and the court shall retain jurisdiction to others.

7 The judgment shall specify separately the amount of the  
8 installments with interest, penalty, and all reasonable administrative  
9 costs, including, but not limited to, the title searches, chargeable to  
10 each lot, tract, or parcel. The judgment shall have the effect of a  
11 separate judgment as to each lot, tract, or parcel described in the  
12 judgment, and any appeal shall not invalidate or delay the judgment  
13 except as to the property concerning which the appeal is taken. In the  
14 judgment the court shall order the lots, tracts, or parcels therein  
15 described sold by the city or town treasurer or by the county sheriff  
16 and an order of sale shall issue pursuant thereto for the enforcement  
17 of the judgment.

18 In all other respects, the trial, judgment, and appeals to the  
19 supreme court or the court of appeals shall be governed by the statutes  
20 governing the foreclosure of mortgages on real property.

21 Prior to the sale of the property, if the property is shown on the  
22 property tax rolls under unknown owner or if the property contains a  
23 residential structure having an assessed value of two thousand dollars  
24 or more, the treasurer shall order or conduct a title search of the  
25 property to determine the record title holders and all persons claiming  
26 a mortgage, deed of trust, or mechanic's, laborer's, (~~materialmen's~~)  
27 material supplier's, or vendor's lien on the property.

28 At least thirty days prior to the sale of the property, a copy of  
29 the notice of sale shall be mailed by certified and regular mail to all  
30 defendants in the foreclosure action as to that parcel, lot, or tract  
31 and, if the owner is unknown or the property contains a residential  
32 structure having an assessed value of two thousand dollars or more, a  
33 copy of the notice of sale shall be mailed by regular and certified  
34 mail to any additional record title holders and persons claiming a  
35 mortgage, deed of trust, or mechanic's, laborer's, (~~materialmen's~~)  
36 material supplier's, or vendor's lien on the property.

37 In all other respects, the procedure for sale shall be conducted in  
38 the same manner as property tax sales described in RCW 84.64.080.

1       **Sec. 64.** RCW 35A.37.010 and 1995 c 301 s 60 are each amended to  
2 read as follows:

3       Code cities shall establish such funds for the segregation,  
4 budgeting, expenditure, and accounting for moneys received for special  
5 purposes as are required by general law applicable to such cities'  
6 activities and the officers thereof shall pay into, expend from, and  
7 account for such moneys in the manner provided therefor including, but  
8 not limited to, the requirements of the following:

- 9       (1) Accounting funds as required by RCW 35.37.010;
- 10       (2) Annexation and consolidation fund as required by chapters 35.10  
11 and 35.13 RCW;
- 12       (3) Assessment fund as required by RCW 8.12.480;
- 13       (4) Equipment rental fund as authorized by RCW 35.21.088;
- 14       (5) Current expense fund as required by RCW 35.37.010, usually  
15 referred to as the general fund;
- 16       (6) Local improvement guaranty fund as required by RCW 35.54.010;
- 17       (7) An indebtedness and sinking fund, together with separate funds  
18 for utilities and institutions as required by RCW 35.37.020;
- 19       (8) Local improvement district fund and revolving fund as required  
20 by RCW 35.45.130 and 35.48.010;
- 21       (9) City street fund as required by chapter 35.76 RCW and RCW  
22 47.24.040;
- 23       (10) (~~Firemen's~~) Firefighters' relief and pension fund as  
24 required by chapters 41.16 and 41.18 RCW;
- 25       (11) (~~Policemen's~~) Police relief and pension fund as required by  
26 RCW 41.20.130 and 63.32.030;
- 27       (12) First-class cities' employees retirement and pension system as  
28 authorized by chapter 41.28 RCW;
- 29       (13) Applicable rules of the state auditor.

30       **Sec. 65.** RCW 35A.42.040 and 1991 c 81 s 39 are each amended to  
31 read as follows:

32       In addition to any specific enumeration of duties of city clerks in  
33 a code city's charter or ordinances, and without limiting the  
34 generality of RCW 35A.21.030 of this title, the clerks of all code  
35 cities shall perform the following duties in the manner prescribed, to  
36 wit: (1) Certification of city streets as part of the highway system  
37 in accordance with the provisions of RCW 47.24.010; (2) perform the

1 functions of a member of a (~~firemen's~~) firefighters' pension board as  
2 provided by RCW 41.16.020; (3) keep a record of ordinances of the city  
3 and provide copies thereof as authorized by RCW 5.44.080; (4) serve as  
4 applicable the trustees of any police relief and pension board as  
5 authorized by RCW 41.20.010; and (5) serve as secretary-treasurer of  
6 volunteer firefighters' relief and pension boards as provided in RCW  
7 41.24.060.

8 **Sec. 66.** RCW 35A.84.010 and 1967 ex.s. c 119 s 35A.84.010 are each  
9 amended to read as follows:

10 The taxation of property in code cities shall be governed by  
11 general provisions of the law including, but not limited to, the  
12 provisions of: (1) Chapter 84.09 RCW, relating to the time for  
13 establishment of official boundaries of taxing districts on the first  
14 day of March of each year; (2) chapter 84.12 RCW relating to the  
15 assessment and taxation of public utilities; (3) chapter 84.16 RCW,  
16 relating to the apportionment of taxation on private car companies; (4)  
17 chapter 84.20 RCW, relating to the taxation of easements of public  
18 utilities; (5) chapter 84.24 RCW, relating to the reassessment of  
19 property; (6) chapter 84.36 RCW, relating to property subject to  
20 taxation and exemption therefrom; (7) chapter 84.40 RCW relating to the  
21 listing of property for assessment; (8) chapter 84.41 RCW, relating to  
22 reevaluation of property; (9) chapter 84.44 RCW, relating to the  
23 taxable situs of personalty; (10) chapter 84.48 RCW, relating to the  
24 equalization of assessments; (11) chapter 84.52 RCW, relating to the  
25 levy of taxes, both regular and excess; (12) chapter 84.56 RCW,  
26 relating to the collection of taxes; (13) chapter 84.60 RCW, relating  
27 to the lien of taxes and the priority thereof; (14) chapter 84.69 RCW,  
28 relating to refunds and claims therefor against the code city; and (15)  
29 RCW 41.16.060, relating to taxation for (~~firemen's~~) firefighters'  
30 pension fund.

31 **Sec. 67.** RCW 36.39.060 and 1983 c 290 s 13 are each amended to  
32 read as follows:

33 (1) Counties, cities, and towns are granted the authority, and it  
34 is hereby declared to be a public purpose for counties, cities, and  
35 towns, to establish and administer senior citizens programs either  
36 directly or by creating public corporations or authorities to carry out

1 the programs and to expend their own funds for such purposes, as well  
2 as to expend federal, state, or private funds that are made available  
3 for such purposes. Such federal funds shall include, but not be  
4 limited to, funds provided under the federal older Americans act, as  
5 amended (42 U.S.C. Sec. 3001 et seq.).

6 (2) Counties, cities, and towns may establish and administer long-  
7 term care ((~~ombudsman~~)) ombuds programs for residents, patients, and  
8 clients if such a program is not prohibited by federal or state law.  
9 Such local ((~~ombudsman~~)) ombuds programs shall be coordinated with the  
10 efforts of other long-term care ((~~ombudsman~~)) ombuds programs,  
11 including the office of the state long-term care ((~~ombudsman~~)) ombuds  
12 established in RCW 43.190.030, to avoid multiple investigation of  
13 complaints.

14 **Sec. 68.** RCW 41.04.130 and 1945 c 52 s 1 are each amended to read  
15 as follows:

16 Any city of the first class may, by ordinance, extend, upon  
17 conditions deemed proper, the provisions of retirement and pension  
18 systems for superannuated and disabled officers and employees to  
19 officers and employees with five years of continuous service and acting  
20 in capacities in which they would otherwise not be entitled to  
21 participation in such systems: PROVIDED, That the following shall be  
22 specifically exempted from the provisions of this section.

23 (1) Members of the police departments who are entitled to the  
24 benefits of the police relief and pension fund as established by state  
25 law.

26 (2) Members of the fire department who are entitled to the benefits  
27 of the ((~~firemen's~~)) firefighters' relief and pension fund as  
28 established by state law.

29 **Sec. 69.** RCW 41.26.110 and 2005 c 66 s 1 are each amended to read  
30 as follows:

31 (1) All claims for disability shall be acted upon and either  
32 approved or disapproved by either type of disability board authorized  
33 to be created in this section.

34 (a) Each city having a population of twenty thousand or more shall  
35 establish a disability board having jurisdiction over all members  
36 employed by those cities and composed of the following five members:

1 Two members of the city legislative body to be appointed by the mayor;  
2 one active or retired firefighter employed by or retired from the city  
3 to be elected by the firefighters employed by or retired from the city  
4 who are subject to the jurisdiction of the board; one active or retired  
5 law enforcement officer employed by or retired from the city to be  
6 elected by the law enforcement officers employed by or retired from the  
7 city who are subject to the jurisdiction of the board; and one member  
8 from the public at large who resides within the city to be appointed by  
9 the other four members designated in this subsection. Only those  
10 active or retired firefighters and law enforcement officers who are  
11 subject to the jurisdiction of the board have the right to elect under  
12 this section. All firefighters and law enforcement officers employed  
13 by or retired from the city are eligible for election. Each of the  
14 elected members shall serve a two year term. The members appointed  
15 pursuant to this subsection shall serve for two year terms: PROVIDED,  
16 That cities of the first class only, shall retain existing  
17 (~~firemen's~~) firefighters' pension boards established pursuant to RCW  
18 41.16.020 and existing boards of trustees of the relief and pension  
19 fund of the police department as established pursuant to RCW 41.20.010  
20 which such boards shall have authority to act upon and approve or  
21 disapprove claims for disability by firefighters or law enforcement  
22 officers as provided under the Washington law enforcement officers' and  
23 firefighters' retirement system act.

24 (b) Each county shall establish a disability board having  
25 jurisdiction over all members employed by or retired from an employer  
26 within the county and not employed by a city in which a disability  
27 board is established. The county disability board so created shall be  
28 composed of five members to be chosen as follows: One member of the  
29 legislative body of the county to be appointed by the county  
30 legislative body; one member of a city or town legislative body located  
31 within the county which does not contain a city disability board  
32 established pursuant to subsection (1)(a) of this section to be chosen  
33 by a majority of the mayors of such cities and towns within the county  
34 which does not contain a city disability board; one active firefighter  
35 or retired firefighter employed by or retired from an employer within  
36 the county to be elected by the firefighters employed or retired from  
37 an employer within the county who are not employed by or retired from  
38 a city in which a disability board is established and who are subject

1 to the jurisdiction of that board; one law enforcement officer or  
2 retired law enforcement officer employed by or retired from an employer  
3 within the county to be elected by the law enforcement officers  
4 employed in or retired from an employer within the county who are not  
5 employed by or retired from a city in which a disability board is  
6 established and who are subject to the jurisdiction of that board; and  
7 one member from the public at large who resides within the county but  
8 does not reside within a city in which a city disability board is  
9 established, to be appointed by the other four members designated in  
10 this subsection. However, in counties with a population less than  
11 sixty thousand, the member of the disability board appointed by a  
12 majority of the mayors of the cities and towns within the county that  
13 do not contain a city disability board must be a resident of one of the  
14 cities and towns but need not be a member of a city or town legislative  
15 body. Only those active or retired firefighters and law enforcement  
16 officers who are subject to the jurisdiction of the board have the  
17 right to elect under this section. All firefighters and law  
18 enforcement officers employed by or retired from an employer within the  
19 county who are not employed by or retired from a city in which a  
20 disability board is established are eligible for election. All members  
21 appointed or elected pursuant to this subsection shall serve for two  
22 year terms. If there are no firefighters under the jurisdiction of the  
23 board eligible to vote, a second eligible employee representative shall  
24 be elected by the law enforcement officers eligible to vote. If there  
25 are no law enforcement officers under the jurisdiction of the board  
26 eligible to vote, a second eligible representative shall be elected by  
27 the firefighters eligible to vote.

28 (2) The members of both the county and city disability boards shall  
29 not receive compensation for their service upon the boards but the  
30 members shall be reimbursed by their respective county or city for all  
31 expenses incidental to such service as to the amount authorized by law.

32 (3) The disability boards authorized for establishment by this  
33 section shall perform all functions, exercise all powers, and make all  
34 such determinations as specified in this chapter.

35 **Sec. 70.** RCW 41.26.150 and 1992 c 22 s 3 are each amended to read  
36 as follows:

37 (1) Whenever any active member, or any member hereafter retired, on

1 account of service, sickness, or disability, not caused or brought on  
2 by dissipation or abuse, of which the disability board shall be judge,  
3 is confined in any hospital or in home, and whether or not so confined,  
4 requires medical services, the employer shall pay for the active or  
5 retired member the necessary medical services not payable from some  
6 other source as provided for in subsection (2) of this section. In the  
7 case of active or retired firefighters the employer may make the  
8 payments provided for in this section from the (~~firemen's~~)  
9 firefighters' pension fund established pursuant to RCW 41.16.050 where  
10 the fund had been established prior to March 1, 1970. If this pension  
11 fund is depleted, the employer shall have the obligation to pay all  
12 benefits payable under chapters 41.16 and 41.18 RCW.

13 (a) The disability board in all cases may have the active or  
14 retired member suffering from such sickness or disability examined at  
15 any time by a licensed physician or physicians, to be appointed by the  
16 disability board, for the purpose of ascertaining the nature and extent  
17 of the sickness or disability, the physician or physicians to report to  
18 the disability board the result of the examination within three days  
19 thereafter. Any active or retired member who refuses to submit to such  
20 examination or examinations shall forfeit all rights to benefits under  
21 this section for the period of the refusal.

22 (b) The disability board shall designate the medical services  
23 available to any sick or disabled member.

24 (2) The medical services payable under this section will be reduced  
25 by any amount received or eligible to be received by the member under  
26 workers' compensation, social security including the changes  
27 incorporated under Public Law 89-97, insurance provided by another  
28 employer, other pension plan, or any other similar source. Failure to  
29 apply for coverage if otherwise eligible under the provisions of Public  
30 Law 89-97 shall not be deemed a refusal of payment of benefits thereby  
31 enabling collection of charges under the provisions of this chapter.

32 (3) Upon making the payments provided for in subsection (1) of this  
33 section, the employer shall be subrogated to all rights of the member  
34 against any third party who may be held liable for the member's  
35 injuries or for payment of the cost of medical services in connection  
36 with a member's sickness or disability to the extent necessary to  
37 recover the amount of payments made by the employer.

1 (4) Any employer under this chapter, either singly, or jointly with  
2 any other such employer or employers through an association thereof as  
3 provided for in chapter 48.21 RCW, may provide for all or part of one  
4 or more plans of group hospitalization and medical aid insurance to  
5 cover any of its employees who are members of the Washington law  
6 enforcement officers' and firefighters' retirement system, and/or  
7 retired former employees who were, before retirement, members of the  
8 retirement system, through contracts with regularly constituted  
9 insurance carriers, with health maintenance organizations as defined in  
10 chapter 48.46 RCW, or with health care service contractors as defined  
11 in chapter 48.44 RCW. Benefits payable under ~~((any))~~ the ~~((under~~  
12 ~~the))~~ plan or plans shall be deemed to be amounts received or eligible  
13 to be received by the active or retired member under subsection (2) of  
14 this section.

15 (5) Any employer under this chapter may, at its discretion, elect  
16 to reimburse a retired former employee under this chapter for premiums  
17 the retired former employee has paid for medical insurance that  
18 supplements medicare, including premiums the retired former employee  
19 has paid for medicare part B coverage.

20 **Sec. 71.** RCW 43.06A.010 and 1996 c 131 s 2 are each amended to  
21 read as follows:

22 There is hereby created an office of the family and children's  
23 ~~((ombudsman))~~ ombuds within the office of the governor for the purpose  
24 of promoting public awareness and understanding of family and children  
25 services, identifying system issues and responses for the governor and  
26 the legislature to act upon, and monitoring and ensuring compliance  
27 with administrative acts, relevant statutes, rules, and policies  
28 pertaining to family and children's services and the placement,  
29 supervision, and treatment of children in the state's care or in state-  
30 licensed facilities or residences. The ~~((ombudsman))~~ ombuds shall  
31 report directly to the governor and shall exercise his or her powers  
32 and duties independently of the secretary.

33 **Sec. 72.** RCW 43.06A.020 and 1998 c 288 s 7 are each amended to  
34 read as follows:

35 (1) Subject to confirmation by the senate, the governor shall  
36 appoint an ~~((ombudsman))~~ ombuds who shall be a person of recognized



1 judgment, independence, objectivity, and integrity, and shall be  
2 qualified by training or experience, or both, in family and children's  
3 services law and policy. Prior to the appointment, the governor shall  
4 consult with, and may receive recommendations from the committee,  
5 regarding the selection of the ((ombudsman)) ombuds.

6 (2) The person appointed ((ombudsman)) ombuds shall hold office for  
7 a term of three years and shall continue to hold office until  
8 reappointed or until his or her successor is appointed. The governor  
9 may remove the ((ombudsman)) ombuds only for neglect of duty,  
10 misconduct, or inability to perform duties. Any vacancy shall be  
11 filled by similar appointment for the remainder of the unexpired term.

12 **Sec. 73.** RCW 43.06A.030 and 1996 c 131 s 4 are each amended to  
13 read as follows:

14 The ((ombudsman)) ombuds shall perform the following duties:

15 (1) Provide information as appropriate on the rights and  
16 responsibilities of individuals receiving family and children's  
17 services, and on the procedures for providing these services;

18 (2) Investigate, upon his or her own initiative or upon receipt of  
19 a complaint, an administrative act alleged to be contrary to law, rule,  
20 or policy, imposed without an adequate statement of reason, or based on  
21 irrelevant, immaterial, or erroneous grounds; however, the  
22 ((ombudsman)) ombuds may decline to investigate any complaint as  
23 provided by rules adopted under this chapter;

24 (3) Monitor the procedures as established, implemented, and  
25 practiced by the department to carry out its responsibilities in  
26 delivering family and children's services with a view toward  
27 appropriate preservation of families and ensuring children's health and  
28 safety;

29 (4) Review periodically the facilities and procedures of state  
30 institutions serving children, and state-licensed facilities or  
31 residences;

32 (5) Recommend changes in the procedures for addressing the needs of  
33 families and children;

34 (6) Submit annually to the committee and to the governor by  
35 November 1<sup>st</sup> a report analyzing the work of the office, including  
36 recommendations;

1 (7) Grant the committee access to all relevant records in the  
2 possession of the ((~~ombudsman~~)) ombuds unless prohibited by law; and

3 (8) Adopt rules necessary to implement this chapter.

4 **Sec. 74.** RCW 43.06A.050 and 2005 c 274 s 294 are each amended to  
5 read as follows:

6 The ((~~ombudsman~~)) ombuds shall treat all matters under  
7 investigation, including the identities of service recipients,  
8 complainants, and individuals from whom information is acquired, as  
9 confidential, except as far as disclosures may be necessary to enable  
10 the ((~~ombudsman~~)) ombuds to perform the duties of the office and to  
11 support any recommendations resulting from an investigation. Upon  
12 receipt of information that by law is confidential or privileged, the  
13 ((~~ombudsman~~)) ombuds shall maintain the confidentiality of such  
14 information and shall not further disclose or disseminate the  
15 information except as provided by applicable state or federal law.  
16 Investigative records of the office of the ((~~ombudsman~~)) ombuds are  
17 confidential and are exempt from public disclosure under chapter 42.56  
18 RCW.

19 **Sec. 75.** RCW 43.06A.060 and 1998 c 288 s 1 are each amended to  
20 read as follows:

21 Neither the ((~~ombudsman~~)) ombuds nor the ((~~ombudsman's~~)) ombuds's  
22 staff may be compelled, in any judicial or administrative proceeding,  
23 to testify or to produce evidence regarding the exercise of the  
24 official duties of the ((~~ombudsman~~)) ombuds or of the ((~~ombudsman's~~))  
25 ombuds's staff. All related memoranda, work product, notes, and case  
26 files of the ((~~ombudsman's~~)) ombuds's office are confidential, are not  
27 subject to discovery, judicial or administrative subpoena, or other  
28 method of legal compulsion, and are not admissible in evidence in a  
29 judicial or administrative proceeding. This section shall not apply to  
30 the legislative children's oversight committee.

31 **Sec. 76.** RCW 43.06A.070 and 1998 c 288 s 2 are each amended to  
32 read as follows:

33 Identifying information about complainants or witnesses shall not  
34 be subject to any method of legal compulsion, nor shall such  
35 information be revealed to the legislative children's oversight

1 committee or the governor except under the following circumstances:  
2 (1) The complainant or witness waives confidentiality; (2) under a  
3 legislative subpoena when there is a legislative investigation for  
4 neglect of duty or misconduct by the ((ombudsman)) ombuds or  
5 ((ombudsman's)) ombuds's office when the identifying information is  
6 necessary to the investigation of the ((ombudsman's)) ombuds's acts; or  
7 (3) under an investigation or inquiry by the governor as to neglect of  
8 duty or misconduct by the ((ombudsman)) ombuds or ((ombudsman's))  
9 ombuds's office when the identifying information is necessary to the  
10 investigation of the ((ombudsman-[ombudsman's])) ombuds's acts.

11 For the purposes of this section, "identifying information"  
12 includes the complainant's or witness's name, location, telephone  
13 number, likeness, social security number or other identification  
14 number, or identification of immediate family members.

15 **Sec. 77.** RCW 43.06A.080 and 1998 c 288 s 3 are each amended to  
16 read as follows:

17 The privilege described in RCW 43.06A.060 does not apply when:

18 (1) The ((ombudsman)) ombuds or ((ombudsman's)) ombuds's staff  
19 member has direct knowledge of an alleged crime, and the testimony,  
20 evidence, or discovery sought is relevant to that allegation;

21 (2) The ((ombudsman)) ombuds or a member of the ((ombudsman's))  
22 ombuds's staff has received a threat of, or becomes aware of a risk of,  
23 imminent serious harm to any person, and the testimony, evidence, or  
24 discovery sought is relevant to that threat or risk;

25 (3) The ((ombudsman)) ombuds has been asked to provide general  
26 information regarding the general operation of, or the general  
27 processes employed at, the ((ombudsman's)) ombuds's office; or

28 (4) The ((ombudsman)) ombuds or ((ombudsman's)) ombuds's staff  
29 member has direct knowledge of a failure by any person specified in RCW  
30 26.44.030, including the state family and children's ((ombudsman))  
31 ombuds or any volunteer in the ((ombudsman's)) ombuds's office, to  
32 comply with RCW 26.44.030.

33 **Sec. 78.** RCW 43.06A.085 and 2009 c 88 s 2 are each amended to read  
34 as follows:

35 (1) An employee of the office of the family and children's

1 ((ombudsman)) ombuds is not liable for good faith performance of  
2 responsibilities under this chapter.

3 (2) No discriminatory, disciplinary, or retaliatory action may be  
4 taken against an employee of the department, an employee of a  
5 contracting agency of the department, a foster parent, or a recipient  
6 of family and children's services for any communication made, or  
7 information given or disclosed, to aid the office of the family and  
8 children's ((ombudsman)) ombuds in carrying out its responsibilities,  
9 unless the communication or information is made, given, or disclosed  
10 maliciously or without good faith. This subsection is not intended to  
11 infringe on the rights of the employer to supervise, discipline, or  
12 terminate an employee for other reasons.

13 (3) All communications by an ((ombudsman)) ombuds, if reasonably  
14 related to the requirements of that individual's responsibilities under  
15 this chapter and done in good faith, are privileged and that privilege  
16 shall serve as a defense in any action in libel or slander.

17 **Sec. 79.** RCW 43.06A.090 and 1998 c 288 s 4 are each amended to  
18 read as follows:

19 When the ((ombudsman)) ombuds or ((ombudsman's)) ombuds's staff  
20 member has reasonable cause to believe that any public official,  
21 employee, or other person has acted in a manner warranting criminal or  
22 disciplinary proceedings, the ((ombudsman)) ombuds or ((ombudsman's))  
23 ombuds's staff member shall report the matter, or cause a report to be  
24 made, to the appropriate authorities.

25 **Sec. 80.** RCW 43.06A.100 and 2008 c 211 s 3 are each amended to  
26 read as follows:

27 The department of social and health services shall:  
28 (1) Allow the ((ombudsman)) ombuds or the ((ombudsman's)) ombuds's  
29 designee to communicate privately with any child in the custody of the  
30 department for the purposes of carrying out its duties under this  
31 chapter;  
32 (2) Permit the ((ombudsman)) ombuds or the ((ombudsman's)) ombuds  
33 designee physical access to state institutions serving children, and  
34 state licensed facilities or residences for the purpose of carrying out  
35 its duties under this chapter;

1 (3) Upon the ((ombudsman's)) ombuds's request, grant the  
2 ((ombudsman)) ombuds or the ((ombudsman's)) ombuds's designee the right  
3 to access, inspect, and copy all relevant information, records, or  
4 documents in the possession or control of the department that the  
5 ((ombudsman)) ombuds considers necessary in an investigation; and

6 (4) Grant the office of the family and children's ((ombudsman))  
7 ombuds unrestricted online access to the case and management  
8 information system (CAMIS) or any successor information system for the  
9 purpose of carrying out its duties under this chapter.

10 **Sec. 81.** RCW 43.06A.110 and 2008 c 211 s 2 are each amended to  
11 read as follows:

12 The office of the family and children's ((ombudsman)) ombuds shall  
13 issue an annual report to the legislature on the status of the  
14 implementation of child fatality review recommendations.

15 **Sec. 82.** RCW 43.06B.010 and 2006 c 116 s 3 are each amended to  
16 read as follows:

17 (1) There is hereby created the office of the education  
18 ((ombudsman)) ombuds within the office of the governor for the purposes  
19 of providing information to parents, students, and others regarding  
20 their rights and responsibilities with respect to the state's public  
21 elementary and secondary education system, and advocating on behalf of  
22 elementary and secondary students.

23 (2)(a) The governor shall appoint an ((ombudsman)) ombuds who shall  
24 be a person of recognized judgment, independence, objectivity, and  
25 integrity and shall be qualified by training or experience or both in  
26 the following areas:

- 27 (i) Public education law and policy in this state;
- 28 (ii) Dispute resolution or problem resolution techniques, including  
29 mediation and negotiation; and
- 30 (iii) Community outreach.

31 (b) The education ((ombudsman)) ombuds may not be an employee of  
32 any school district, the office of the superintendent of public  
33 instruction, or the state board of education while serving as an  
34 education ((ombudsman)) ombuds.

35 (3) Before the appointment of the education ((ombudsman)) ombuds,

1 the governor shall share information regarding the appointment to a  
2 six-person legislative committee appointed and comprised as follows:

3 (a) The committee shall consist of three senators and three members  
4 of the house of representatives from the legislature.

5 (b) The senate members of the committee shall be appointed by the  
6 president of the senate. Two members shall represent the majority  
7 caucus and one member the minority caucus.

8 (c) The house of representatives members of the committee shall be  
9 appointed by the speaker of the house of representatives. Two members  
10 shall represent the majority caucus and one member the minority caucus.

11 (4) If sufficient appropriations are provided, the education  
12 (~~ombudsman~~) ombuds shall delegate and certify regional education  
13 (~~ombudsmen~~) ombuds. The education (~~ombudsman~~) ombuds shall ensure  
14 that the regional (~~ombudsmen~~) ombuds selected are appropriate to the  
15 community in which they serve and hold the same qualifications as in  
16 subsection (2)(a) of this section. The education (~~ombudsman~~) ombuds  
17 may not contract with the superintendent of public instruction, or any  
18 school, school district, or current employee of a school, school  
19 district, or the office of the superintendent of public instruction for  
20 the provision of regional (~~ombudsman~~) ombuds services.

21 **Sec. 83.** RCW 43.06B.020 and 2008 c 165 s 2 are each amended to  
22 read as follows:

23 The education (~~ombudsman~~) ombuds shall have the following powers  
24 and duties:

25 (1) To develop parental involvement materials, including  
26 instructional guides developed to inform parents of the essential  
27 academic learning requirements required by the superintendent of public  
28 instruction. The instructional guides also shall contain actions  
29 parents may take to assist their children in meeting the requirements,  
30 and should focus on reaching parents who have not previously been  
31 involved with their children's education;

32 (2) To provide information to students, parents, and interested  
33 members of the public regarding this state's public elementary and  
34 secondary education system;

35 (3) To identify obstacles to greater parent and community  
36 involvement in school shared decision-making processes and recommend  
37 strategies for helping parents and community members to participate

1 effectively in school shared decision-making processes, including  
2 understanding and respecting the roles of school building  
3 administrators and staff;

4 (4) To identify and recommend strategies for improving the success  
5 rates of ethnic and racial student groups and students with  
6 disabilities, with disproportionate academic achievement;

7 (5) To refer complainants and others to appropriate resources,  
8 agencies, or departments;

9 (6) To facilitate the resolution of complaints made by parents and  
10 students with regard to the state's public elementary and secondary  
11 education system;

12 (7) To perform such other functions consistent with the purpose of  
13 the education ((~~ombudsman~~)) ombuds; and

14 (8) To consult with representatives of the following organizations  
15 and groups regarding the work of the office of the education  
16 ((~~ombudsman~~)) ombuds, including but not limited to:

17 (a) The state parent teacher association;

18 (b) Certificated and classified school employees;

19 (c) School and school district administrators;

20 (d) Parents of special education students;

21 (e) Parents of English language learners;

22 (f) The Washington state commission on Hispanic affairs;

23 (g) The Washington state commission on African-American affairs;

24 (h) The Washington state commission on Asian Pacific American  
25 affairs; and

26 (i) The governor's office of Indian affairs.

27 **Sec. 84.** RCW 43.06B.030 and 2006 c 116 s 5 are each amended to  
28 read as follows:

29 (1) Neither the education ((~~ombudsman~~)) ombuds nor any regional  
30 educational ((~~ombudsmen~~)) ombuds are liable for good faith performance  
31 of responsibilities under this chapter.

32 (2) No discriminatory, disciplinary, or retaliatory action may be  
33 taken against any student or employee of any school district, the  
34 office of the superintendent of public ((~~education~~—[~~instruction~~]))  
35 instruction, or the state board of education, for any communication  
36 made, or information given or disclosed, to aid the education  
37 ((~~ombudsman~~)) ombuds in carrying out his or her duties and

1 responsibilities, unless the same was done without good faith or  
2 maliciously. This subsection is not intended to infringe upon the  
3 rights of a school district to supervise, discipline, or terminate an  
4 employee for other reasons or to discipline a student for other  
5 reasons.

6 (3) All communications by the education (~~(ombudsman)~~) ombuds or the  
7 (~~(ombudsman's)~~) ombuds's staff or designee, if reasonably related to  
8 the education (~~(ombudsman's)~~) ombuds's duties and responsibilities and  
9 done in good faith, are privileged and that privilege shall serve as a  
10 defense to any action in libel or slander.

11 **Sec. 85.** RCW 43.06B.040 and 2006 c 116 s 6 are each amended to  
12 read as follows:

13 The education (~~(ombudsman)~~) ombuds shall treat all matters,  
14 including the identities of students, complainants, and individuals  
15 from whom information is acquired, as confidential, except as necessary  
16 to enable the education (~~(ombudsman)~~) ombuds to perform the duties of  
17 the office. Upon receipt of information that by law is confidential or  
18 privileged, the (~~(ombudsman)~~) ombuds shall maintain the confidentiality  
19 of such information and shall not further disclose or disseminate the  
20 information except as provided by applicable state or federal law.

21 **Sec. 86.** RCW 43.06B.050 and 2006 c 116 s 7 are each amended to  
22 read as follows:

23 The education (~~(ombudsman)~~) ombuds shall report on the work and  
24 accomplishment of the office and advise and make recommendations to the  
25 governor, the legislature, and the state board of education annually.  
26 The initial report to the governor, the legislature, and the state  
27 board of education shall be made by September 1, 2007, and there shall  
28 be annual reports by September 1st each year thereafter. The annual  
29 reports shall provide at least the following information:

- 30 (1) How the education (~~(ombudsman's)~~) ombuds's services have been  
31 used and by whom;
- 32 (2) Methods for the education (~~(ombudsman)~~) ombuds to increase and  
33 enhance family and community involvement in public education;
- 34 (3) Recommendations to eliminate barriers and obstacles to  
35 meaningful family and community involvement in public education; and



1 (4) Strategies to improve the educational opportunities for all  
2 students in the state, including recommendations from organizations and  
3 groups provided in RCW 43.06B.020(8).

4 **Sec. 87.** RCW 43.06B.060 and 2010 c 239 s 3 are each amended to  
5 read as follows:

6 In addition to duties assigned under RCW 43.06B.020, the office of  
7 the education (~~((ombudsman))~~) ombuds shall serve as the lead agency to  
8 provide resources and tools to parents and families about public school  
9 antiharassment policies and strategies.

10 **Sec. 88.** RCW 43.190.010 and 1983 c 290 s 1 are each amended to  
11 read as follows:

12 The legislature finds that in order to comply with the federal  
13 older Americans act and to effectively assist residents, patients, and  
14 clients of long-term care facilities in the assertion of their civil  
15 and human rights, a long-term care (~~((ombudsman))~~) ombuds program should  
16 be instituted.

17 **Sec. 89.** RCW 43.190.030 and 1997 c 194 s 1 are each amended to  
18 read as follows:

19 There is created the office of the state long-term care  
20 (~~((ombudsman))~~) ombuds. The department of (~~((community, trade, and  
21 economic development))~~) commerce shall contract with a private nonprofit  
22 organization to provide long-term care (~~((ombudsman))~~) ombuds services as  
23 specified under, and consistent with, the federal older Americans act  
24 as amended, federal mandates, the goals of the state, and the needs of  
25 its citizens. The department of (~~((community, trade, and economic  
26 development))~~) commerce shall ensure that all program and staff support  
27 necessary to enable the (~~((ombudsman))~~) ombuds to effectively protect the  
28 interests of residents, patients, and clients of all long-term care  
29 facilities is provided by the nonprofit organization that contracts to  
30 provide long-term care (~~((ombudsman))~~) ombuds services. The department  
31 of (~~((community, trade, and economic development))~~) commerce shall adopt  
32 rules to carry out this chapter and the long-term care (~~((ombudsman))~~)  
33 ombuds provisions of the federal older Americans act, as amended, and  
34 applicable federal regulations. The long-term care (~~((ombudsman))~~)  
35 ombuds program shall have the following powers and duties:

1 (1) To provide services for coordinating the activities of long-  
2 term care ((~~ombudsmen~~)) ombuds throughout the state;

3 (2) Carry out such other activities as the department of  
4 ((~~community, trade, and economic development~~)) commerce deems  
5 appropriate;

6 (3) Establish procedures consistent with RCW 43.190.110 for  
7 appropriate access by long-term care ((~~ombudsmen~~)) ombuds to long-term  
8 care facilities and patients' records, including procedures to protect  
9 the confidentiality of the records and ensure that the identity of any  
10 complainant or resident will not be disclosed without the written  
11 consent of the complainant or resident, or upon court order;

12 (4) Establish a statewide uniform reporting system to collect and  
13 analyze data relating to complaints and conditions in long-term care  
14 facilities for the purpose of identifying and resolving significant  
15 problems, with provision for submission of such data to the department  
16 of social and health services and to the federal department of health  
17 and human services, or its successor agency, on a regular basis; and

18 (5) Establish procedures to assure that any files maintained by  
19 ((~~ombudsman~~)) ombuds programs shall be disclosed only at the discretion  
20 of the ((~~ombudsman~~)) ombuds having authority over the disposition of  
21 such files, except that the identity of any complainant or resident of  
22 a long-term care facility shall not be disclosed by such ((~~ombudsman~~))  
23 ombuds unless:

24 (a) Such complainant or resident, or the complainant's or  
25 resident's legal representative, consents in writing to such  
26 disclosure; or

27 (b) Such disclosure is required by court order.

28 **Sec. 90.** RCW 43.190.040 and 2002 c 100 s 1 are each amended to  
29 read as follows:

30 (1) Any long-term care ((~~ombudsman~~)) ombuds authorized by this  
31 chapter or a local governmental authority shall have training or  
32 experience or both in the following areas:

33 (a) Gerontology, long-term care, or other related social services  
34 programs.

35 (b) The legal system.

36 (c) Dispute or problem resolution techniques, including  
37 investigation, mediation, and negotiation.

1 (2) A long-term care (~~ombudsman~~) ombuds shall not have been  
2 employed by or participated in the management of any long-term care  
3 facility within the past year.

4 (3) A long-term care (~~ombudsman~~) ombuds shall not have been  
5 employed in a governmental position with direct involvement in the  
6 licensing, certification, or regulation of long-term care facilities  
7 within the past year.

8 (4) No long-term care (~~ombudsman~~) ombuds or any member of his or  
9 her immediate family shall have, or have had within the past year, any  
10 significant ownership or investment interest in one or more long-term  
11 care facilities.

12 (5) A long-term care (~~ombudsman~~) ombuds shall not be assigned to  
13 a long-term care facility in which a member of that (~~ombudsman's~~)  
14 ombuds's immediate family resides.

15 **Sec. 91.** RCW 43.190.050 and 1983 c 290 s 5 are each amended to  
16 read as follows:

17 Every long-term care facility shall post in a conspicuous location  
18 a notice of the nursing home complaint toll-free number and the name,  
19 address, and phone number of the office of the appropriate long-term  
20 care (~~ombudsman~~) ombuds and a brief description of the services  
21 provided by the office. The form of the notice shall be approved by  
22 the office and the organization responsible for maintaining the nursing  
23 home complaint toll-free number. This information shall also be  
24 distributed to the residents, family members, and legal guardians upon  
25 the resident's admission to the facility.

26 **Sec. 92.** RCW 43.190.060 and 1999 c 133 s 1 are each amended to  
27 read as follows:

28 A long-term care (~~ombudsman~~) ombuds shall:

29 (1) Identify, investigate, and resolve complaints made by or on  
30 behalf of residents of long-term care facilities relating to  
31 administrative action, inaction, or decisions which may adversely  
32 affect the health, safety, welfare, and rights of these individuals;

33 (2) Monitor the development and implementation of federal, state,  
34 and local laws, rules, regulations, and policies with respect to long-  
35 term care facilities in this state;

1 (3) Provide information as appropriate to residents, resident  
2 representatives, and others regarding the rights of residents, and to  
3 public agencies regarding the problems of individuals residing in long-  
4 term care facilities; and

5 (4) Provide for training volunteers and promoting the development  
6 of citizen organizations to participate in the ((ombudsman)) ombuds  
7 program. A trained volunteer long-term care ((ombudsman)) ombuds, in  
8 accordance with the policies and procedures established by the state  
9 long-term care ((ombudsman)) ombuds program, shall inform residents,  
10 their representatives, and others about the rights of residents, and  
11 may identify, investigate, and resolve complaints made by or on behalf  
12 of residents of long-term care facilities relating to action, inaction,  
13 or decisions, that may adversely affect the health, safety, welfare,  
14 and rights of these individuals.

15 Nothing in chapter 133, Laws of 1999 shall be construed to empower  
16 the state long-term care ((ombudsman)) ombuds or any local long-term  
17 care ((ombudsman)) ombuds with statutory or regulatory licensing or  
18 sanctioning authority.

19 **Sec. 93.** RCW 43.190.065 and 1999 c 133 s 2 are each amended to  
20 read as follows:

21 A local long-term care ((ombudsman)) ombuds, including a trained  
22 volunteer long-term care ((ombudsman)) ombuds, shall have the duties  
23 and authority set forth in the federal older Americans act (42 U.S.C.  
24 Sec. 3058 et seq.) for local ((ombudsmen)) ombuds. The state long-term  
25 care ((ombudsman)) ombuds and representatives of the office of the  
26 state long-term care ((ombudsman)) ombuds, shall have the duties and  
27 authority set forth in the federal older Americans act for the state  
28 long-term care ((ombudsman)) ombuds and representatives of the office of  
29 the state long-term care ((ombudsman)) ombuds.

30 **Sec. 94.** RCW 43.190.070 and 1983 c 290 s 7 are each amended to  
31 read as follows:

32 (1) The office of the state long-term care ((ombudsman)) ombuds  
33 shall develop referral procedures for all long-term care ((ombudsman))  
34 ombuds programs to refer any complaint to any appropriate state or  
35 local government agency. The department of social and health services

1 shall act as quickly as possible on any complaint referred to them by  
2 a long-term care ((ombudsman)) ombuds.

3 (2) The department of social and health services shall respond to  
4 any complaint against a long-term care facility which was referred to  
5 it by a long-term care ((ombudsman)) ombuds and shall forward to that  
6 ((ombudsman)) ombuds a summary of the results of the investigation and  
7 action proposed or taken.

8 **Sec. 95.** RCW 43.190.080 and 1983 c 290 s 8 are each amended to  
9 read as follows:

10 (1) The office of the state long-term care ((ombudsman)) ombuds  
11 shall develop procedures governing the right of entry of all long-term  
12 care ((ombudsmen)) ombuds to long-term care facilities and shall have  
13 access to residents with provisions made for privacy for the purpose of  
14 hearing, investigating, and resolving complaints of, and rendering  
15 advice to, individuals who are patients or residents of the facilities  
16 at any time deemed necessary and reasonable by the state ((ombudsman))  
17 ombuds to effectively carry out the provisions of this chapter.

18 (2) Nothing in this chapter restricts, limits, or increases any  
19 existing right of any organizations or individuals not described in  
20 subsection (1) of this section to enter or provide assistance to  
21 patients or residents of long-term care facilities.

22 (3) Nothing in this chapter restricts any right or privilege of any  
23 patient or resident of a long-term care facility to receive visitors of  
24 his or her choice.

25 **Sec. 96.** RCW 43.190.090 and 1983 c 290 s 9 are each amended to  
26 read as follows:

27 (1) No long-term care ((ombudsman)) ombuds is liable for good faith  
28 performance of responsibilities under this chapter.

29 (2) No discriminatory, disciplinary, or retaliatory action may be  
30 taken against any employee of a facility or agency, any patient,  
31 resident, or client of a long-term care facility, or any volunteer, for  
32 any communication made, or information given or disclosed, to aid the  
33 long-term care ((ombudsman)) ombuds in carrying out its duties and  
34 responsibilities, unless the same was done maliciously or without good  
35 faith. This subsection is not intended to infringe on the rights of

1 the employer to supervise, discipline, or terminate an employee for  
2 other reasons.

3 (3) All communications by a long-term care (~~(ombudsman)~~) ombuds, if  
4 reasonably related to the requirements of that individual's  
5 responsibilities under this chapter and done in good faith, are  
6 privileged and that privilege shall serve as a defense to any action in  
7 libel or slander.

8 (4) A representative of the office is exempt from being required to  
9 testify in court as to any confidential matters except as the court may  
10 deem necessary to enforce this chapter.

11 **Sec. 97.** RCW 43.190.110 and 1983 c 290 s 11 are each amended to  
12 read as follows:

13 All records and files of long-term care (~~(ombudsmen)~~) ombuds  
14 relating to any complaint or investigation made pursuant to carrying  
15 out their duties and the identities of complainants, witnesses,  
16 patients, or residents shall remain confidential unless disclosure is  
17 authorized by the patient or resident or his or her guardian or legal  
18 representative. No disclosures may be made outside the office without  
19 the consent of any named witnesses, resident, patient, client, or  
20 complainant unless the disclosure is made without the identity of any  
21 of these individuals being disclosed.

22 **Sec. 98.** RCW 43.190.120 and 1983 c 290 s 12 are each amended to  
23 read as follows:

24 It is the intent that federal requirements be complied with and the  
25 department annually expend at least one percent of the state's  
26 allotment of social services funds from Title III B of the older  
27 Americans act of 1965, as it exists as of July 24, 1983, or twenty  
28 thousand dollars, whichever is greater to establish the state long-term  
29 care (~~(ombudsman)~~) ombuds program established by this chapter if funds  
30 are appropriated by the legislature.

31 **Sec. 99.** RCW 43.215.520 and 2006 c 209 s 10 are each amended to  
32 read as follows:

33 (1) The department shall establish and maintain a toll-free  
34 telephone number, and an interactive web-based system through which  
35 persons may obtain information regarding child day care centers and

1 family day care providers. This number shall be available twenty-four  
2 hours a day for persons to request information. The department shall  
3 respond to recorded messages left at the number within two business  
4 days. The number shall be published in reasonably available printed  
5 and electronic media. The number shall be easily identifiable as a  
6 number through which persons may obtain information regarding child day  
7 care centers and family day care providers as set forth in this  
8 section.

9 (2) Through the toll-free telephone line established by this  
10 section, the department shall provide information to callers about:

11 (a) Whether a day care provider is licensed; (b) whether a day care  
12 provider's license is current; (c) the general nature of any  
13 enforcement against the providers; (d) how to report suspected or  
14 observed noncompliance with licensing requirements; (e) how to report  
15 alleged abuse or neglect in a day care; (f) how to report health,  
16 safety, and welfare concerns in a day care; (g) how to receive follow-  
17 up assistance, including information on the office of the family and  
18 children's (~~ombudsman~~) ombuds; and (h) how to receive referral  
19 information on other agencies or entities that may be of further  
20 assistance to the caller.

21 (3) Beginning in January 2006, the department shall print the toll-  
22 free number established by this section on the face of new licenses  
23 issued to child day care centers and family day care providers.

24 (4) This section shall not be construed to require the disclosure  
25 of any information that is exempt from public disclosure under chapter  
26 42.56 RCW.

27 **Sec. 100.** RCW 44.04.220 and 1996 c 131 s 1 are each amended to  
28 read as follows:

29 (1) There is created the legislative children's oversight committee  
30 for the purpose of monitoring and ensuring compliance with  
31 administrative acts, relevant statutes, rules, and policies pertaining  
32 to family and children services and the placement, supervision, and  
33 treatment of children in the state's care or in state-licensed  
34 facilities or residences. The committee shall consist of three  
35 senators and three representatives from the legislature. The senate  
36 members of the committee shall be appointed by the president of the  
37 senate. The house members of the committee shall be appointed by the

1 speaker of the house. Not more than two members from each chamber  
2 shall be from the same political party. Members shall be appointed  
3 before the close of each regular session of the legislature during an  
4 odd-numbered year.

5 (2) The committee shall have the following powers:

6 (a) Selection of its officers and adopt rules for orderly  
7 procedure;

8 (b) Request investigations by the (~~ombudsman~~) ombuds of  
9 administrative acts;

10 (c) Receive reports of the (~~ombudsman~~) ombuds;

11 (d)(i) Obtain access to all relevant records in the possession of  
12 the (~~ombudsman~~) ombuds, except as prohibited by law; and (ii) make  
13 recommendations to all branches of government;

14 (e) Request legislation;

15 (f) Conduct hearings into such matters as it deems necessary.

16 (3) Upon receipt of records from the (~~ombudsman~~) ombuds, the  
17 committee is subject to the same confidentiality restrictions as the  
18 (~~ombudsman~~) ombuds under RCW 43.06A.050.

19 **Sec. 101.** RCW 48.02.093 and 2012 c 150 s 1 are each amended to  
20 read as follows:

21 There is established, within the office of the insurance  
22 commissioner, the volunteer position of health care authority  
23 (~~ombudsman~~) ombuds to assist retirees enrolled in the public  
24 employees' benefits board program. The volunteer position shall be  
25 trained as part of the existing volunteer training provided to the  
26 statewide health insurance benefit advisors. The position shall help  
27 retirees with questions and concerns, assist the public employees'  
28 benefits board program with identification of retiree concerns, and  
29 maintain access to updated program information.

30 **Sec. 102.** RCW 48.18A.070 and 1994 c 92 s 503 are each amended to  
31 read as follows:

32 Notwithstanding any other provision of law, the commissioner shall  
33 have sole and exclusive authority to regulate the issuance and sale of  
34 variable contracts; except for the examination, issuance or renewal,  
35 suspension or revocation, of a security (~~salesman's~~) salesperson's  
36 license issued to persons selling variable contracts. To carry out the



1 purposes and provisions of this chapter, he or she may independently,  
2 and in concert with the director of financial institutions, issue such  
3 reasonable rules and regulations as may be appropriate.

4 **Sec. 103.** RCW 50.22.010 and 2011 c 4 s 5 are each amended to read  
5 as follows:

6 As used in this chapter, unless the context clearly indicates  
7 otherwise:

8 (1) "Extended benefit period" means a period which:

9 (a) Begins with the third week after a week for which there is an  
10 "on" indicator; and

11 (b) Ends with the third week after the first week for which there  
12 is an "off" indicator: PROVIDED, That no extended benefit period shall  
13 last for a period of less than thirteen consecutive weeks, and further  
14 that no extended benefit period may begin by reason of an "on"  
15 indicator before the fourteenth week after the close of a prior  
16 extended benefit period which was in effect with respect to this state.

17 (2)(a) There is an "on" indicator for this state for a week if the  
18 commissioner determines, in accordance with the regulations of the  
19 United States secretary of labor, that for the period consisting of  
20 such week and the immediately preceding twelve weeks:

21 ((+a)) (i) The rate of insured unemployment, not seasonally  
22 adjusted, equaled or exceeded one hundred twenty percent of the average  
23 of such rates for the corresponding thirteen-week period ending in each  
24 of the preceding two calendar years and equaled or exceeded five  
25 percent; or

26 ((+b)) (ii) For benefits for weeks of unemployment beginning after  
27 March 6, 1993:

28 ((+i)) (A) The average rate of total unemployment, seasonally  
29 adjusted, as determined by the United States secretary of labor, for  
30 the period consisting of the most recent three months for which data  
31 for all states are published before the close of the week equals or  
32 exceeds six and one-half percent; and

33 ((+ii)) (B) The average rate of total unemployment in the state,  
34 seasonally adjusted, as determined by the United States secretary of  
35 labor, for the three-month period referred to in ((+b)(i)) (a)(ii)(A)  
36 of this subsection, equals or exceeds one hundred ten percent of the

1 average for either or both of the corresponding three-month periods  
2 ending in the two preceding calendar years.

3 ~~((e))~~ (b) This subsection applies as provided under the tax  
4 relief, unemployment insurance reauthorization, and job creation act of  
5 2010 (P.L. 111-312) as it existed on December 17, 2010, or such  
6 subsequent date as may be provided by the department by rule,  
7 consistent with the purposes of this subsection:

8 (i) The average rate of insured unemployment, not seasonally  
9 adjusted, equaled or exceeded one hundred twenty percent of the average  
10 of such rates for the corresponding thirteen-week period ending in all  
11 of the preceding three calendar years and equaled or exceeded five  
12 percent; or

13 (ii) The average rate of total unemployment, seasonally adjusted,  
14 as determined by the United States secretary of labor, for the period  
15 consisting of the most recent three months for which data for all  
16 states are published before the close of the week equals or exceeds six  
17 and one-half percent; and

18 (iii) The average rate of total unemployment in the state,  
19 seasonally adjusted, as determined by the United States secretary of  
20 labor, for the three-month period referred to in ~~((e))~~ (b)(ii) of  
21 this subsection, equals or exceeds one hundred ten percent of the  
22 average for any of the corresponding three-month periods ending in the  
23 three preceding calendar years.

24 (3)(a) "High unemployment period" means any period of unemployment  
25 beginning after March 6, 1993, during which an extended benefit period  
26 would be in effect if:

27 ~~((a))~~ (i) The average rate of total unemployment, seasonally  
28 adjusted, as determined by the United States secretary of labor, for  
29 the period consisting of the most recent three months for which data  
30 for all states are published before the close of the week equals or  
31 exceeds eight percent; and

32 ~~((b))~~ (ii) The average rate of total unemployment in the state,  
33 seasonally adjusted, as determined by the United States secretary of  
34 labor, for the three-month period referred to in (a)(i) of this  
35 subsection, equals or exceeds one hundred ten percent of the average  
36 for either or both of the corresponding three-month periods ending in  
37 the two preceding calendar years.

1       (~~(e)~~) (b) This subsection applies as provided under the tax  
2 relief, unemployment insurance reauthorization, and job creation act of  
3 2010 (P.L. 111-312) as it existed on December 17, 2010, or such  
4 subsequent date as may be provided by the department by rule,  
5 consistent with the purposes of this subsection(~~(-)~~):

6       (i) The average rate of total unemployment, seasonally adjusted, as  
7 determined by the United States secretary of labor, for the period  
8 consisting of the most recent three months for which data for all  
9 states are published before the close of the week equals or exceeds  
10 eight percent; and

11       (ii) The average rate of total unemployment in the state,  
12 seasonally adjusted, as determined by the United States secretary of  
13 labor, for the three-month period referred to in (a)(i) of this  
14 subsection, equals or exceeds one hundred ten percent of the average  
15 for any of the corresponding three-month periods ending in the three  
16 preceding calendar years.

17       (4) There is an "off" indicator for this state for a week only if,  
18 for the period consisting of such week and immediately preceding twelve  
19 weeks, none of the options specified in subsection (2) or (3) of this  
20 section result in an "on" indicator.

21       (5) "Regular benefits" means benefits payable to an individual  
22 under this title or under any state law (including benefits payable to  
23 federal civilian employees and to ex-servicemen or ex-servicewomen  
24 pursuant to 5 U.S.C. chapter 85) other than extended benefits or  
25 additional benefits.

26       (6) "Extended benefits" means benefits payable for weeks of  
27 unemployment beginning in an extended benefit period to an individual  
28 under this title or under any state law (including benefits payable to  
29 federal civilian employees and to ex-servicemen or ex-servicewomen  
30 pursuant to 5 U.S.C. chapter 85) other than regular or additional  
31 benefits.

32       (7) "Additional benefits" are benefits totally financed by the  
33 state and payable under this title to exhaustees by reason of  
34 conditions of high unemployment or by reason of other special factors.

35       (8) "Eligibility period" of an individual means:

36       (a) The period consisting of the weeks in his or her benefit year  
37 which begin in an extended benefit period that is in effect in this

1 state and, if his or her benefit year ends within such extended benefit  
2 period, any weeks thereafter which begin in such period; or

3 (b) For an individual who is eligible for emergency unemployment  
4 compensation during the extended benefit period beginning February 15,  
5 2009, the period consisting of the week ending February 28, 2009, and  
6 applies as provided under the tax relief, unemployment insurance  
7 reauthorization, and job creation act of 2010 (P.L. 111-312) as it  
8 existed on December 17, 2010, or such subsequent date as may be  
9 provided by the department by rule, consistent with the purposes of  
10 this subsection.

11 (9) "Additional benefit eligibility period" of an individual means  
12 the period consisting of the weeks in his or her benefit year which  
13 begin in an additional benefit period that is in effect and, if his or  
14 her benefit year ends within such additional benefit period, any weeks  
15 thereafter which begin in such period.

16 (10) "Exhaustee" means an individual who, with respect to any week  
17 of unemployment in his or her eligibility period:

18 (a) Has received, prior to such week, all of the regular benefits  
19 that were payable to him or her under this title or any other state law  
20 (including dependents' allowances and regular benefits payable to  
21 federal civilian employees and ex-servicemen or ex-servicewomen under  
22 5 U.S.C. chapter 85) in his or her current benefit year that includes  
23 such week; or

24 (b) Has received, prior to such week, all of the regular benefits  
25 that were available to him or her under this title or any other state  
26 law (including dependents' allowances and regular benefits available to  
27 federal civilian employees and ex-servicemen or ex-servicewomen under  
28 5 U.S.C. chapter 85) in his or her current benefit year that includes  
29 such week, after the cancellation of some or all of his or her wage  
30 credits or the total or partial reduction of his or her rights to  
31 regular benefits: PROVIDED, That, for the purposes of (a) and (b)  
32 (~~(of this subsection))~~ of this subsection, an individual shall be  
33 deemed to have received in his or her current benefit year all of the  
34 regular benefits that were payable to him or her, or available to him  
35 or her, as the case may be, even though:

36 (i) As a result of a pending appeal with respect to wages or  
37 employment, or both, that were not included in the original monetary

1 determination with respect to his or her current benefit year, he or  
2 she may subsequently be determined to be entitled to more regular  
3 benefits; or

4 (ii) By reason of the seasonal provisions of another state law, he  
5 or she is not entitled to regular benefits with respect to such week of  
6 unemployment (although he or she may be entitled to regular benefits  
7 with respect to future weeks of unemployment in the next season, as the  
8 case may be, in his or her current benefit year), and he or she is  
9 otherwise an exhaustee within the meaning of this section with respect  
10 to his or her right to regular benefits under such state law seasonal  
11 provisions during the season or off season in which that week of  
12 unemployment occurs; or

13 (iii) Having established a benefit year, no regular benefits are  
14 payable to him or her during such year because his or her wage credits  
15 were canceled or his or her right to regular benefits was totally  
16 reduced as the result of the application of a disqualification; or

17 (c) His or her benefit year having ended prior to such week, he or  
18 she has insufficient wages or employment, or both, on the basis of  
19 which he or she could establish in any state a new benefit year that  
20 would include such week, or having established a new benefit year that  
21 includes such week, he or she is precluded from receiving regular  
22 benefits by reason of the provision in RCW 50.04.030 which meets the  
23 requirement of section 3304(a)(7) of the federal unemployment tax act,  
24 or the similar provision in any other state law; and

25 (d)(i) Has no right for such week to unemployment benefits or  
26 allowances, as the case may be, under the railroad unemployment  
27 insurance act, the trade expansion act of 1962, and such other federal  
28 laws as are specified in regulations issued by the United States  
29 secretary of labor; and

30 (ii) Has not received and is not seeking for such week unemployment  
31 benefits under the unemployment compensation law of Canada, unless the  
32 appropriate agency finally determines that he or she is not entitled to  
33 unemployment benefits under such law for such week.

34 (11) "State law" means the unemployment insurance law of any state,  
35 approved by the United States secretary of labor under section 3304 of  
36 the internal revenue code of 1954.

1       **Sec. 104.** RCW 51.04.063 and 2011 1st sp.s. c 37 s 302 are each  
2 amended to read as follows:

3       (1) Notwithstanding RCW 51.04.060 or any other provision of this  
4 title, beginning on January 1, 2012, an injured worker who is at least  
5 fifty-five years of age on or after January 1, 2012, fifty-three years  
6 of age on or after January 1, 2015, or fifty years of age on or after  
7 January 1, 2016, may choose from the following: (a) To continue to  
8 receive all benefits for which they are eligible under this title, (b)  
9 to participate in vocational training if eligible, or (c) to initiate  
10 and agree to a resolution of their claim with a structured settlement.

11       (2)(a) As provided in this section, the parties to an allowed claim  
12 may initiate and agree to resolve a claim with a structured settlement  
13 for all benefits other than medical. Parties as defined in (b) of this  
14 subsection may only initiate claim resolution structured settlements if  
15 at least one hundred eighty days have passed since the claim was  
16 received by the department or self-insurer and the order allowing the  
17 claim is final and binding. All requirements of this title regarding  
18 entitlement to and payment of benefits will apply during this period.  
19 All claim resolution structured settlement agreements must be approved  
20 by the board of industrial insurance appeals.

21       (b) For purposes of this section, "parties" means:

22       (i) For a state fund claim, the worker, the employer, and the  
23 department. The employer will not be a party if the costs of the claim  
24 or claims are no longer included in the calculation of the employer's  
25 experience factor used to determine premiums, if they cannot be  
26 located, are no longer in business, or they fail to respond or decline  
27 to participate after timely notice of the claim resolution settlement  
28 process provided by the board and the department.

29       (ii) For a self-insured claim, the worker and the employer.

30       (c) The claim resolution structured settlement agreements shall:

31       (i) Bind the parties with regard to all aspects of a claim except  
32 medical benefits unless revoked by one of the parties as provided in  
33 subsection (6) of this section;

34       (ii) Provide a periodic payment schedule to the worker equal to at  
35 least twenty-five percent but not more than one hundred fifty percent  
36 of the average monthly wage in the state pursuant to RCW 51.08.018,  
37 except for the initial payment which may be up to six times the average  
38 monthly wage in the state pursuant to RCW 51.08.018;

1 (iii) Not set aside or reverse an allowance order;  
2 (iv) Not subject any employer who is not a signatory to the  
3 agreement to any responsibility or burden under any claim; and  
4 (v) Not subject any funds covered under this title to any  
5 responsibility or burden without prior approval from the director or  
6 designee.

7 (d) For state fund claims, the department shall negotiate the claim  
8 resolution structured settlement agreement with the worker or their  
9 representative and with the employer or employers and their  
10 representative or representatives.

11 (e) For self-insured claims, the self-insured employer shall  
12 negotiate the agreement with the worker or (~~their~~) his or her  
13 representative. Workers of self-insured employers who are  
14 unrepresented may request that the office of the (~~ombudsman~~) ombuds  
15 for self-insured injured workers provide assistance or be present  
16 during negotiations.

17 (f) Terms of the agreement may include the parties' agreement that  
18 the claim shall remain open for future necessary medical or surgical  
19 treatment related to the injury where there is a reasonable expectation  
20 such treatment is necessary. The parties may also agree that specific  
21 future treatment shall be provided without the application required in  
22 RCW 51.32.160.

23 (g) Any claim resolution structured settlement agreement entered  
24 into under this section must be in writing and signed by the parties or  
25 their representatives and must clearly state that the parties  
26 understand and agree to the terms of the agreement.

27 (h) If a worker is not represented by an attorney at the time of  
28 signing a claim resolution structured settlement agreement, the parties  
29 must forward a copy of the signed agreement to the board with a request  
30 for a conference with an industrial appeals judge. The industrial  
31 appeals judge must schedule a conference with all parties within  
32 fourteen days for the purpose of (i) reviewing the terms of the  
33 proposed settlement agreement by the parties; and (ii) ensuring the  
34 worker has an understanding of the benefits generally available under  
35 this title and that a claim resolution structured settlement agreement  
36 may alter the benefits payable on the claim or claims. The judge may  
37 schedule the initial conference for a later date with the consent of  
38 the parties.

1 (i) Before approving the agreement, the industrial appeals judge  
2 shall ensure the worker has an adequate understanding of the agreement  
3 and its consequences to the worker.

4 (j) The industrial appeals judge may approve a claim resolution  
5 structured settlement agreement only if the judge finds that the  
6 agreement is in the best interest of the worker. When determining  
7 whether the agreement is in the best interest of the worker, the  
8 industrial appeals judge shall consider the following factors, taken as  
9 a whole, with no individual factor being determinative:

10 (i) The nature and extent of the injuries and disabilities of the  
11 worker;

12 (ii) The age and life expectancy of the injured worker;

13 (iii) Other benefits the injured worker is receiving or is entitled  
14 to receive and the effect a claim resolution structured settlement  
15 agreement might have on those benefits; and

16 (iv) The marital or domestic partnership status of the injured  
17 worker.

18 (k) Within seven days after the conference, the industrial appeals  
19 judge shall issue an order allowing or rejecting the claim resolution  
20 structured settlement agreement. There is no appeal from the  
21 industrial appeals judge's decision.

22 (l) If the industrial appeals judge issues an order allowing the  
23 claim resolution structured settlement agreement, the order must be  
24 submitted to the board.

25 (3) Upon receiving the agreement, the board shall approve it within  
26 thirty working days of receipt unless it finds that:

27 (a) The parties have not entered into the agreement knowingly and  
28 willingly;

29 (b) The agreement does not meet the requirements of a claim  
30 resolution structured settlement agreement;

31 (c) The agreement is the result of a material misrepresentation of  
32 law or fact;

33 (d) The agreement is the result of harassment or coercion; or

34 (e) The agreement is unreasonable as a matter of law.

35 (4) If a worker is represented by an attorney at the time of  
36 signing a claim resolution structured settlement agreement, the parties  
37 shall submit the agreement directly to the board without the conference  
38 described in this section.



1 (5) If the board approves the agreement, it shall provide notice to  
2 all parties. The department shall place the agreement in the  
3 applicable claim file or files.

4 (6) A party may revoke consent to the claim resolution structured  
5 settlement agreement by providing written notice to the other parties  
6 and the board within thirty days after the date the agreement is  
7 approved by the board.

8 (7) To the extent the worker is entitled to any benefits while a  
9 claim resolution structured settlement agreement is being negotiated or  
10 during the revocation period of an agreement, the benefits must be paid  
11 pursuant to the requirements of this title until the agreement becomes  
12 final.

13 (8) A claim resolution structured settlement agreement that meets  
14 the conditions in this section and that has become final and binding as  
15 provided in this section is binding on all parties to the agreement as  
16 to its terms and the injuries and occupational diseases to which the  
17 agreement applies. A claim resolution structured settlement agreement  
18 that has become final and binding is not subject to appeal.

19 (9) All payments made to a worker pursuant to a final claim  
20 resolution structured settlement agreement must be reported to the  
21 department as claims costs pursuant to this title. If a self-insured  
22 employer contracts with a third-party administrator for claim services  
23 and the payment of benefits under this title, the third-party  
24 administrator shall also disburse the structured settlement payments  
25 pursuant to the agreement.

26 (10) Claims closed pursuant to a claim resolution structured  
27 settlement agreement can be reopened pursuant to RCW 51.32.160 for  
28 medical treatment only. Further temporary total, temporary partial,  
29 permanent partial, or permanent total benefits are not payable under  
30 the same claim or claims for which a claim resolution structured  
31 settlement agreement has been approved by the board and has become  
32 final.

33 (11) Parties aggrieved by the failure of any other party to comply  
34 with the terms of a claim resolution structured settlement agreement  
35 have one year from the date of failure to comply to petition to the  
36 board. If the board determines that a party has failed to comply with  
37 an agreement, (~~they~~) it will order compliance and will impose a  
38 penalty payable to the aggrieved party of up to twenty-five percent of

1 the monetary amount unpaid at the time the petition for noncompliance  
2 was filed. The board will also decide on any disputes as to attorneys'  
3 fees for services related to claim resolution structured settlement  
4 agreements.

5 (12) Parties and their representatives may not use settlement  
6 offers or the claim resolution structured settlement agreement process  
7 to harass or coerce any party. If the department determines that an  
8 employer has engaged in a pattern of harassment or coercion, the  
9 employer may be subject to penalty or corrective action, and may be  
10 removed from the retrospective rating program or be decertified from  
11 self-insurance under RCW 51.14.030.

12 **Sec. 105.** RCW 51.14.300 and 2007 c 281 s 1 are each amended to  
13 read as follows:

14 The office of the (~~ombudsman~~) ombuds for workers of industrial  
15 insurance self-insured employers is created. The (~~ombudsman~~) ombuds  
16 shall be appointed by the governor and report directly to the director  
17 of the department. The office of the (~~ombudsman~~) ombuds may be  
18 openly and competitively contracted by the governor in accordance with  
19 chapter (~~39.29~~) 39.26 RCW but shall not be physically housed within  
20 the industrial insurance division.

21 **Sec. 106.** RCW 51.14.310 and 2007 c 281 s 2 are each amended to  
22 read as follows:

23 The person appointed (~~ombudsman~~) ombuds shall hold office for a  
24 term of six years and shall continue to hold office until reappointed  
25 or until his or her successor is appointed. The governor may remove  
26 the (~~ombudsman~~) ombuds only for neglect of duty, misconduct, or  
27 inability to perform duties. Any vacancy shall be filled by similar  
28 appointment for the remainder of the unexpired term.

29 **Sec. 107.** RCW 51.14.320 and 2007 c 281 s 3 are each amended to  
30 read as follows:

31 Any (~~ombudsman~~) ombuds appointed under this chapter shall have  
32 training or experience, or both, in the following areas:

- 33 (1) Washington state industrial insurance including self-insurance  
34 programs;
- 35 (2) The Washington state legal system;

1 (3) Dispute or problem resolution techniques, including  
2 investigation, mediation, and negotiation.

3 **Sec. 108.** RCW 51.14.330 and 2007 c 281 s 4 are each amended to  
4 read as follows:

5 During the first two years after the office of the ((ombudsman))  
6 ombuds is created, the staffing level shall be no more than four  
7 persons, including the ((ombudsman)) ombuds and any administrative  
8 staff. Thereafter, the staffing levels shall be determined based upon  
9 the office of the ((ombudsman's)) ombuds's workload and whether any  
10 additional locations are needed.

11 **Sec. 109.** RCW 51.14.340 and 2007 c 281 s 5 are each amended to  
12 read as follows:

13 The office of the ((ombudsman)) ombuds shall have the following  
14 powers and duties:

- 15 (1) To act as an advocate for injured workers of self-insured  
16 employers;
- 17 (2) To offer and provide information on industrial insurance as  
18 appropriate to workers of self-insured employers;
- 19 (3) To identify, investigate, and facilitate resolution of  
20 industrial insurance complaints from workers of self-insured employers;
- 21 (4) To maintain a statewide toll-free telephone number for the  
22 receipt of complaints and inquiries; and
- 23 (5) To refer complaints to the department when appropriate.

24 **Sec. 110.** RCW 51.14.350 and 2007 c 281 s 6 are each amended to  
25 read as follows:

26 (1) The office of the ((ombudsman)) ombuds shall develop referral  
27 procedures for complaints by workers of self-insured employers. The  
28 department shall act as quickly as possible on any complaint referred  
29 to them by the office of the ((ombudsman)) ombuds.

30 (2) The department shall respond to any complaint against a  
31 self-insured employer referred to it by the office of the ((ombudsman))  
32 ombuds and shall forward the office of the ((ombudsman)) ombuds a  
33 summary of the results of the investigation and action proposed or  
34 taken.

1       **Sec. 111.** RCW 51.14.360 and 2007 c 281 s 7 are each amended to  
2 read as follows:

3       (1) No ((~~ombudsman~~)) ombuds is liable for good faith performance of  
4 responsibilities under this chapter.

5       (2) No discriminatory, disciplinary, or retaliatory action may be  
6 taken against any employee of a self-insured employer for any  
7 communication made, or information given or disclosed, to assist the  
8 ((~~ombudsman~~)) ombuds in carrying out its duties and responsibilities,  
9 unless the same was done maliciously. This subsection is not intended  
10 to infringe on the rights of the employer to supervise, discipline, or  
11 terminate an employee for other reasons.

12       (3) All communications by the ((~~ombudsman~~)) ombuds, if reasonably  
13 related to the requirements of his or her responsibilities under this  
14 chapter and done in good faith, are privileged and confidential, and  
15 this shall serve as a defense to any action in libel or slander.

16       (4) Representatives of the office of the ((~~ombudsman~~)) ombuds are  
17 exempt from being required to testify as to any privileged or  
18 confidential matters except as the court may deem necessary to enforce  
19 this chapter.

20       **Sec. 112.** RCW 51.14.370 and 2007 c 281 s 8 are each amended to  
21 read as follows:

22       All records and files of the ((~~ombudsman~~)) ombuds relating to any  
23 complaint or investigation made pursuant to carrying out its duties and  
24 the identities of complainants, witnesses, or injured workers shall  
25 remain confidential unless disclosure is authorized by the complainant  
26 or injured worker or his or her guardian or legal representative. No  
27 disclosures may be made outside the office of the ((~~ombudsman~~)) ombuds  
28 without the consent of any named witness or complainant unless the  
29 disclosure is made without the identity of any of these individuals  
30 being disclosed.

31       **Sec. 113.** RCW 51.14.380 and 2007 c 281 s 9 are each amended to  
32 read as follows:

33       The ((~~ombudsman~~)) ombuds shall integrate into existing posters and  
34 brochures information explaining the ((~~ombudsman~~)) ombuds program.  
35 Both the posters and the brochures shall contain the ((~~ombudsman's~~))  
36 ombuds's toll-free telephone number. Every self-insured employer must

1 place a poster in an area where all workers have access to it. The  
2 self-insured employer must provide a brochure to all injured workers at  
3 the time the employer is notified of the worker's injury.

4 **Sec. 114.** RCW 51.14.390 and 2007 c 281 s 10 are each amended to  
5 read as follows:

6 (1) To provide start-up funding for the office of the ((ombudsman))  
7 ombuds, the department shall impose a one-time assessment on all  
8 self-insurers. The amount of the assessment shall be determined by the  
9 department and shall not exceed the amount needed to pay the start-up  
10 costs.

11 (2) Ongoing funding for the office of the ((ombudsman)) ombuds  
12 shall be obtained as part of an annual administrative assessment of  
13 self-insurers under RCW 51.44.150. This assessment shall be  
14 proportionately based on the number of claims for each self-insurer  
15 during the past year.

16 **Sec. 115.** RCW 51.14.400 and 2007 c 281 s 12 are each amended to  
17 read as follows:

18 (1) The ((ombudsman)) ombuds shall provide the governor with an  
19 annual report that includes the following:

20 (a) A description of the issues addressed during the past year and  
21 a very brief description of case scenarios in a form that does not  
22 compromise confidentiality;

23 (b) An accounting of the monitoring activities by the ((ombudsman))  
24 ombuds; and

25 (c) An identification of the deficiencies in the industrial  
26 insurance system related to self-insurers, if any, and recommendations  
27 for remedial action in policy or practice.

28 (2) The first annual report shall be due on or before October 1,  
29 2008. Subsequent reports shall be due on or before October 1st.

30 **Sec. 116.** RCW 51.44.150 and 2007 c 281 s 11 are each amended to  
31 read as follows:

32 The director shall impose and collect assessments each fiscal year  
33 upon all self-insurers in the amount of the estimated costs of  
34 administering their portion of this title during such fiscal year.  
35 These assessments shall also include the assessments for the

1 ((ombudsman's)) ombuds's office provided for in RCW 51.14.390. The  
2 time and manner of imposing and collecting assessments due the  
3 department shall be set forth in regulations promulgated by the  
4 director in accordance with chapter 34.05 RCW.

5 **Sec. 117.** RCW 59.20.210 and 1999 c 359 s 16 are each amended to  
6 read as follows:

7 (1) If at any time during the tenancy, the landlord fails to carry  
8 out any of the duties imposed by RCW 59.20.130, and notice of the  
9 defect is given to the landlord pursuant to RCW 59.20.200, the tenant  
10 may submit to the landlord or the landlord's designated agent by  
11 certified mail or in person at least two bids to perform the repairs  
12 necessary to correct the defective condition from licensed or  
13 registered persons, or if no licensing or registration requirement  
14 applies to the type of work to be performed, from responsible persons  
15 capable of performing such repairs. Such bids may be submitted to the  
16 landlord at the same time as notice is given pursuant to RCW 59.20.200.

17 (2) If the landlord fails to commence repair of the defective  
18 condition within a reasonable time after receipt of notice from the  
19 tenant, the tenant may contract with the person submitting the lowest  
20 bid to make the repair, and upon the completion of the repair and an  
21 opportunity for inspection by the landlord or the landlord's designated  
22 agent, the tenant may deduct the cost of repair from the rent in an  
23 amount not to exceed the sum expressed in dollars representing one  
24 month's rental of the tenant's mobile home space in any calendar year.  
25 When, however, the landlord is required to begin remedying the  
26 defective condition within thirty days under RCW 59.20.200, the tenant  
27 cannot contract for repairs for at least fifteen days following receipt  
28 of bids by the landlord. The total costs of repairs deducted by the  
29 tenant in any calendar year under this subsection shall not exceed the  
30 sum expressed in dollars representing one month's rental of the  
31 tenant's mobile home space.

32 (3) Two or more tenants shall not collectively initiate remedies  
33 under this section. Remedial action under this section shall not be  
34 initiated for conditions in the design or construction existing in a  
35 mobile home park before June 7, 1984.

36 (4) The provisions of this section shall not:

1 (a) Create a relationship of employer and employee between landlord  
2 and tenant; or

3 (b) Create liability under the worker's compensation act; or

4 (c) Constitute the tenant as an agent of the landlord for the  
5 purposes of mechanics' and (~~materialmen's~~) material suppliers' liens  
6 under chapter 60.04 RCW.

7 (5) Any repair work performed under this section shall comply with  
8 the requirements imposed by any applicable code, statute, ordinance, or  
9 rule. A landlord whose property is damaged because of repairs  
10 performed in a negligent manner may recover the actual damages in an  
11 action against the tenant.

12 (6) Nothing in this section shall prevent the tenant from agreeing  
13 with the landlord to undertake the repairs in return for cash payment  
14 or a reasonable reduction in rent, the agreement to be between the  
15 parties, and this agreement does not alter the landlord's obligations  
16 under this chapter.

17 **Sec. 118.** RCW 60.13.010 and 2012 c 106 s 1 are each reenacted and  
18 amended to read as follows:

19 As used in this chapter, the terms defined in this section have the  
20 meanings indicated unless the context clearly requires otherwise.

21 (1) "Agricultural product" means any unprocessed horticultural,  
22 vermicultural and its by-products, viticultural, berry, poultry,  
23 poultry product, grain, bee, or other agricultural products, and  
24 includes mint or mint oil processed by or for the producer thereof and  
25 hay and straw baled or prepared for market in any manner or form and  
26 livestock. When used in RCW 60.13.020, "agricultural product" means  
27 horticultural, viticultural, aquacultural, or berry products, hay and  
28 straw, milk and milk products, vegetable seed, or turf and forage seed  
29 and applies only when such products are delivered to a processor or  
30 conditioner in an unprocessed form.

31 (2) "Commercial (~~fisherman~~) fisher" means a person licensed to  
32 fish commercially for or to take food fish or shellfish or steelhead  
33 legally caught pursuant to executive order, treaty right, or federal  
34 statute.

35 (3) "Conditioner," "consignor," "person," and "producer" have the  
36 meanings defined in RCW 20.01.010.

1 (4) "Delivers" means that a producer completes the performance of  
2 all contractual obligations with reference to the transfer of actual or  
3 constructive possession or control of an agricultural product to a  
4 processor or conditioner or preparer, regardless of whether the  
5 processor or conditioner or preparer takes physical possession.

6 (5) "Fish" means food fish or shellfish or steelhead legally caught  
7 pursuant to executive order, treaty right, or federal statute.

8 (6) "Preparer" means a person engaged in the business of feeding  
9 livestock or preparing livestock products for market.

10 (7) "Processor" means any person, firm, company, or other  
11 organization that purchases agricultural products except milk and milk  
12 products from a consignor and that cans, freezes, dries, dehydrates,  
13 cooks, presses, powders, or otherwise processes those crops in any  
14 manner whatsoever for eventual resale, or that purchases or markets  
15 milk from a dairy producer and is obligated to remit payment to such  
16 dairy producer directly.

17 (8) "Vinifera grapes" means the agricultural product commonly known  
18 as *Vitis vinifera* and those hybrid of *Vitis vinifera* that have  
19 predominantly the character of *Vitis vinifera*.

20 (9) "Wine producer" means any person or other entity licensed under  
21 Title 66 RCW to produce within the state wine from vinifera grapes.

22 **Sec. 119.** RCW 60.13.020 and 1987 c 148 s 2 are each amended to  
23 read as follows:

24 Starting on the date a producer delivers any agricultural product  
25 to a processor or conditioner, the producer has a first priority  
26 statutory lien, referred to as a "processor lien." A commercial  
27 ((fisherman)) fisher who delivers fish to a processor also has a first  
28 priority statutory "processor lien" starting on the date the  
29 ((fisherman)) fisher delivers fish to the processor. This processor  
30 lien shall continue until twenty days after payment for the product is  
31 due and remains unpaid, without filing any notice of lien, for the  
32 contract price, if any, or the fair market value of the products  
33 delivered. The processor lien attaches to the agricultural products or  
34 fish delivered, to the processor's or conditioner's inventory, and to  
35 the processor's or conditioner's accounts receivable. However, no  
36 processor lien may attach to agricultural products or fish delivered by  
37 a producer or commercial ((fisherman)) fisher, or on the producer's or



1 ((fisherman's)) fisher's behalf, to a processor which is organized and  
2 operated on a cooperative basis and of which the producer or  
3 ((fisherman)) fisher is a member, nor may such lien attach to such  
4 processor's inventory or accounts receivable.

5 **Sec. 120.** RCW 60.13.040 and 2012 c 106 s 3 are each amended to  
6 read as follows:

7 (1) A producer or commercial ((fisherman)) fisher claiming a wine  
8 producer, processor, or preparer lien may file a statement evidencing  
9 the lien with the department of licensing after payment from the wine  
10 producer, processor, conditioner, or preparer to the producer or  
11 ((fisherman)) fisher is due and remains unpaid. For purposes of this  
12 subsection and RCW 60.13.050, payment is due on the date specified in  
13 the contract, or if not specified, then within thirty days from time of  
14 delivery.

15 (2) The statement shall be in a record, authenticated by the  
16 producer or ((fisherman)) fisher, and shall contain in substance the  
17 following information:

18 (a) A true statement or a reasonable estimate of the amount  
19 demanded after deducting all credits and offsets;

20 (b) The name of the wine producer, processor, conditioner, or  
21 preparer who received the agricultural product or fish to be charged  
22 with the lien;

23 (c) A description sufficient to identify the agricultural product  
24 or fish to be charged with the lien;

25 (d) A statement that the amount claimed is a true and bona fide  
26 existing debt as of the date of the filing of the notice evidencing the  
27 lien;

28 (e) The date on which payment was due for the agricultural product  
29 or fish to be charged with the lien; and

30 (f) The department of licensing may by rule prescribe standard  
31 filing forms, fees, and uniform procedures for filing with, and  
32 obtaining information from, filing officers.

33 **Sec. 121.** RCW 60.13.050 and 1987 c 148 s 4 are each amended to  
34 read as follows:

35 (1)(a) If a statement is filed pursuant to RCW 60.13.040 within  
36 twenty days of the date upon which payment from the processor,

1 conditioner, or preparer to the producer or commercial ((fisherman))  
2 fisher is due and remains unpaid, the processor or preparer lien  
3 evidenced by the statement continues its priority over all other liens  
4 or security interests upon agricultural products or fish, inventory,  
5 and accounts receivable, except as provided in (b) of this subsection.  
6 Such priority is without regard to whether the other liens or security  
7 interests attached before or after the date on which the processor or  
8 preparer lien attached.

9 (b) The processor or preparer lien shall be subordinate to liens  
10 for taxes or labor perfected before filing of the processor or preparer  
11 lien.

12 (2) If the statement provided for in RCW 60.13.040 is not filed  
13 within twenty days of the date payment is due and remains unpaid, the  
14 processor or preparer lien shall thereupon become subordinate to:

15 (a) A lien that has attached to the agricultural product or fish,  
16 inventory, or accounts receivable before the date on which the  
17 processor or preparer lien attaches; and

18 (b) A perfected security interest in the agricultural product or  
19 fish, inventory, or accounts receivable.

20 **Sec. 122.** RCW 60.13.060 and 2012 c 106 s 5 are each amended to  
21 read as follows:

22 (1) The wine producer or processor lien shall terminate twelve  
23 months after, and the preparer lien shall terminate fifty days after,  
24 the later of the date of attachment or filing, unless a suit to  
25 foreclose the lien has been filed before that time as provided in RCW  
26 60.13.070.

27 (2) If a statement has been filed as provided in RCW 60.13.040 and  
28 the producer or commercial ((fisherman)) fisher has received payment  
29 for the obligation secured by the lien, the producer or ((fisherman))  
30 fisher shall promptly file with the department of licensing a statement  
31 declaring that full payment has been received and that the lien is  
32 discharged. If, after payment, the producer or ((fisherman)) fisher  
33 fails to file such statement of discharge within ten days following a  
34 request to do so, the producer or ((fisherman)) fisher shall be liable  
35 to the wine producer, processor, conditioner, or preparer in the sum of  
36 one hundred dollars plus actual damages caused by the failure.

1           **Sec. 123.** RCW 60.36.030 and 1901 c 75 s 1 are each amended to read  
2 as follows:

3           All steamers, vessels<sub>‿</sub> and boats, their tackle, apparel<sub>‿</sub> and  
4 furniture shall be held liable at all ports and places within this  
5 state or within the jurisdiction of the courts of this state or within  
6 the jurisdiction of the courts of the United States in said state for  
7 services rendered by stevedores, (~~(longshoremen)~~) longshore workers<sub>‿</sub>, or  
8 others engaged in the loading, unloading, stowing<sub>‿</sub> or dunnaging of  
9 cargo in or from any steamer, vessel<sub>‿</sub> or boat in any harbor or at any  
10 other place within said state, or within the jurisdiction of the courts  
11 thereof as above stated, and said steamers, vessels<sub>‿</sub> and boats shall  
12 further be liable as per their contracts for all services performed  
13 upon wharfs or landing places by stevedores, (~~(longshoremen)~~) longshore  
14 workers<sub>‿</sub>, or others: PROVIDED, That such services must have been so  
15 performed in and about and be connected with the loading, unloading,  
16 dunnaging<sub>‿</sub> or stowing of said cargo.

17           **Sec. 124.** RCW 60.36.040 and 1901 c 75 s 2 are each amended to read  
18 as follows:

19           Demands for wages and all sums due under contracts or otherwise for  
20 the performance of all or any of the services mentioned in RCW  
21 60.36.030 shall constitute liens upon all steamers, vessels<sub>‿</sub> and boats,  
22 their tackle, apparel<sub>‿</sub> and furniture, and shall have priority over all  
23 other demands save and excepting the demands mentioned in RCW 60.36.010  
24 (1), (2)<sub>‿</sub> and (3), to which said demands the lien hereby provided shall  
25 be subordinate: PROVIDED, That such liens shall only continue in force  
26 for the period of three years from the date when such work was done or  
27 the last services performed by such stevedores, (~~(longshoremen)~~)  
28 longshore workers<sub>‿</sub>, or others.

29           **Sec. 125.** RCW 60.42.040 and 1997 c 315 s 5 are each amended to  
30 read as follows:

31           All statutory liens, consensual liens, mortgages, deeds of trust,  
32 assignments of rents, and other encumbrances, including all advances or  
33 charges made or accruing thereunder, whether voluntary or obligatory,  
34 and all modifications, extensions, renewals, and replacements thereof,  
35 recorded prior to the recording of a notice of claim of lien against  
36 proceeds have priority over a lien created under this chapter. A prior

1 recorded lien includes, without limitation, a valid (~~materialmen's~~)  
2 material supplier's or mechanic's lien claim that is recorded after the  
3 recording of the broker's notice of claim of lien against proceeds but  
4 which relates back to a date prior to the recording date of the  
5 broker's notice of claim of lien against proceeds.

6 **Sec. 126.** RCW 62A.2-201 and 1965 ex.s c 157 s 2-201 are each  
7 amended to read as follows:

8 (1) Except as otherwise provided in this section, a contract for  
9 the sale of goods for the price of five hundred dollars or more is not  
10 enforceable by way of action or defense unless there is some writing  
11 sufficient to indicate that a contract for sale has been made between  
12 the parties and signed by the party against whom enforcement is sought  
13 or by his or her authorized agent or broker. A writing is not  
14 insufficient because it omits or incorrectly states a term agreed upon  
15 but the contract is not enforceable under this paragraph beyond the  
16 quantity of goods shown in such writing.

17 (2) Between merchants if within a reasonable time a writing in  
18 confirmation of the contract and sufficient against the sender is  
19 received and the party receiving it has reason to know its contents, it  
20 satisfies the requirements of subsection (1) of this section against  
21 such party unless written notice of objection to its contents is given  
22 within ten days after it is received.

23 (3) A contract which does not satisfy the requirements of  
24 subsection (1) of this section but which is valid in other respects is  
25 enforceable:

26 (a) If the goods are to be specially manufactured for the buyer and  
27 are not suitable for sale to others in the ordinary course of the  
28 seller's business and the seller, before notice of repudiation is  
29 received and under circumstances which reasonably indicate that the  
30 goods are for the buyer, has made either a substantial beginning of  
31 their manufacture or commitments for their procurement; or

32 (b) If the party against whom enforcement is sought admits in his  
33 or her pleading, testimony, or otherwise in court that a contract for  
34 sale was made, but the contract is not enforceable under this provision  
35 beyond the quantity of goods admitted; or

36 (c) With respect to goods for which payment has been made and  
37 accepted or which have been received and accepted (RCW 62A.2-606).

1           **Sec. 127.** RCW 62A.2-210 and 2000 c 250 s 9A-804 are each amended  
2 to read as follows:

3           (1) A party may perform his or her duty through a delegate unless  
4 otherwise agreed or unless the other party has a substantial interest  
5 in having his or her original promisor perform or control the acts  
6 required by the contract. No delegation of performance relieves the  
7 party delegating of any duty to perform or any liability for breach.

8           (2) Except as otherwise provided in RCW 62A.9A-406, unless  
9 otherwise agreed, all rights of either seller or buyer can be assigned  
10 except where the assignment would materially change the duty of the  
11 other party, or increase materially the burden or risk imposed on him  
12 or her by his or her contract, or impair materially his or her chance  
13 of obtaining return performance. A right to damages for breach of the  
14 whole contract or a right arising out of the assignor's due performance  
15 of his or her entire obligation can be assigned despite agreement  
16 otherwise.

17           (3) The creation, attachment, perfection, or enforcement of a  
18 security interest in the seller's interest under a contract is not a  
19 transfer that materially changes the duty of or increases materially  
20 the burden or risk imposed on the buyer or impairs materially the  
21 buyer's chance of obtaining return performance within the purview of  
22 subsection (2) of this section unless, and then only to the extent  
23 that, enforcement actually results in a delegation of material  
24 performance of the seller. Even in that event, the creation,  
25 attachment, perfection, and enforcement of the security interest remain  
26 effective, but ((+i+)) (a) the seller is liable to the buyer for  
27 damages caused by the delegation to the extent that the damages could  
28 not reasonably be prevented by the buyer, and ((+i+)) (b) a court  
29 having jurisdiction may grant other appropriate relief, including  
30 cancellation of the contract for sale or an injunction against  
31 enforcement of the security interest or consummation of the  
32 enforcement.

33           (4) Unless the circumstances indicate the contrary, a prohibition  
34 of assignment of "the contract" is to be construed as barring only the  
35 delegation to the assignee of the assignor's performance.

36           (5) An assignment of "the contract" or of "all my rights under the  
37 contract" or an assignment in similar general terms is an assignment of  
38 rights and unless the language or the circumstances (as in an

1 assignment for security) indicate the contrary, it is a delegation of  
2 performance of the duties of the assignor and its acceptance by the  
3 assignee constitutes a promise by him or her to perform those duties.  
4 This promise is enforceable by either the assignor or the other party  
5 to the original contract.

6 (6) The other party may treat any assignment which delegates  
7 performance as creating reasonable grounds for insecurity and may  
8 without prejudice to his or her rights against the assignor demand  
9 assurances from the assignee (RCW 62A.2-609).

10 (7) Notwithstanding subsections (2) and (3) of this section, an  
11 assignment that would be a breach but for the provisions of RCW  
12 62A.9A-406 may create reasonable grounds for insecurity with respect to  
13 the due performance of the assignor (RCW 62A.2-609).

14 **Sec. 128.** RCW 62A.2-304 and 1965 ex.s. c 157 s 2-304 are each  
15 amended to read as follows:

16 (1) The price can be made payable in money or otherwise. If it is  
17 payable in whole or in part in goods each party is a seller of the  
18 goods which he or she is to transfer.

19 (2) Even though all or part of the price is payable in an interest  
20 in realty the transfer of the goods and the seller's obligations with  
21 reference to them are subject to this Article, but not the transfer of  
22 the interest in realty or the transferor's obligations in connection  
23 therewith.

24 **Sec. 129.** RCW 62A.2-305 and 1965 ex.s. c 157 s 2-305 are each  
25 amended to read as follows:

26 (1) The parties if they so intend can conclude a contract for sale  
27 even though the price is not settled. In such a case, the price is a  
28 reasonable price at the time for delivery if:

29 (a) Nothing is said as to price; or

30 (b) The price is left to be agreed by the parties and they fail to  
31 agree; or

32 (c) The price is to be fixed in terms of some agreed market or  
33 other standard as set or recorded by a third person or agency and it is  
34 not so set or recorded.

35 (2) A price to be fixed by the seller or by the buyer means a price  
36 for him or her to fix in good faith.

1 (3) When a price left to be fixed otherwise than by agreement of  
2 the parties fails to be fixed through fault of one party the other may  
3 at his or her option treat the contract as canceled or himself or  
4 herself fix a reasonable price.

5 (4) Where, however, the parties intend not to be bound unless the  
6 price be fixed or agreed and it is not fixed or agreed there is no  
7 contract. In such a case, the buyer must return any goods already  
8 received or if unable so to do must pay their reasonable value at the  
9 time of delivery and the seller must return any portion of the price  
10 paid on account.

11 **Sec. 130.** RCW 62A.2-308 and 1965 ex.s. c 157 s 2-308 are each  
12 amended to read as follows:

13 Unless otherwise agreed:

14 (a) The place for delivery of goods is the seller's place of  
15 business or if he or she has none his or her residence; but

16 (b) In a contract for sale of identified goods which to the  
17 knowledge of the parties at the time of contracting are in some other  
18 place, that place is the place for their delivery; and

19 (c) Documents of title may be delivered through customary banking  
20 channels.

21 **Sec. 131.** RCW 62A.2-311 and 1965 ex.s. c 157 s 2-311 are each  
22 amended to read as follows:

23 (1) An agreement for sale which is otherwise sufficiently definite  
24 (~~((subsections (3) of))~~) RCW 62A.2-204(3) to be a contract is not made  
25 invalid by the fact that it leaves particulars of performance to be  
26 specified by one of the parties. Any such specification must be made  
27 in good faith and within limits set by commercial reasonableness.

28 (2) Unless otherwise agreed, specifications relating to assortment  
29 of the goods are at the buyer's option and except as otherwise provided  
30 in (~~((subsections (1)(c) and (3) of))~~) RCW 62A.2-319 (1)(c) and (3)  
31 specifications or arrangements relating to shipment are at the seller's  
32 option.

33 (3) Where such specification would materially affect the other  
34 party's performance but is not seasonably made or where one party's  
35 cooperation is necessary to the agreed performance of the other but is

1 not seasonably forthcoming, the other party in addition to all other  
2 remedies:

3 (a) Is excused for any resulting delay in his or her own  
4 performance; and

5 (b) May also either proceed to perform in any reasonable manner or  
6 after the time for a material part of his or her own performance treat  
7 the failure to specify or to cooperate as a breach by failure to  
8 deliver or accept the goods.

9 **Sec. 132.** RCW 62A.2-312 and 1965 ex.s. c 157 s 2-312 are each  
10 amended to read as follows:

11 (1) Subject to subsection (2) of this section, there is in a  
12 contract for sale a warranty by the seller that:

13 (a) The title conveyed shall be good, and its transfer rightful;  
14 and

15 (b) The goods shall be delivered free from any security interest or  
16 other lien or encumbrance of which the buyer at the time of contracting  
17 has no knowledge.

18 (2) A warranty under subsection (1) of this section will be  
19 excluded or modified only by specific language or by circumstances  
20 which give the buyer reason to know that the person selling does not  
21 claim title in himself or herself or that he or she is purporting to  
22 sell only such right or title as he or she or a third person may have.

23 (3) Unless otherwise agreed, a seller who is a merchant regularly  
24 dealing in goods of the kind warrants that the goods shall be delivered  
25 free of the rightful claim of any third person by way of infringement  
26 or the like but a buyer who furnishes specifications to the seller must  
27 hold the seller harmless against any such claim which arises out of  
28 compliance with the specifications.

29 **Sec. 133.** RCW 62A.2-313 and 1965 ex.s. c 157 s 2-313 are each  
30 amended to read as follows:

31 (1) Express warranties by the seller are created as follows:

32 (a) Any affirmation of fact or promise made by the seller to the  
33 buyer which relates to the goods and becomes part of the basis of the  
34 bargain creates an express warranty that the goods shall conform to the  
35 affirmation or promise.



1 (b) Any description of the goods which is made part of the basis of  
2 the bargain creates an express warranty that the goods shall conform to  
3 the description.

4 (c) Any sample or model which is made part of the basis of the  
5 bargain creates an express warranty that the whole of the goods shall  
6 conform to the sample or model.

7 (2) It is not necessary to the creation of an express warranty that  
8 the seller use formal words such as "warrant" or "guarantee" or that he  
9 or she have a specific intention to make a warranty, but an affirmation  
10 merely of the value of the goods or a statement purporting to be merely  
11 the seller's opinion or commendation of the goods does not create a  
12 warranty.

13 **Sec. 134.** RCW 62A.2-316 and 1982 c 199 s 1 are each amended to  
14 read as follows:

15 (1) Words or conduct relevant to the creation of an express  
16 warranty and words or conduct tending to negate or limit warranty shall  
17 be construed wherever reasonable as consistent with each other; but  
18 subject to the provisions of this Article on parol or extrinsic  
19 evidence (RCW 62A.2-202) negation or limitation is inoperative to the  
20 extent that such construction is unreasonable.

21 (2) Subject to subsection (3) of this section, to exclude or modify  
22 the implied warranty of merchantability or any part of it the language  
23 must mention merchantability and in case of a writing must be  
24 conspicuous, and to exclude or modify any implied warranty of fitness  
25 the exclusion must be by a writing and conspicuous. Language to  
26 exclude all implied warranties of fitness is sufficient if it states,  
27 for example, that "There are no warranties which extend beyond the  
28 description on the face hereof."

29 (3) Notwithstanding subsection (2) of this section:

30 (a) Unless the circumstances indicate otherwise, all implied  
31 warranties are excluded by expressions like "as is," "with all faults,"  
32 or other language which in common understanding calls the buyer's  
33 attention to the exclusion of warranties and makes plain that there is  
34 no implied warranty; and

35 (b) When the buyer before entering into the contract has examined  
36 the goods or the sample or model as fully as he or she desired or has

1 refused to examine the goods there is no implied warranty with regard  
2 to defects which an examination ought in the circumstances to have  
3 revealed to him or her;

4 (c) An implied warranty can also be excluded or modified by course  
5 of dealing or course of performance or usage of trade; and

6 (d) In sales of livestock, including but not limited to, horses,  
7 mules, cattle, sheep, swine, goats, poultry, and rabbits, there are no  
8 implied warranties as defined in this article that the livestock are  
9 free from sickness or disease: PROVIDED, That the seller has complied  
10 with all state and federal laws and regulations that apply to animal  
11 health and disease, and the seller is not guilty of fraud, deceit, or  
12 misrepresentation.

13 (4) Notwithstanding the provisions of subsections (2) and (3) of  
14 this section and the provisions of RCW 62A.2-719, as now or hereafter  
15 amended, in any case where goods are purchased primarily for personal,  
16 family, or household use and not for commercial or business use,  
17 disclaimers of the warranty of merchantability or fitness for  
18 particular purpose shall not be effective to limit the liability of  
19 merchant sellers except insofar as the disclaimer sets forth with  
20 particularity the qualities and characteristics which are not being  
21 warranted. Remedies for breach of warranty can be limited in  
22 accordance with the provisions of this Article on liquidation or  
23 limitation of damages and on contractual modification of remedy (RCW  
24 62A.2-718 and RCW 62A.2-719).

25 **Sec. 135.** RCW 62A.2-318 and 1965 ex.s. c 157 s 2-318 are each  
26 amended to read as follows:

27 A seller's warranty whether express or implied extends to any  
28 natural person who is in the family or household of his or her buyer or  
29 who is a guest in his or her home if it is reasonable to expect that  
30 such person may use, consume, or be affected by the goods and who is  
31 injured in person by breach of the warranty. A seller may not exclude  
32 or limit the operation of this section.

33 **Sec. 136.** RCW 62A.2-319 and 1965 ex.s. c 157 s 2-319 are each  
34 amended to read as follows:

35 (1) Unless otherwise agreed, the term F.O.B. (which means "free on

1 board") at a named place, even though used only in connection with the  
2 stated price, is a delivery term under which:

3 (a) When the term is F.O.B. the place of shipment, the seller must  
4 at that place ship the goods in the manner provided in this Article  
5 (RCW 62A.2-504) and bear the expense and risk of putting them into the  
6 possession of the carrier; or

7 (b) When the term is F.O.B. the place of destination, the seller  
8 must at his or her own expense and risk transport the goods to that  
9 place and there tender delivery of them in the manner provided in this  
10 Article (RCW 62A.2-503);

11 (c) When under either (a) or (b) of this subsection the term is  
12 also F.O.B. vessel, car, or other vehicle, the seller must in addition  
13 at his or her own expense and risk load the goods on board. If the  
14 term is F.O.B. vessel, the buyer must name the vessel and in an  
15 appropriate case the seller must comply with the provisions of this  
16 Article on the form of bill of lading (RCW 62A.2-323).

17 (2) Unless otherwise agreed the term F.A.S. vessel (which means  
18 "free alongside") at a named port, even though used only in connection  
19 with the stated price, is a delivery term under which the seller must:

20 (a) At his or her own expense and risk deliver the goods alongside  
21 the vessel in the manner usual in that port or on a dock designated and  
22 provided by the buyer; and

23 (b) Obtain and tender a receipt for the goods in exchange for which  
24 the carrier is under a duty to issue a bill of lading.

25 (3) Unless otherwise agreed, in any case falling within subsection  
26 (1)(a) or (c) or (~~subsection~~) (2) of this section, the buyer must  
27 seasonably give any needed instructions for making delivery, including  
28 when the term is F.A.S. or F.O.B. the loading berth of the vessel and  
29 in an appropriate case its name and sailing date. The seller may treat  
30 the failure of needed instructions as a failure of cooperation under  
31 this Article (RCW 62A.2-311). He or she may also at his or her option  
32 move the goods in any reasonable manner preparatory to delivery or  
33 shipment.

34 (4) Under the term F.O.B. vessel or F.A.S., unless otherwise  
35 agreed, the buyer must make payment against tender of the required  
36 documents and the seller may not tender nor the buyer demand delivery  
37 of the goods in substitution for the documents.

1           **Sec. 137.** RCW 62A.2-320 and 1965 ex.s. c 157 s 2-320 are each  
2 amended to read as follows:

3           (1) The term C.I.F. means that the price includes in a lump sum the  
4 cost of the goods and the insurance and freight to the named  
5 destination. The term C.&F. or C.F. means that the price so includes  
6 cost and freight to the named destination.

7           (2) Unless otherwise agreed and even though used only in connection  
8 with the stated price and destination, the term C.I.F. destination or  
9 its equivalent requires the seller at his or her own expense and risk  
10 to:

11           (a) Put the goods into the possession of a carrier at the port for  
12 shipment and obtain a negotiable bill or bills of lading covering the  
13 entire transportation to the named destination; and

14           (b) Load the goods and obtain a receipt from the carrier (which may  
15 be contained in the bill of lading) showing that the freight has been  
16 paid or provided for; and

17           (c) Obtain a policy or certificate of insurance, including any war  
18 risk insurance, of a kind and on terms then current at the port of  
19 shipment in the usual amount, in the currency of the contract, shown to  
20 cover the same goods covered by the bill of lading and providing for  
21 payment of loss to the order of the buyer or for the account of whom it  
22 may concern; but the seller may add to the price the amount of the  
23 premium for any such war risk insurance; and

24           (d) Prepare an invoice of the goods and procure any other documents  
25 required to effect shipment or to comply with the contract; and

26           (e) Forward and tender with commercial promptness all the documents  
27 in due form and with any indorsement necessary to perfect the buyer's  
28 rights.

29           (3) Unless otherwise agreed, the term C.&F. or its equivalent has  
30 the same effect and imposes upon the seller the same obligations and  
31 risks as a C.I.F. term except the obligation as to insurance.

32           (4) Under the term C.I.F. or C.&F., unless otherwise agreed, the  
33 buyer must make payment against tender of the required documents and  
34 the seller may not tender nor the buyer demand delivery of the goods in  
35 substitution for the documents.

36           **Sec. 138.** RCW 62A.2-324 and 1965 ex.s. c 157 s 2-324 are each  
37 amended to read as follows:

1 Under a term "no arrival, no sale" or terms of like meaning, unless  
2 otherwise agreed((7)):

3 (a) The seller must properly ship conforming goods and if they  
4 arrive by any means he or she must tender them on arrival but he or she  
5 assumes no obligation that the goods will arrive unless he or she has  
6 caused the nonarrival; and

7 (b) Where without fault of the seller the goods are in part lost or  
8 have so deteriorated as no longer to conform to the contract or arrive  
9 after the contract time, the buyer may proceed as if there had been  
10 casualty to identified goods (RCW 62A.2-613).

11 **Sec. 139.** RCW 62A.2-325 and 1965 ex.s. c 157 s 2-325 are each  
12 amended to read as follows:

13 (1) Failure of the buyer seasonably to furnish an agreed letter of  
14 credit is a breach of the contract for sale.

15 (2) The delivery to seller of a proper letter of credit suspends  
16 the buyer's obligation to pay. If the letter of credit is dishonored,  
17 the seller may on seasonable notification to the buyer require payment  
18 directly from him or her.

19 (3) Unless otherwise agreed, the term "letter of credit" or  
20 "banker's credit" in a contract for sale means an irrevocable credit  
21 issued by a financing agency of good repute and, where the shipment is  
22 overseas, of good international repute. The term "confirmed credit"  
23 means that the credit must also carry the direct obligation of such an  
24 agency which does business in the seller's financial market.

25 **Sec. 140.** RCW 62A.2-328 and 1965 ex.s. c 157 s 2-328 are each  
26 amended to read as follows:

27 (1) In a sale by auction if goods are put up in lots each lot is  
28 the subject of a separate sale.

29 (2) A sale by auction is complete when the auctioneer so announces  
30 by the fall of the hammer or in other customary manner. Where a bid is  
31 made while the hammer is falling in acceptance of a prior bid the  
32 auctioneer may in his or her discretion reopen the bidding or declare  
33 the goods sold under the bid on which the hammer was falling.

34 (3) Such a sale is with reserve unless the goods are in explicit  
35 terms put up without reserve. In an auction with reserve, the  
36 auctioneer may withdraw the goods at any time until he or she announces

1 completion of the sale. In an auction without reserve, after the  
2 auctioneer calls for bids on an article or lot, that article or lot  
3 cannot be withdrawn unless no bid is made within a reasonable time. In  
4 either case a bidder may retract his or her bid until the auctioneer's  
5 announcement of completion of the sale, but a bidder's retraction does  
6 not revive any previous bid.

7 (4) If the auctioneer knowingly receives a bid on the seller's  
8 behalf or the seller makes or procures such a bid, and notice has not  
9 been given that liberty for such bidding is reserved, the buyer may at  
10 his or her option avoid the sale or take the goods at the price of the  
11 last good faith bid prior to the completion of the sale. This  
12 subsection shall not apply to any bid at a forced sale.

13 **Sec. 141.** RCW 62A.2-402 and 1965 ex.s. c 157 s 2-402 are each  
14 amended to read as follows:

15 (1) Except as provided in subsections (2) and (3) of this section,  
16 rights of unsecured creditors of the seller with respect to goods which  
17 have been identified to a contract for sale are subject to the buyer's  
18 rights to recover the goods under this Article (RCW 62A.2-502 and RCW  
19 62A.2-716).

20 (2) A creditor of the seller may treat a sale or an identification  
21 of goods to a contract for sale as void if as against him or her a  
22 retention of possession by the seller is fraudulent under any rule of  
23 law of the state where the goods are situated, except that retention of  
24 possession in good faith and current course of trade by a merchant-  
25 seller for a commercially reasonable time after a sale or  
26 identification is not fraudulent.

27 (3) Nothing in this Article shall be deemed to impair the rights of  
28 creditors of the seller:

29 (a) Under the provisions of the Article on Secured Transactions  
30 (Article 9A); or

31 (b) Where identification to the contract or delivery is made not in  
32 current course of trade but in satisfaction of or as security for a  
33 preexisting claim for money, security, or the like and is made under  
34 circumstances which under any rule of law of the state where the goods  
35 are situated would apart from this Article constitute the transaction  
36 a fraudulent transfer or voidable preference.

1       **Sec. 142.** RCW 62A.2-501 and 1965 ex.s. c 157 s 2-501 are each  
2 amended to read as follows:

3       (1) The buyer obtains a special property and an insurable interest  
4 in goods by identification of existing goods as goods to which the  
5 contract refers even though the goods so identified are nonconforming  
6 and he or she has an option to return or reject them. Such  
7 identification can be made at any time and in any manner explicitly  
8 agreed to by the parties. In the absence of explicit agreement,  
9 identification occurs:

10       (a) When the contract is made if it is for the sale of goods  
11 already existing and identified;

12       (b) If the contract is for the sale of future goods other than  
13 those described in (~~paragraph~~) (c) of this subsection, when goods are  
14 shipped, marked, or otherwise designated by the seller as goods to  
15 which the contract refers;

16       (c) When the crops are planted or otherwise become growing crops or  
17 the young are conceived if the contract is for the sale of unborn young  
18 to be born within twelve months after contracting or for the sale of  
19 crops to be harvested within twelve months or the next normal harvest  
20 season after contracting whichever is longer.

21       (2) The seller retains an insurable interest in goods so long as  
22 title to or any security interest in the goods remains in him or her  
23 and where the identification is by the seller alone he or she may until  
24 default or insolvency or notification to the buyer that the  
25 identification is final substitute other goods for those identified.

26       (3) Nothing in this section impairs any insurable interest  
27 recognized under any other statute or rule of law.

28       **Sec. 143.** RCW 62A.2-502 and 2000 c 250 s 9A-806 are each amended  
29 to read as follows:

30       (1) Subject to subsections (2) and (3) of this section and even  
31 though the goods have not been shipped, a buyer who has paid a part or  
32 all of the price of goods in which he or she has a special property  
33 under the provisions of the immediately preceding section may on making  
34 and keeping good a tender of any unpaid portion of their price recover  
35 them from the seller if:

36       (a) In the case of goods bought for personal, family, or household

1 purposes, the seller repudiates or fails to deliver as required by the  
2 contract; or

3 (b) In all cases, the seller becomes insolvent within ten days  
4 after receipt of the first installment on their price.

5 (2) The buyer's right to recover the goods under subsection (1)(a)  
6 of this section vests upon acquisition of a special property, even if  
7 the seller had not then repudiated or failed to deliver.

8 (3) If the identification creating his or her special property has  
9 been made by the buyer, he or she acquires the right to recover the  
10 goods only if they conform to the contract for sale.

11 **Sec. 144.** RCW 62A.2-504 and 1965 ex.s. c 157 s 2-504 are each  
12 amended to read as follows:

13 Where the seller is required or authorized to send the goods to the  
14 buyer and the contract does not require him or her to deliver them at  
15 a particular destination, then unless otherwise agreed he or she must:

16 (a) Put the goods in the possession of such a carrier and make such  
17 a contract for their transportation as may be reasonable having regard  
18 to the nature of the goods and other circumstances of the case; and

19 (b) Obtain and promptly deliver or tender in due form any document  
20 necessary to enable the buyer to obtain possession of the goods or  
21 otherwise required by the agreement or by usage of trade; and

22 (c) Promptly notify the buyer of the shipment. Failure to notify  
23 the buyer under (~~paragraph (c)~~) this subsection or to make a proper  
24 contract under (~~paragraph (a)~~) subsection (a) of this section is a  
25 ground for rejection only if material delay or loss ensues.

26 **Sec. 145.** RCW 62A.2-507 and 1965 ex.s. c 157 s 2-507 are each  
27 amended to read as follows:

28 (1) Tender of delivery is a condition to the buyer's duty to accept  
29 the goods and, unless otherwise agreed, to his or her duty to pay for  
30 them. Tender entitles the seller to acceptance of the goods and to  
31 payment according to the contract.

32 (2) Where payment is due and demanded on the delivery to the buyer  
33 of goods or documents of title, his or her right as against the seller  
34 to retain or dispose of them is conditional upon his or her making the  
35 payment due.



1       **Sec. 146.** RCW 62A.2-508 and 1965 ex.s. c 157 s 2-508 are each  
2 amended to read as follows:

3       (1) Where any tender or delivery by the seller is rejected because  
4 nonconforming and the time for performance has not yet expired, the  
5 seller may seasonably notify the buyer of his or her intention to cure  
6 and may then within the contract time make a conforming delivery.

7       (2) Where the buyer rejects a nonconforming tender which the seller  
8 had reasonable grounds to believe would be acceptable with or without  
9 money allowance, the seller may if he or she seasonably notifies the  
10 buyer have a further reasonable time to substitute a conforming tender.

11       **Sec. 147.** RCW 62A.2-510 and 1965 ex.s. c 157 s 2-510 are each  
12 amended to read as follows:

13       (1) Where a tender or delivery of goods so fails to conform to the  
14 contract as to give a right of rejection, the risk of their loss  
15 remains on the seller until cure or acceptance.

16       (2) Where the buyer rightfully revokes acceptance, he or she may to  
17 the extent of any deficiency in his or her effective insurance coverage  
18 treat the risk of loss as having rested on the seller from the  
19 beginning.

20       (3) Where the buyer as to conforming goods already identified to  
21 the contract for sale repudiates or is otherwise in breach before risk  
22 of their loss has passed to him or her, the seller may to the extent of  
23 any deficiency in his or her effective insurance coverage treat the  
24 risk of loss as resting on the buyer for a commercially reasonable  
25 time.

26       **Sec. 148.** RCW 62A.2-602 and 1965 ex.s. c 157 s 2-602 are each  
27 amended to read as follows:

28       (1) Rejection of goods must be within a reasonable time after their  
29 delivery or tender. It is ineffective unless the buyer seasonably  
30 notifies the seller.

31       (2) Subject to the provisions of the two following sections on  
32 rejected goods (RCW 62A.2-603 and RCW 62A.2-604)((~~7~~)):

33       (a) After rejection, any exercise of ownership by the buyer with  
34 respect to any commercial unit is wrongful as against the seller; and

35       (b) If the buyer has before rejection taken physical possession of  
36 goods in which he or she does not have a security interest under the

1 provisions of this Article (~~((subsection (3) of))~~) RCW 62A.2-711(3)), he  
2 or she is under a duty after rejection to hold them with reasonable  
3 care at the seller's disposition for a time sufficient to permit the  
4 seller to remove them; but

5 (c) The buyer has no further obligations with regard to goods  
6 rightfully rejected.

7 (3) The seller's rights with respect to goods wrongfully rejected  
8 are governed by the provisions of this Article on seller's remedies in  
9 general (RCW 62A.2-703).

10 **Sec. 149.** RCW 62A.2-603 and 1965 ex.s. c 157 s 2-603 are each  
11 amended to read as follows:

12 (1) Subject to any security interest in the buyer (~~((subsection (3)  
13 of))~~) RCW 62A.2-711(3)), when the seller has no agent or place of  
14 business at the market of rejection a merchant buyer is under a duty  
15 after rejection of goods in his or her possession or control to follow  
16 any reasonable instructions received from the seller with respect to  
17 the goods and in the absence of such instructions to make reasonable  
18 efforts to sell them for the seller's account if they are perishable or  
19 threaten to decline in value speedily. Instructions are not reasonable  
20 if on demand indemnity for expenses is not forthcoming.

21 (2) When the buyer sells goods under subsection (1) of this  
22 section, he or she is entitled to reimbursement from the seller or out  
23 of the proceeds for reasonable expenses of caring for and selling them,  
24 and if the expenses include no selling commission then to such  
25 commission as is usual in the trade or if there is none to a reasonable  
26 sum not exceeding ten per cent on the gross proceeds.

27 (3) In complying with this section, the buyer is held only to good  
28 faith and good faith conduct hereunder is neither acceptance nor  
29 conversion nor the basis of an action for damages.

30 **Sec. 150.** RCW 62A.2-604 and 1965 ex.s. c 157 s 2-604 are each  
31 amended to read as follows:

32 Subject to the provisions of the immediately preceding section on  
33 perishables, if the seller gives no instructions within a reasonable  
34 time after notification of rejection, the buyer may store the rejected  
35 goods for the seller's account or reship them to him or her or resell

1 them for the seller's account with reimbursement as provided in the  
2 preceding section. Such action is not acceptance or conversion.

3 **Sec. 151.** RCW 62A.2-606 and 1965 ex.s. c 157 s 2-606 are each  
4 amended to read as follows:

5 (1) Acceptance of goods occurs when the buyer:

6 (a) After a reasonable opportunity to inspect the goods signifies  
7 to the seller that the goods are conforming or that he or she will take  
8 or retain them in spite of their nonconformity; or

9 (b) Fails to make an effective rejection (~~((subsection (1) of))~~) RCW  
10 62A.2-602(1)), but such acceptance does not occur until the buyer has  
11 had a reasonable opportunity to inspect them; or

12 (c) Does any act inconsistent with the seller's ownership; but if  
13 such act is wrongful as against the seller it is an acceptance only if  
14 ratified by him or her.

15 (2) Acceptance of a part of any commercial unit is acceptance of  
16 that entire unit.

17 **Sec. 152.** RCW 62A.2-607 and 1965 ex.s. c 157 s 2-607 are each  
18 amended to read as follows:

19 (1) The buyer must pay at the contract rate for any goods accepted.

20 (2) Acceptance of goods by the buyer precludes rejection of the  
21 goods accepted and if made with knowledge of a nonconformity cannot be  
22 revoked because of it unless the acceptance was on the reasonable  
23 assumption that the nonconformity would be seasonably cured but  
24 acceptance does not of itself impair any other remedy provided by this  
25 Article for nonconformity.

26 (3) Where a tender has been accepted:

27 (a) The buyer must within a reasonable time after he or she  
28 discovers or should have discovered any breach notify the seller of  
29 breach or be barred from any remedy; and

30 (b) If the claim is one for infringement or the like (~~((subsection~~  
31 ~~(3) of))~~) RCW 62A.2-312(3)) and the buyer is sued as a result of such a  
32 breach, he or she must so notify the seller within a reasonable time  
33 after he or she receives notice of the litigation or be barred from any  
34 remedy over for liability established by the litigation.

35 (4) The burden is on the buyer to establish any breach with respect  
36 to the goods accepted.

1 (5) Where the buyer is sued for breach of a warranty or other  
2 obligation for which his or her seller is answerable over:

3 (a) He or she may give his or her seller written notice of the  
4 litigation. If the notice states that the seller may come in and  
5 defend and that if the seller does not do so he or she will be bound in  
6 any action against him or her by his or her buyer by any determination  
7 of fact common to the two litigations, then unless the seller after  
8 reasonable receipt of the notice does come in and defend he or she is  
9 so bound.

10 (b) If the claim is one for infringement or the like (~~((subsection~~  
11 ~~(3) of))~~ RCW 62A.2-312(3)), the original seller may demand in writing  
12 that his or her buyer turn over to him or her control of the litigation  
13 including settlement or else be barred from any remedy over and if he  
14 or she also agrees to bear all expense and to satisfy any adverse  
15 judgment, then unless the buyer after reasonable receipt of the demand  
16 does turn over control the buyer is so barred.

17 (6) The provisions of subsections (3), (4), and (5) of this section  
18 apply to any obligation of a buyer to hold the seller harmless against  
19 infringement or the like (~~((subsection (3) of))~~ RCW 62A.2-312(3)).

20 **Sec. 153.** RCW 62A.2-608 and 1965 ex.s. c 157 s 2-608 are each  
21 amended to read as follows:

22 (1) The buyer may revoke his or her acceptance of a lot or  
23 commercial unit whose nonconformity substantially impairs its value to  
24 him or her if he or she has accepted it:

25 (a) On the reasonable assumption that its nonconformity would be  
26 cured and it has not been seasonably cured; or

27 (b) Without discovery of such nonconformity if his or her  
28 acceptance was reasonably induced either by the difficulty of discovery  
29 before acceptance or by the seller's assurances.

30 (2) Revocation of acceptance must occur within a reasonable time  
31 after the buyer discovers or should have discovered the ground for it  
32 and before any substantial change in condition of the goods which is  
33 not caused by their own defects. It is not effective until the buyer  
34 notifies the seller of it.

35 (3) A buyer who so revokes has the same rights and duties with  
36 regard to the goods involved as if he or she had rejected them.

1           **Sec. 154.** RCW 62A.2-609 and 1965 ex.s. c 157 s 2-609 are each  
2 amended to read as follows:

3           (1) A contract for sale imposes an obligation on each party that  
4 the other's expectation of receiving due performance will not be  
5 impaired. When reasonable grounds for insecurity arise with respect to  
6 the performance of either party the other may in writing demand  
7 adequate assurance of due performance and until he or she receives such  
8 assurance may if commercially reasonable suspend any performance for  
9 which he or she has not already received the agreed return.

10           (2) Between merchants, the reasonableness of grounds for insecurity  
11 and the adequacy of any assurance offered shall be determined according  
12 to commercial standards.

13           (3) Acceptance of any improper delivery or payment does not  
14 prejudice the aggrieved party's right to demand adequate assurance of  
15 future performance.

16           (4) After receipt of a justified demand, failure to provide within  
17 a reasonable time not exceeding thirty days such assurance of due  
18 performance as is adequate under the circumstances of the particular  
19 case is a repudiation of the contract.

20           **Sec. 155.** RCW 62A.2-610 and 1965 ex.s. c 157 s 2-610 are each  
21 amended to read as follows:

22           When either party repudiates the contract with respect to a  
23 performance not yet due the loss of which will substantially impair the  
24 value of the contract to the other, the aggrieved party may:

25           (a) For a commercially reasonable time await performance by the  
26 repudiating party; or

27           (b) Resort to any remedy for breach (RCW 62A.2-703 or ((RCW))  
28 62A.2-711), even though he or she has notified the repudiating party  
29 that he or she would await the latter's performance and has urged  
30 retraction; and

31           (c) In either case suspend his or her own performance or proceed in  
32 accordance with the provisions of this Article on the seller's right to  
33 identify goods to the contract notwithstanding breach or to salvage  
34 unfinished goods (RCW 62A.2-704).

35           **Sec. 156.** RCW 62A.2-611 and 1965 ex.s. c 157 s 2-611 are each  
36 amended to read as follows:

1 (1) Until the repudiating party's next performance is due, he or  
2 she can retract his or her repudiation unless the aggrieved party has  
3 since the repudiation canceled or materially changed his or her  
4 position or otherwise indicated that he or she considers the  
5 repudiation final.

6 (2) Retraction may be by any method which clearly indicates to the  
7 aggrieved party that the repudiating party intends to perform, but must  
8 include any assurance justifiably demanded under the provisions of this  
9 Article (RCW 62A.2-609).

10 (3) Retraction reinstates the repudiating party's rights under the  
11 contract with due excuse and allowance to the aggrieved party for any  
12 delay occasioned by the repudiation.

13 **Sec. 157.** RCW 62A.2-612 and 1965 ex.s. c 157 s 2-612 are each  
14 amended to read as follows:

15 (1) An "installment contract" is one which requires or authorizes  
16 the delivery of goods in separate lots to be separately accepted, even  
17 though the contract contains a clause "each delivery is a separate  
18 contract" or its equivalent.

19 (2) The buyer may reject any installment which is nonconforming if  
20 the nonconformity substantially impairs the value of that installment  
21 and cannot be cured or if the nonconformity is a defect in the required  
22 documents; but if the nonconformity does not fall within subsection (3)  
23 of this section and the seller gives adequate assurance of its cure,  
24 the buyer must accept that installment.

25 (3) Whenever nonconformity or default with respect to one or more  
26 installments substantially impairs the value of the whole contract  
27 there is a breach of the whole. But the aggrieved party reinstates the  
28 contract if he or she accepts a nonconforming installment without  
29 seasonably notifying of cancellation or if he or she brings an action  
30 with respect only to past installments or demands performance as to  
31 future installments.

32 **Sec. 158.** RCW 62A.2-613 and 1965 ex.s. c 157 s 2-613 are each  
33 amended to read as follows:

34 Where the contract requires for its performance goods identified  
35 when the contract is made, and the goods suffer casualty without fault

1 of either party before the risk of loss passes to the buyer, or in a  
2 proper case under a "no arrival, no sale" term (RCW 62A.2-324) then:

3 (a) If the loss is total, the contract is avoided; and

4 (b) If the loss is partial or the goods have so deteriorated as no  
5 longer to conform to the contract, the buyer may nevertheless demand  
6 inspection and at his or her option either treat the contract as  
7 avoided or accept the goods with due allowance from the contract price  
8 for the deterioration or the deficiency in quantity but without further  
9 right against the seller.

10 **Sec. 159.** RCW 62A.2-615 and 1965 ex.s. c 157 s 2-615 are each  
11 amended to read as follows:

12 Except so far as a seller may have assumed a greater obligation and  
13 subject to the preceding section on substituted performance:

14 (a) Delay in delivery or nondelivery in whole or in part by a  
15 seller who complies with (~~paragraphs (b) and (c)~~) subsections (b) and  
16 (c) of this section is not a breach of his or her duty under a contract  
17 for sale if performance as agreed has been made impracticable by the  
18 occurrence of a contingency the nonoccurrence of which was a basic  
19 assumption on which the contract was made or by compliance in good  
20 faith with any applicable foreign or domestic governmental regulation  
21 or order whether or not it later proves to be invalid.

22 (b) Where the causes mentioned in (~~paragraph (a)~~) subsection (a)  
23 of this section affect only a part of the seller's capacity to perform,  
24 he or she must allocate production and deliveries among his or her  
25 customers but may at his or her option include regular customers not  
26 then under contract as well as his or her own requirements for further  
27 manufacture. He or she may so allocate in any manner which is fair and  
28 reasonable.

29 (c) The seller must notify the buyer seasonably that there will be  
30 delay or nondelivery and, when allocation is required under (~~paragraph~~  
31 ~~(b)~~) subsection (b) of this section, of the estimated quota thus made  
32 available for the buyer.

33 **Sec. 160.** RCW 62A.2-616 and 1965 ex.s. c 157 s 2-616 are each  
34 amended to read as follows:

35 (1) Where the buyer receives notification of a material or  
36 indefinite delay or an allocation justified under the preceding

1 section, he or she may by written notification to the seller as to any  
2 delivery concerned, and where the prospective deficiency substantially  
3 impairs the value of the whole contract under the provisions of this  
4 Article relating to breach of installment contracts (RCW 62A.2-612),  
5 then also as to the whole((τ)):

6 (a) Terminate and thereby discharge any unexecuted portion of the  
7 contract; or

8 (b) Modify the contract by agreeing to take his or her available  
9 quota in substitution.

10 (2) If after receipt of such notification from the seller the buyer  
11 fails so to modify the contract within a reasonable time not exceeding  
12 thirty days, the contract lapses with respect to any deliveries  
13 affected.

14 **Sec. 161.** RCW 62A.2-702 and 1981 c 41 s 4 are each amended to read  
15 as follows:

16 (1) Where the seller discovers the buyer to be insolvent, he or she  
17 may refuse delivery except for cash including payment for all goods  
18 theretofore delivered under the contract, and stop delivery under this  
19 Article (RCW 62A.2-705).

20 (2) Where the seller discovers that the buyer has received goods on  
21 credit while insolvent, he or she may reclaim the goods upon demand  
22 made within ten days after the receipt, but if misrepresentation of  
23 solvency has been made to the particular seller in writing within three  
24 months before delivery the ten-day limitation does not apply. Except  
25 as provided in this subsection, the seller may not base a right to  
26 reclaim goods on the buyer's fraudulent or innocent misrepresentation  
27 of solvency or of intent to pay.

28 (3) The seller's right to reclaim under subsection (2) of this  
29 section is subject to the rights of a buyer in ordinary course or other  
30 good faith purchaser under this Article (RCW 62A.2-403). Successful  
31 reclamation of goods excludes all other remedies with respect to them.

32 **Sec. 162.** RCW 62A.2-704 and 1965 ex.s. c 157 s 2-704 are each  
33 amended to read as follows:

34 (1) An aggrieved seller under the preceding section may:  
35 (a) Identify to the contract conforming goods not already



1 identified if at the time he or she learned of the breach they are in  
2 his or her possession or control;

3 (b) Treat as the subject of resale goods which have demonstrably  
4 been intended for the particular contract even though those goods are  
5 unfinished.

6 (2) Where the goods are unfinished, an aggrieved seller may in the  
7 exercise of reasonable commercial judgment for the purposes of avoiding  
8 loss and of effective realization either complete the manufacture and  
9 wholly identify the goods to the contract or cease manufacture and  
10 resell for scrap or salvage value or proceed in any other reasonable  
11 manner.

12 **Sec. 163.** RCW 62A.2-706 and 1967 c 114 s 13 are each amended to  
13 read as follows:

14 (1) Under the conditions stated in RCW 62A.2-703 on seller's  
15 remedies, the seller may resell the goods concerned or the undelivered  
16 balance thereof. Where the resale is made in good faith and in a  
17 commercially reasonable manner, the seller may recover the difference  
18 between the resale price and the contract price together with any  
19 incidental damages allowed under the provisions of this Article (RCW  
20 62A.2-710), but less expenses saved in consequence of the buyer's  
21 breach.

22 (2) Except as otherwise provided in subsection (3) of this section  
23 or unless otherwise agreed, resale may be at public or private sale  
24 including sale by way of one or more contracts to sell or of  
25 identification to an existing contract of the seller. Sale may be as  
26 a unit or in parcels and at any time and place and on any terms but  
27 every aspect of the sale including the method, manner, time, place, and  
28 terms must be commercially reasonable. The resale must be reasonably  
29 identified as referring to the broken contract, but it is not necessary  
30 that the goods be in existence or that any or all of them have been  
31 identified to the contract before the breach.

32 (3) Where the resale is at private sale, the seller must give the  
33 buyer reasonable notification of his or her intention to resell.

34 (4) Where the resale is at public sale:

35 (a) Only identified goods can be sold except where there is a  
36 recognized market for a public sale of futures in goods of the kind;  
37 and

1 (b) It must be made at a usual place or market for public sale if  
2 one is reasonably available and except in the case of goods which are  
3 perishable or threaten to decline in value speedily the seller must  
4 give the buyer reasonable notice of the time and place of the resale;  
5 and

6 (c) If the goods are not to be within the view of those attending  
7 the sale the notification of sale must state the place where the goods  
8 are located and provide for their reasonable inspection by prospective  
9 bidders; and

10 (d) The seller may buy.

11 (5) A purchaser who buys in good faith at a resale takes the goods  
12 free of any rights of the original buyer even though the seller fails  
13 to comply with one or more of the requirements of this section.

14 (6) The seller is not accountable to the buyer for any profit made  
15 on any resale. A person in the position of a seller (RCW 62A.2-707) or  
16 a buyer who has rightfully rejected or justifiably revoked acceptance  
17 must account for any excess over the amount of his or her security  
18 interest, as hereinafter defined (~~((subsection (3) of))~~) RCW 62A.2-  
19 711(3)).

20 **Sec. 164.** RCW 62A.2-707 and 1965 ex.s. c 157 s 2-707 are each  
21 amended to read as follows:

22 (1) A "person in the position of a seller" includes as against a  
23 principal an agent who has paid or become responsible for the price of  
24 goods on behalf of his or her principal or anyone who otherwise holds  
25 a security interest or other right in goods similar to that of a  
26 seller.

27 (2) A person in the position of a seller may as provided in this  
28 Article withhold or stop delivery (RCW 62A.2-705) and resell (RCW  
29 62A.2-706) and recover incidental damages (RCW 62A.2-710).

30 **Sec. 165.** RCW 62A.2-709 and 1965 ex.s. c 157 s 2-709 are each  
31 amended to read as follows:

32 (1) When the buyer fails to pay the price as it becomes due, the  
33 seller may recover, together with any incidental damages under the next  
34 section, the price:

35 (a) Of goods accepted or of conforming goods lost or damaged within

1 a commercially reasonable time after risk of their loss has passed to  
2 the buyer; and

3 (b) Of goods identified to the contract if the seller is unable  
4 after reasonable effort to resell them at a reasonable price or the  
5 circumstances reasonably indicate that such effort will be unavailing.

6 (2) Where the seller sues for the price, he or she must hold for  
7 the buyer any goods which have been identified to the contract and are  
8 still in his or her control except that if resale becomes possible he  
9 or she may resell them at any time prior to the collection of the  
10 judgment. The net proceeds of any such resale must be credited to the  
11 buyer and payment of the judgment entitles him or her to any goods not  
12 resold.

13 (3) After the buyer has wrongfully rejected or revoked acceptance  
14 of the goods or has failed to make a payment due or has repudiated (RCW  
15 62A.2-610), a seller who is held not entitled to the price under this  
16 section shall nevertheless be awarded damages for nonacceptance under  
17 the preceding section.

18 **Sec. 166.** RCW 62A.2-711 and 1965 ex.s. c 157 s 2-711 are each  
19 amended to read as follows:

20 (1) Where the seller fails to make delivery or repudiates or the  
21 buyer rightfully rejects or justifiably revokes acceptance, then with  
22 respect to any goods involved, and with respect to the whole if the  
23 breach goes to the whole contract (RCW 62A.2-612), the buyer may cancel  
24 and whether or not he or she has done so may in addition to recovering  
25 so much of the price as has been paid:

26 (a) "Cover" and have damages under the next section as to all the  
27 goods affected whether or not they have been identified to the  
28 contract; or

29 (b) Recover damages for nondelivery as provided in this Article  
30 (RCW 62A.2-713).

31 (2) Where the seller fails to deliver or repudiates, the buyer may  
32 also:

33 (a) If the goods have been identified recover them as provided in  
34 this Article (RCW 62A.2-502); or

35 (b) In a proper case obtain specific performance or replevy the  
36 goods as provided in this Article (RCW 62A.2-716).

1 (3) On rightful rejection or justifiable revocation of acceptance,  
2 a buyer has a security interest in goods in his or her possession or  
3 control for any payments made on their price and any expenses  
4 reasonably incurred in their inspection, receipt, transportation, care,  
5 and custody and may hold such goods and resell them in like manner as  
6 an aggrieved seller (RCW 62A.2-706).

7 **Sec. 167.** RCW 62A.2-712 and 1965 ex.s. c 157 s 2-712 are each  
8 amended to read as follows:

9 (1) After a breach within the preceding section, the buyer may  
10 "cover" by making in good faith and without unreasonable delay any  
11 reasonable purchase of or contract to purchase goods in substitution  
12 for those due from the seller.

13 (2) The buyer may recover from the seller as damages the difference  
14 between the cost of cover and the contract price together with any  
15 incidental or consequential damages as hereinafter defined (RCW 62A.2-  
16 715), but less expenses saved in consequence of the seller's breach.

17 (3) Failure of the buyer to effect cover within this section does  
18 not bar him or her from any other remedy.

19 **Sec. 168.** RCW 62A.2-714 and 1965 ex.s. c 157 s 2-714 are each  
20 amended to read as follows:

21 (1) Where the buyer has accepted goods and given notification  
22 (~~((subsection (3) of))~~) RCW 62A.2-607(3), he or she may recover as  
23 damages for any nonconformity of tender the loss resulting in the  
24 ordinary course of events from the seller's breach as determined in any  
25 manner which is reasonable.

26 (2) The measure of damages for breach of warranty is the difference  
27 at the time and place of acceptance between the value of the goods  
28 accepted and the value they would have had if they had been as  
29 warranted, unless special circumstances show proximate damages of a  
30 different amount.

31 (3) In a proper case, any incidental and consequential damages  
32 under the next section may also be recovered.

33 **Sec. 169.** RCW 62A.2-716 and 2000 c 250 s 9A-807 are each amended  
34 to read as follows:

1 (1) Specific performance may be decreed where the goods are unique  
2 or in other proper circumstances.

3 (2) The decree for specific performance may include such terms and  
4 conditions as to payment of the price, damages, or other relief as the  
5 court may deem just.

6 (3) The buyer has a right of replevin for goods identified to the  
7 contract if after reasonable effort he or she is unable to effect cover  
8 for such goods or the circumstances reasonably indicate that such  
9 effort will be unavailing or if the goods have been shipped under  
10 reservation and satisfaction of the security interest in them has been  
11 made or tendered. In the case of goods bought for personal, family, or  
12 household purposes, the buyer's right of replevin vests upon  
13 acquisition of a special property, even if the seller had not then  
14 repudiated or failed to deliver.

15 **Sec. 170.** RCW 62A.2-717 and 1965 ex.s. c 157 s 2-717 are each  
16 amended to read as follows:

17 The buyer on notifying the seller of his or her intention to do so  
18 may deduct all or any part of the damages resulting from any breach of  
19 the contract from any part of the price still due under the same  
20 contract.

21 **Sec. 171.** RCW 62A.2-718 and 1965 ex.s. c 157 s 2-718 are each  
22 amended to read as follows:

23 (1) Damages for breach by either party may be liquidated in the  
24 agreement but only at an amount which is reasonable in the light of the  
25 anticipated or actual harm caused by the breach, the difficulties of  
26 proof of loss, and the inconvenience or nonfeasibility of otherwise  
27 obtaining an adequate remedy. A term fixing unreasonably large  
28 liquidated damages is void as a penalty.

29 (2) Where the seller justifiably withholds delivery of goods  
30 because of the buyer's breach, the buyer is entitled to restitution of  
31 any amount by which the sum of his or her payments exceeds:

32 (a) The amount to which the seller is entitled by virtue of terms  
33 liquidating the seller's damages in accordance with subsection (1) of  
34 this section, or

35 (b) In the absence of such terms, twenty per cent of the value of

1 the total performance for which the buyer is obligated under the  
2 contract or five hundred dollars, whichever is smaller.

3 (3) The buyer's right to restitution under subsection (2) of this  
4 section is subject to offset to the extent that the seller establishes:

5 (a) A right to recover damages under the provisions of this Article  
6 other than subsection (1) of this section, and

7 (b) The amount or value of any benefits received by the buyer  
8 directly or indirectly by reason of the contract.

9 (4) Where a seller has received payment in goods, their reasonable  
10 value or the proceeds of their resale shall be treated as payments for  
11 the purposes of subsection (2) of this section; but if the seller has  
12 notice of the buyer's breach before reselling goods received in part  
13 performance, his or her resale is subject to the conditions laid down  
14 in this Article on resale by an aggrieved seller (RCW 62A.2-706).

15 **Sec. 172.** RCW 62A.2-722 and 1965 ex.s. c 157 s 2-722 are each  
16 amended to read as follows:

17 Where a third party so deals with goods which have been identified  
18 to a contract for sale as to cause actionable injury to a party to that  
19 contract:

20 (a) A right of action against the third party is in either party to  
21 the contract for sale who has title to or a security interest or a  
22 special property or an insurable interest in the goods; and if the  
23 goods have been destroyed or converted a right of action is also in the  
24 party who either bore the risk of loss under the contract for sale or  
25 has since the injury assumed that risk as against the other;

26 (b) If at the time of the injury the party plaintiff did not bear  
27 the risk of loss as against the other party to the contract for sale  
28 and there is no arrangement between them for disposition of the  
29 recovery, his or her suit or settlement is, subject to his or her own  
30 interest, as a fiduciary for the other party to the contract;

31 (c) Either party may with the consent of the other sue for the  
32 benefit of whom it may concern.

33 **Sec. 173.** RCW 62A.2-723 and 1965 ex.s. c 157 s 2-723 are each  
34 amended to read as follows:

35 (1) If an action based on anticipatory repudiation comes to trial  
36 before the time for performance with respect to some or all of the

1 goods, any damages based on market price (RCW 62A.2-708 or ((RCW))  
2 62A.2-713) shall be determined according to the price of such goods  
3 prevailing at the time when the aggrieved party learned of the  
4 repudiation.

5 (2) If evidence of a price prevailing at the times or places  
6 described in this Article is not readily available, the price  
7 prevailing within any reasonable time before or after the time  
8 described or at any other place which in commercial judgment or under  
9 usage of trade would serve as a reasonable substitute for the one  
10 described may be used, making any proper allowance for the cost of  
11 transporting the goods to or from such other place.

12 (3) Evidence of a relevant price prevailing at a time or place  
13 other than the one described in this Article offered by one party is  
14 not admissible unless and until he or she has given the other party  
15 such notice as the court finds sufficient to prevent unfair surprise.

16 **Sec. 174.** RCW 62A.11-109 and 1981 c 41 s 45 are each amended to  
17 read as follows:

18 From and after midnight June 30, 1982, upon request of any person,  
19 the county auditor shall issue his or her certificate showing whether  
20 there is on file with the county auditor's office on the date and hour  
21 stated therein, any presently effective financing statement filed with  
22 the county auditor's office before midnight June 30, 1982, naming a  
23 particular debtor and any statement of assignment thereof and if there  
24 is, giving the date and hour of filing of each such statement and the  
25 names and addresses of each secured party therein. The uniform fee for  
26 such a certificate shall be four dollars. Upon request, the county  
27 auditor shall issue his or her certificate and shall furnish a copy of  
28 any filed financing statements or statements of assignment for a  
29 uniform fee of ten dollars for each particular debtor's statements  
30 requested.

31 **Sec. 175.** RCW 64.34.364 and 1990 c 166 s 6 are each amended to  
32 read as follows:

33 (1) The association has a lien on a unit for any unpaid assessments  
34 levied against a unit from the time the assessment is due.

35 (2) A lien under this section shall be prior to all other liens and  
36 encumbrances on a unit except: (a) Liens and encumbrances recorded

1 before the recording of the declaration; (b) a mortgage on the unit  
2 recorded before the date on which the assessment sought to be enforced  
3 became delinquent; and (c) liens for real property taxes and other  
4 governmental assessments or charges against the unit. A lien under  
5 this section is not subject to the provisions of chapter 6.13 RCW.

6 (3) Except as provided in subsections (4) and (5) of this section,  
7 the lien shall also be prior to the mortgages described in subsection  
8 (2)(b) of this section to the extent of assessments for common  
9 expenses, excluding any amounts for capital improvements, based on the  
10 periodic budget adopted by the association pursuant to RCW 64.34.360(1)  
11 which would have become due during the six months immediately preceding  
12 the date of a sheriff's sale in an action for judicial foreclosure by  
13 either the association or a mortgagee, the date of a trustee's sale in  
14 a nonjudicial foreclosure by a mortgagee, or the date of recording of  
15 the declaration of forfeiture in a proceeding by the vendor under a  
16 real estate contract.

17 (4) The priority of the association's lien against units encumbered  
18 by a mortgage held by an eligible mortgagee or by a mortgagee which has  
19 given the association a written request for a notice of delinquent  
20 assessments shall be reduced by up to three months if and to the extent  
21 that the lien priority under subsection (3) of this section includes  
22 delinquencies which relate to a period after such holder becomes an  
23 eligible mortgagee or has given such notice and before the association  
24 gives the holder a written notice of the delinquency. This subsection  
25 does not affect the priority of mechanics' or ~~((materialmen's))~~  
26 material suppliers' liens, or the priority of liens for other  
27 assessments made by the association.

28 (5) If the association forecloses its lien under this section  
29 nonjudicially pursuant to chapter 61.24 RCW, as provided by subsection  
30 (9) of this section, the association shall not be entitled to the lien  
31 priority provided for under subsection (3) of this section.

32 (6) Unless the declaration otherwise provides, if two or more  
33 associations have liens for assessments created at any time on the same  
34 real estate, those liens have equal priority.

35 (7) Recording of the declaration constitutes record notice and  
36 perfection of the lien for assessments. While no further recording of  
37 any claim of lien for assessment under this section shall be required  
38 to perfect the association's lien, the association may record a notice



1 of claim of lien for assessments under this section in the real  
2 property records of any county in which the condominium is located.  
3 Such recording shall not constitute the written notice of delinquency  
4 to a mortgagee referred to in subsection (2) of this section.

5 (8) A lien for unpaid assessments and the personal liability for  
6 payment of assessments is extinguished unless proceedings to enforce  
7 the lien or collect the debt are instituted within three years after  
8 the amount of the assessments sought to be recovered becomes due.

9 (9) The lien arising under this section may be enforced judicially  
10 by the association or its authorized representative in the manner set  
11 forth in chapter 61.12 RCW. The lien arising under this section may be  
12 enforced nonjudicially in the manner set forth in chapter 61.24 RCW for  
13 nonjudicial foreclosure of deeds of trust if the declaration (a)  
14 contains a grant of the condominium in trust to a trustee qualified  
15 under RCW 61.24.010 to secure the obligations of the unit owners to the  
16 association for the payment of assessments, (b) contains a power of  
17 sale, (c) provides in its terms that the units are not used principally  
18 for agricultural or farming purposes, and (d) provides that the power  
19 of sale is operative in the case of a default in the obligation to pay  
20 assessments. The association or its authorized representative shall  
21 have the power, unless prohibited by the declaration, to purchase the  
22 unit at the foreclosure sale and to acquire, hold, lease, mortgage, or  
23 convey the same. Upon an express waiver in the complaint of any right  
24 to a deficiency judgment in a judicial foreclosure action, the period  
25 of redemption shall be eight months. Nothing in this section shall  
26 prohibit an association from taking a deed in lieu of foreclosure.

27 (10) From the time of commencement of an action by the association  
28 to foreclose a lien for nonpayment of delinquent assessments against a  
29 unit that is not occupied by the owner thereof, the association shall  
30 be entitled to the appointment of a receiver to collect from the lessee  
31 thereof the rent for the unit as and when due. If the rental is not  
32 paid, the receiver may obtain possession of the unit, refurbish it for  
33 rental up to a reasonable standard for rental units in this type of  
34 condominium, rent the unit or permit its rental to others, and apply  
35 the rents first to the cost of the receivership and attorneys' fees  
36 thereof, then to the cost of refurbishing the unit, then to applicable  
37 charges, then to costs, fees, and charges of the foreclosure action,  
38 and then to the payment of the delinquent assessments. Only a receiver

1 may take possession and collect rents under this subsection, and a  
2 receiver shall not be appointed less than ninety days after the  
3 delinquency. The exercise by the association of the foregoing rights  
4 shall not affect the priority of preexisting liens on the unit.

5 (11) Except as provided in subsection (3) of this section, the  
6 holder of a mortgage or other purchaser of a unit who obtains the right  
7 of possession of the unit through foreclosure shall not be liable for  
8 assessments or installments thereof that became due prior to such right  
9 of possession. Such unpaid assessments shall be deemed to be common  
10 expenses collectible from all the unit owners, including such mortgagee  
11 or other purchaser of the unit. Foreclosure of a mortgage does not  
12 relieve the prior owner of personal liability for assessments accruing  
13 against the unit prior to the date of such sale as provided in this  
14 subsection.

15 (12) In addition to constituting a lien on the unit, each  
16 assessment shall be the joint and several obligation of the owner or  
17 owners of the unit to which the same are assessed as of the time the  
18 assessment is due. In a voluntary conveyance, the grantee of a unit  
19 shall be jointly and severally liable with the grantor for all unpaid  
20 assessments against the grantor up to the time of the grantor's  
21 conveyance, without prejudice to the grantee's right to recover from  
22 the grantor the amounts paid by the grantee therefor. Suit to recover  
23 a personal judgment for any delinquent assessment shall be maintainable  
24 in any court of competent jurisdiction without foreclosing or waiving  
25 the lien securing such sums.

26 (13) The association may from time to time establish reasonable  
27 late charges and a rate of interest to be charged on all subsequent  
28 delinquent assessments or installments thereof. In the absence of  
29 another established nonusurious rate, delinquent assessments shall bear  
30 interest from the date of delinquency at the maximum rate permitted  
31 under RCW 19.52.020 on the date on which the assessments became  
32 delinquent.

33 (14) The association shall be entitled to recover any costs and  
34 reasonable attorneys' fees incurred in connection with the collection  
35 of delinquent assessments, whether or not such collection activities  
36 result in suit being commenced or prosecuted to judgment. In addition,  
37 the association shall be entitled to recover costs and reasonable

1 attorneys' fees if it prevails on appeal and in the enforcement of a  
2 judgment.

3 (15) The association upon written request shall furnish to a unit  
4 owner or a mortgagee a statement signed by an officer or authorized  
5 agent of the association setting forth the amount of unpaid assessments  
6 against that unit. The statement shall be furnished within fifteen  
7 days after receipt of the request and is binding on the association,  
8 the board of directors, and every unit owner, unless and to the extent  
9 known by the recipient to be false.

10 (16) To the extent not inconsistent with this section, the  
11 declaration may provide for such additional remedies for collection of  
12 assessments as may be permitted by law.

13 **Sec. 176.** RCW 66.20.120 and 1933 ex.s. c 62 s 22 are each amended  
14 to read as follows:

15 Any person in charge of an institution regularly conducted as a  
16 hospital or sanatorium for the care of persons in ill health, or as a  
17 home devoted exclusively to the care of aged people, may, if he or she  
18 holds a special permit under this title for that purpose, administer  
19 liquor purchased by him or her under his or her special permit to any  
20 patient or inmate of the institution who is in need of the same, either  
21 by way of external application or otherwise for medicinal purposes, and  
22 may charge for the liquor so administered; but no liquor shall be  
23 administered by any person under this section except to bona fide  
24 patients or inmates of the institution of which he or she is in charge  
25 and in cases of actual need and every person in charge of an  
26 institution who administers liquor in evasion or violation of this  
27 title shall be guilty of a violation of this title.

28 **Sec. 177.** RCW 67.08.080 and 1999 c 282 s 5 are each amended to  
29 read as follows:

30 A boxing event held in this state may not be for more than ten  
31 rounds and no one round of any bout shall be scheduled for longer than  
32 three minutes and there shall be not less than one minute intermission  
33 between each round. In the event of bouts involving state, regional,  
34 national, or world championships, the department may grant an extension  
35 of no more than two additional rounds to allow total bouts of twelve  
36 rounds. A contestant in any boxing event under this chapter may not be

1 permitted to wear gloves weighing less than eight ounces. The director  
2 shall adopt rules to assure clean and (~~sportsmanlike~~) sporting  
3 conduct on the part of all contestants and officials, and the orderly  
4 and proper conduct of the event in all respects, and to otherwise make  
5 rules consistent with this chapter, but such rules shall apply only to  
6 events held under the provisions of this chapter. The director may  
7 adopt rules with respect to round and bout limitations and clean and  
8 (~~sportsmanlike~~) sporting conduct for kickboxing, martial arts, or  
9 wrestling events.

10 **Sec. 178.** RCW 67.16.200 and 2007 c 100 s 1 are each amended to  
11 read as follows:

12 (1) A class 1 racing association licensed by the commission to  
13 conduct a race meet may seek approval from the commission to conduct  
14 parimutuel wagering at a satellite location or locations within the  
15 state of Washington. In order to participate in parimutuel wagering at  
16 a satellite location or locations within the state of Washington, the  
17 holder of a class 1 racing association license must have conducted at  
18 least one full live racing season. All class 1 racing associations  
19 must hold a live race meet within each succeeding twelve-month period  
20 to maintain eligibility to continue to participate in parimutuel  
21 wagering at a satellite location or locations. The sale of parimutuel  
22 pools at satellite locations shall be conducted simultaneous to all  
23 parimutuel wagering activity conducted at the licensee's live racing  
24 facility in the state of Washington. The commission's authority to  
25 approve satellite wagering at a particular location is subject to the  
26 following limitations:

27 (a) The commission may approve only one satellite location in each  
28 county in the state; however, the commission may grant approval for  
29 more than one licensee to conduct wagering at each satellite location.  
30 A satellite location shall not be operated within twenty driving miles  
31 of any class 1 racing facility. For the purposes of this section,  
32 "driving miles" means miles measured by the most direct route as  
33 determined by the commission; and

34 (b) A licensee shall not conduct satellite wagering at any  
35 satellite location within sixty driving miles of any other racing  
36 facility conducting a live race meet.

1 (2) Subject to local zoning and other land use ordinances, the  
2 commission shall be the sole judge of whether approval to conduct  
3 wagering at a satellite location shall be granted.

4 (3) The licensee shall combine the parimutuel pools of the  
5 satellite location with those of the racing facility for the purpose of  
6 determining odds and computing payoffs. The amount wagered at the  
7 satellite location shall be combined with the amount wagered at the  
8 racing facility for the application of take out formulas and  
9 distribution as provided in RCW 67.16.102, 67.16.105, 67.16.170, and  
10 67.16.175. A satellite extension of the licensee's racing facility  
11 shall be subject to the same application of the rules of racing as the  
12 licensee's racing facility.

13 (4) Upon written application to the commission, a class 1 racing  
14 association may be authorized to transmit simulcasts of live horse  
15 races conducted at its racetrack to locations outside of the state of  
16 Washington approved by the commission and in accordance with the  
17 interstate horse racing act of 1978 (15 U.S.C. Sec. 3001 to 3007) or  
18 any other applicable laws. The commission may permit parimutuel pools  
19 on the simulcast races to be combined in a common pool. A racing  
20 association that transmits simulcasts of its races to locations outside  
21 this state shall pay at least fifty percent of the fee that it receives  
22 for sale of the simulcast signal to the horsemen's or horsewomen's  
23 purse account for its live races after first deducting the actual cost  
24 of sending the signal out of state.

25 (5) Upon written application to the commission, a class 1 racing  
26 association may be authorized to transmit simulcasts of live horse  
27 races conducted at its racetrack to licensed racing associations  
28 located within the state of Washington and approved by the commission  
29 for the receipt of the simulcasts. The commission shall permit  
30 parimutuel pools on the simulcast races to be combined in a common  
31 pool. The fee for in-state, track-to-track simulcasts shall be five  
32 and one-half percent of the gross parimutuel receipts generated at the  
33 receiving location and payable to the sending racing association. A  
34 racing association that transmits simulcasts of its races to other  
35 licensed racing associations shall pay at least fifty percent of the  
36 fee that it receives for the simulcast signal to the horsemen's or  
37 horsewomen's purse account for its live race meet after first deducting  
38 the actual cost of sending the simulcast signal. A racing association

1 that receives races simulcast from class 1 racing associations within  
2 the state shall pay at least fifty percent of its share of the  
3 parimutuel receipts to the horsemen's or horsewomen's purse account for  
4 its live race meet after first deducting the purchase price and the  
5 actual direct costs of importing the race.

6 (6) A class 1 racing association may be allowed to import  
7 simulcasts of horse races from out-of-state racing facilities. With  
8 the prior approval of the commission, the class 1 racing association  
9 may participate in a multijurisdictional common pool and may change its  
10 commission and breakage rates to achieve a common rate with other  
11 participants in the common pool.

12 (a) The class 1 racing association shall make written application  
13 with the commission for permission to import simulcast horse races for  
14 the purpose of parimutuel wagering. Subject to the terms of this  
15 section, the commission is the sole authority in determining whether to  
16 grant approval for an imported simulcast race.

17 (b) When open for parimutuel wagering, a class 1 racing association  
18 which imports simulcast races shall also conduct simulcast parimutuel  
19 wagering within its licensed racing enclosure on all races simulcast  
20 from other class 1 racing associations within the state of Washington.

21 (c) On any imported simulcast race, the class 1 racing association  
22 shall pay fifty percent of its share of the parimutuel receipts to the  
23 horsemen's or horsewomen's purse account for its live race meet after  
24 first deducting the purchase price of the imported race and the actual  
25 costs of importing and offering the race.

26 (7) A licensed nonprofit racing association may be approved to  
27 import one simulcast race of regional or national interest on each live  
28 race day.

29 (8) For purposes of this section, a class 1 racing association is  
30 defined as a licensee approved by the commission to conduct during each  
31 twelve-month period at least forty days of live racing. If a live race  
32 day is canceled due to reasons directly attributable to acts of God,  
33 labor disruptions affecting live race days but not directly involving  
34 the licensee or its employees, or other circumstances that the  
35 commission decides are beyond the control of the class 1 racing  
36 association, then the canceled day counts toward the forty-day  
37 requirement. The commission may by rule increase the number of live

1 racing days required to maintain class 1 racing association status or  
2 make other rules necessary to implement this section.

3 (9) This section does not establish a new form of gaming in  
4 Washington or allow expanded gaming within the state beyond what has  
5 been previously authorized. Simulcast wagering has been allowed in  
6 Washington before April 19, 1997. Therefore, this section does not  
7 allow gaming of any nature or scope that was prohibited before April  
8 19, 1997. This section is necessary to protect the Washington equine  
9 breeding and racing industries, and in particular those sectors of  
10 these industries that are dependent upon live horse racing. The  
11 purpose of this section is to protect these industries from adverse  
12 economic impacts and to promote fan attendance at class 1 racing  
13 facilities. Therefore, a licensed class 1 racing association may be  
14 approved to disseminate imported simulcast race card programs to  
15 satellite locations approved under this section, provided that the  
16 class 1 racing association has conducted at least forty live racing  
17 days with an average on-track handle on the live racing product of a  
18 minimum of one hundred fifty thousand dollars per day during the twelve  
19 months immediately preceding the application date. However, to promote  
20 the development of a new class 1 racing association facility and to  
21 meet the best interests of the Washington equine breeding and racing  
22 industries, the commission may by rule reduce the required minimum  
23 average on-track handle on the live racing product from one hundred  
24 fifty thousand dollars per day to thirty thousand dollars per day.

25 (10) A licensee conducting simulcasting under this section shall  
26 place signs in the licensee's gambling establishment under RCW  
27 9.46.071. The informational signs concerning problem and compulsive  
28 gambling must include a toll-free telephone number for problem and  
29 pathological gamblers and be developed under RCW 9.46.071.

30 (11) Chapter 10, Laws of 2001 1st sp. sess. does not establish a  
31 new form of gaming in Washington or allow expanded gaming within the  
32 state beyond what has been previously authorized. Simulcast wagering  
33 has been allowed in Washington before August 23, 2001. Therefore, this  
34 section does not allow gaming of any nature or scope that was  
35 prohibited before August 23, 2001. Chapter 10, Laws of 2001 1st sp.  
36 sess. is necessary to protect the Washington equine breeding and racing  
37 industries, and in particular those sectors of these industries that  
38 are dependent upon live horse racing. The purpose of chapter 10, Laws

1 of 2001 1st sp. sess. is to protect these industries from adverse  
2 economic impacts and to promote fan attendance at class 1 racing  
3 facilities.

4 **Sec. 179.** RCW 70.97.040 and 2005 c 504 s 406 are each amended to  
5 read as follows:

6 (1)(a) Every person who is a resident of an enhanced services  
7 facility shall be entitled to all the rights set forth in this chapter,  
8 and chapters 71.05 and 70.96A RCW, and shall retain all rights not  
9 denied him or her under these chapters.

10 (b) No person shall be presumed incompetent as a consequence of  
11 receiving an evaluation or voluntary or involuntary treatment for a  
12 mental disorder, chemical dependency disorder, or both, under this  
13 chapter, or chapter 71.05 or 70.96A RCW, or any prior laws of this  
14 state dealing with mental illness. Competency shall not be determined  
15 or withdrawn except under the provisions of chapter 10.77 or 11.88 RCW.

16 (c) At the time of his or her treatment planning meeting, every  
17 resident of an enhanced services facility shall be given a written  
18 statement setting forth the substance of this section. The department  
19 shall by rule develop a statement and process for informing residents  
20 of their rights in a manner that is likely to be understood by the  
21 resident.

22 (2) Every resident of an enhanced services facility shall have the  
23 right to adequate care and individualized treatment.

24 (3) The provisions of this chapter shall not be construed to deny  
25 to any person treatment by spiritual means through prayer in accordance  
26 with the tenets and practices of a church or religious denomination.

27 (4) Persons receiving evaluation or treatment under this chapter  
28 shall be given a reasonable choice of an available physician or other  
29 professional person qualified to provide such services.

30 (5) The physician-patient privilege or the psychologist-client  
31 privilege shall be deemed waived in proceedings under this chapter  
32 relating to the administration of antipsychotic medications. As to  
33 other proceedings under chapter 10.77, 70.96A, or 71.05 RCW, the  
34 privileges shall be waived when a court of competent jurisdiction in  
35 its discretion determines that such waiver is necessary to protect  
36 either the detained person or the public.



1 (6) Insofar as danger to the person or others is not created, each  
2 resident of an enhanced services facility shall have, in addition to  
3 other rights not specifically withheld by law, the following rights, a  
4 list of which shall be prominently posted in all facilities,  
5 institutions, and hospitals providing such services:

6 (a) To wear his or her own clothes and to keep and use his or her  
7 own personal possessions, except when deprivation of same is essential  
8 to protect the safety of the resident or other persons;

9 (b) To keep and be allowed to spend a reasonable sum of his or her  
10 own money for canteen expenses and small purchases;

11 (c) To have access to individual storage space for his or her  
12 private use;

13 (d) To have visitors at reasonable times;

14 (e) To have reasonable access to a telephone, both to make and  
15 receive confidential calls, consistent with an effective treatment  
16 program;

17 (f) To have ready access to letter writing materials, including  
18 stamps, and to send and receive uncensored correspondence through the  
19 mails;

20 (g) Not to consent to the administration of antipsychotic  
21 medications beyond the hearing conducted pursuant to RCW 71.05.215 or  
22 71.05.217, or the performance of electroconvulsant therapy, or surgery,  
23 except emergency life-saving surgery, unless ordered by a court under  
24 RCW 71.05.217;

25 (h) To discuss and actively participate in treatment plans and  
26 decisions with professional persons;

27 (i) Not to have psychosurgery performed on him or her under any  
28 circumstances;

29 (j) To dispose of property and sign contracts unless such person  
30 has been adjudicated an incompetent in a court proceeding directed to  
31 that particular issue; and

32 (k) To complain about rights violations or conditions and request  
33 the assistance of a mental health (~~ombudsman~~) ombuds or  
34 representative of Washington protection and advocacy. The facility may  
35 not prohibit or interfere with a resident's decision to consult with an  
36 advocate of his or her choice.

37 (7) Nothing contained in this chapter shall prohibit a resident  
38 from petitioning by writ of habeas corpus for release.

1 (8) Nothing in this section permits any person to knowingly violate  
2 a no-contact order or a condition of an active judgment and sentence or  
3 active supervision by the department of corrections.

4 (9) A person has a right to refuse placement, except where subject  
5 to commitment, in an enhanced services facility. No person shall be  
6 denied other department services solely on the grounds that he or she  
7 has made such a refusal.

8 (10) A person has a right to appeal the decision of the department  
9 that he or she is eligible for placement at an enhanced services  
10 facility, and shall be given notice of the right to appeal in a format  
11 that is accessible to the person with instructions regarding what to do  
12 if the person wants to appeal.

13 **Sec. 180.** RCW 70.97.100 and 2005 c 504 s 412 are each amended to  
14 read as follows:

15 (1) The department shall establish licensing rules for enhanced  
16 services facilities to serve the populations defined in this chapter.

17 (2) No person or public or private agency may operate or maintain  
18 an enhanced services facility without a license, which must be renewed  
19 annually.

20 (3) A licensee shall have the following readily accessible and  
21 available for review by the department, residents, families of  
22 residents, and the public:

23 (a) Its license to operate and a copy of the department's most  
24 recent inspection report and any recent complaint investigation reports  
25 issued by the department;

26 (b) Its written policies and procedures for all treatment, care,  
27 and services provided directly or indirectly by the facility; and

28 (c) The department's toll-free complaint number, which shall also  
29 be posted in a clearly visible place and manner.

30 (4) Enhanced services facilities shall maintain a grievance  
31 procedure that meets the requirements of rules established by the  
32 department.

33 (5) No facility shall discriminate or retaliate in any manner  
34 against a resident or employee because the resident, employee, or any  
35 other person made a complaint or provided information to the  
36 department, the long-term care (~~ombudsman~~) ombuds, Washington

1 protection and advocacy system, or a mental health ((ombudsperson))  
2 ombuds.

3 (6) Each enhanced services facility will post in a prominent place  
4 in a common area a notice by the Washington protection and advocacy  
5 system providing contact information.

6 **Sec. 181.** RCW 70.128.150 and 1995 1st sp.s. c 18 s 27 are each  
7 amended to read as follows:

8 Whenever possible, adult family homes are encouraged to contact and  
9 work with local quality assurance projects such as the volunteer  
10 ((ombudsman)) ombuds with the goal of assuring high quality care is  
11 provided in the home.

12 An adult family home may not willfully interfere with a  
13 representative of the long-term care ((ombudsman)) ombuds program in  
14 the performance of official duties. The department shall impose a  
15 penalty of not more than one thousand dollars for any such willful  
16 interference.

17 **Sec. 182.** RCW 70.128.163 and 2009 c 560 s 6 are each amended to  
18 read as follows:

19 (1) When the department has summarily suspended a license, the  
20 licensee may, subject to the department's approval, elect to  
21 participate in a temporary management program. All provisions of this  
22 section shall apply.

23 The purposes of a temporary management program are as follows:

24 (a) To mitigate dislocation and transfer trauma of residents while  
25 the department and licensee may pursue dispute resolution or appeal of  
26 a summary suspension of license;

27 (b) To facilitate the continuity of safe and appropriate resident  
28 care and services;

29 (c) To preserve a residential option that meets a specialized  
30 service need and/or is in a geographical area that has a lack of  
31 available providers; and

32 (d) To provide residents with the opportunity for orderly  
33 discharge.

34 (2) Licensee participation in the temporary management program is  
35 voluntary. The department shall have the discretion to approve any

1 temporary manager and the temporary management arrangements. The  
2 temporary management shall assume the total responsibility for the  
3 daily operations of the home.

4 (3) The temporary management shall contract with the licensee as an  
5 independent contractor and is responsible for ensuring that all minimum  
6 licensing requirements are met. The temporary management shall protect  
7 the health, safety, and well-being of the residents for the duration of  
8 the temporary management and shall perform all acts reasonably  
9 necessary to ensure that residents' needs are met. The licensee is  
10 responsible for all costs related to administering the temporary  
11 management program and contracting with the temporary management. The  
12 temporary management agreement shall at a minimum address the  
13 following:

14 (a) Provision of liability insurance to protect residents and their  
15 property;

16 (b) Preservation of resident trust funds;

17 (c) The timely payment of past due or current accounts, operating  
18 expenses, including but not limited to staff compensation, and all debt  
19 that comes due during the period of the temporary management;

20 (d) The responsibilities for addressing all other financial  
21 obligations that would interfere with the ability of the temporary  
22 manager to provide adequate care and services to residents; and

23 (e) The authority of the temporary manager to manage the home,  
24 including the hiring, managing, and firing of employees for good cause,  
25 and to provide adequate care and services to residents.

26 (4) The licensee and department shall provide written notification  
27 immediately to all residents, legal representatives, interested family  
28 members, and the state long-term care ((~~ombudsman~~)) ombuds program, of  
29 the temporary management and the reasons for it. This notification  
30 shall include notice that residents may move from the home without  
31 notifying the licensee in advance, and without incurring any charges,  
32 fees, or costs otherwise available for insufficient advance notice,  
33 during the temporary management period.

34 (5) The temporary management period under this section concludes  
35 twenty-eight days after issuance of the formal notification of  
36 enforcement action or conclusion of administrative proceedings,  
37 whichever date is later. Nothing in this section precludes the  
38 department from revoking its approval of the temporary management

1 and/or exercising its licensing enforcement authority under this  
2 chapter. The department's decision whether to approve or to revoke a  
3 temporary management arrangement is not subject to the administrative  
4 procedure act, chapter 34.05 RCW.

5 (6) The department is authorized to adopt rules implementing this  
6 section. In implementing this section, the department shall consult  
7 with consumers, advocates, and organizations representing adult family  
8 homes. The department may recruit and approve qualified, licensed  
9 providers interested in serving as temporary managers.

10 **Sec. 183.** RCW 70.128.200 and 1995 1st sp.s. c 18 s 30 are each  
11 amended to read as follows:

12 (1) The department shall maintain a toll-free telephone number for  
13 receiving complaints regarding adult family homes.

14 (2) An adult family home shall post in a place and manner clearly  
15 visible to residents and visitors the department's toll-free complaint  
16 telephone number.

17 (3) No adult family home shall discriminate or retaliate in any  
18 manner against a resident on the basis or for the reason that such  
19 resident or any other person made a complaint to the department or the  
20 long-term care (~~ombudsman~~) ombuds or cooperated with the  
21 investigation of such a complaint.

22 **Sec. 184.** RCW 70.129.030 and 1998 c 272 s 5 are each amended to  
23 read as follows:

24 (1) The facility must inform the resident both orally and in  
25 writing in a language that the resident understands of his or her  
26 rights and all rules and regulations governing resident conduct and  
27 responsibilities during the stay in the facility. The notification  
28 must be made prior to or upon admission. Receipt of the information  
29 must be acknowledged in writing.

30 (2) The resident or his or her legal representative has the right:

31 (a) Upon an oral or written request, to access all records  
32 pertaining to himself or herself including clinical records within  
33 twenty-four hours; and

34 (b) After receipt of his or her records for inspection, to purchase  
35 at a cost not to exceed the community standard photocopies of the

1 records or portions of them upon request and two working days' advance  
2 notice to the facility.

3 (3) The facility shall only admit or retain individuals whose needs  
4 it can safely and appropriately serve in the facility with appropriate  
5 available staff and through the provision of reasonable accommodations  
6 required by state or federal law. Except in cases of genuine  
7 emergency, the facility shall not admit an individual before obtaining  
8 a thorough assessment of the resident's needs and preferences. The  
9 assessment shall contain, unless unavailable despite the best efforts  
10 of the facility, the resident applicant, and other interested parties,  
11 the following minimum information: Recent medical history; necessary  
12 and contraindicated medications; a licensed medical or other health  
13 professional's diagnosis, unless the individual objects for religious  
14 reasons; significant known behaviors or symptoms that may cause concern  
15 or require special care; mental illness, except where protected by  
16 confidentiality laws; level of personal care needs; activities and  
17 service preferences; and preferences regarding other issues important  
18 to the resident applicant, such as food and daily routine.

19 (4) The facility must inform each resident in writing in a language  
20 the resident or his or her representative understands before admission,  
21 and at least once every twenty-four months thereafter of: (a)  
22 Services, items, and activities customarily available in the facility  
23 or arranged for by the facility as permitted by the facility's license;  
24 (b) charges for those services, items, and activities including charges  
25 for services, items, and activities not covered by the facility's per  
26 diem rate or applicable public benefit programs; and (c) the rules of  
27 facility operations required under RCW 70.129.140(2). Each resident  
28 and his or her representative must be informed in writing in advance of  
29 changes in the availability or the charges for services, items, or  
30 activities, or of changes in the facility's rules. Except in  
31 emergencies, thirty days' advance notice must be given prior to the  
32 change. However, for facilities licensed for six or fewer residents,  
33 if there has been a substantial and continuing change in the resident's  
34 condition necessitating substantially greater or lesser services,  
35 items, or activities, then the charges for those services, items, or  
36 activities may be changed upon fourteen days' advance written notice.

37 (5) The facility must furnish a written description of residents  
38 rights that includes:

1 (a) A description of the manner of protecting personal funds, under  
2 RCW 70.129.040;

3 (b) A posting of names, addresses, and telephone numbers of the  
4 state survey and certification agency, the state licensure office, the  
5 state (~~ombudsmen~~) ombuds program, and the protection and advocacy  
6 systems; and

7 (c) A statement that the resident may file a complaint with the  
8 appropriate state licensing agency concerning alleged resident abuse,  
9 neglect, and misappropriation of resident property in the facility.

10 (6) Notification of changes.

11 (a) A facility must immediately consult with the resident's  
12 physician, and if known, make reasonable efforts to notify the  
13 resident's legal representative or an interested family member when  
14 there is:

15 (i) An accident involving the resident which requires or has the  
16 potential for requiring physician intervention;

17 (ii) A significant change in the resident's physical, mental, or  
18 psychosocial status (i.e., a deterioration in health, mental, or  
19 psychosocial status in either life-threatening conditions or clinical  
20 complications).

21 (b) The facility must promptly notify the resident or the  
22 resident's representative shall make reasonable efforts to notify an  
23 interested family member, if known, when there is:

24 (i) A change in room or roommate assignment; or

25 (ii) A decision to transfer or discharge the resident from the  
26 facility.

27 (c) The facility must record and update the address and phone  
28 number of the resident's representative or interested family member,  
29 upon receipt of notice from them.

30 **Sec. 185.** RCW 70.129.090 and 1994 c 214 s 10 are each amended to  
31 read as follows:

32 (1) The resident has the right and the facility must not interfere  
33 with access to any resident by the following:

34 (a) Any representative of the state;

35 (b) The resident's individual physician;

36 (c) The state long-term care (~~ombudsman~~) ombuds as established  
37 under chapter 43.190 RCW;

1 (d) The agency responsible for the protection and advocacy system  
2 for (~~developmentally disabled~~) individuals with developmental  
3 disabilities as established under part C of the developmental  
4 disabilities assistance and bill of rights act;

5 (e) The agency responsible for the protection and advocacy system  
6 for (~~mentally ill~~) individuals with mental illness as established  
7 under the protection and advocacy for mentally ill individuals act;

8 (f) Subject to reasonable restrictions to protect the rights of  
9 others and to the resident's right to deny or withdraw consent at any  
10 time, immediate family or other relatives of the resident and others  
11 who are visiting with the consent of the resident;

12 (g) The agency responsible for the protection and advocacy system  
13 for individuals with disabilities as established under section 509 of  
14 the rehabilitation act of 1973, as amended, who are not served under  
15 the mandates of existing protection and advocacy systems created under  
16 federal law.

17 (2) The facility must provide reasonable access to a resident by  
18 his or her representative or an entity or individual that provides  
19 health, social, legal, or other services to the resident, subject to  
20 the resident's right to deny or withdraw consent at any time.

21 (3) The facility must allow representatives of the state  
22 (~~ombudsman~~) ombuds to examine a resident's clinical records with the  
23 permission of the resident or the resident's legal representative, and  
24 consistent with state and federal law.

25 **Sec. 186.** RCW 70.129.110 and 1997 c 392 s 205 are each amended to  
26 read as follows:

27 (1) The facility must permit each resident to remain in the  
28 facility, and not transfer or discharge the resident from the facility  
29 unless:

30 (a) The transfer or discharge is necessary for the resident's  
31 welfare and the resident's needs cannot be met in the facility;

32 (b) The safety of individuals in the facility is endangered;

33 (c) The health of individuals in the facility would otherwise be  
34 endangered;

35 (d) The resident has failed to make the required payment for his or  
36 her stay; or

37 (e) The facility ceases to operate.



1 (2) All long-term care facilities shall fully disclose to potential  
2 residents or their legal representative the service capabilities of the  
3 facility prior to admission to the facility. If the care needs of the  
4 applicant who is medicaid eligible are in excess of the facility's  
5 service capabilities, the department shall identify other care settings  
6 or residential care options consistent with federal law.

7 (3) Before a long-term care facility transfers or discharges a  
8 resident, the facility must:

9 (a) First attempt through reasonable accommodations to avoid the  
10 transfer or discharge, unless agreed to by the resident;

11 (b) Notify the resident and representative and make a reasonable  
12 effort to notify, if known, an interested family member of the transfer  
13 or discharge and the reasons for the move in writing and in a language  
14 and manner they understand;

15 (c) Record the reasons in the resident's record; and

16 (d) Include in the notice the items described in subsection (5) of  
17 this section.

18 (4)(a) Except when specified in this subsection, the notice of  
19 transfer or discharge required under subsection (3) of this section  
20 must be made by the facility at least thirty days before the resident  
21 is transferred or discharged.

22 (b) Notice may be made as soon as practicable before transfer or  
23 discharge when:

24 (i) The safety of individuals in the facility would be endangered;

25 (ii) The health of individuals in the facility would be endangered;

26 (iii) An immediate transfer or discharge is required by the  
27 resident's urgent medical needs; or

28 (iv) A resident has not resided in the facility for thirty days.

29 (5) The written notice specified in subsection (3) of this section  
30 must include the following:

31 (a) The reason for transfer or discharge;

32 (b) The effective date of transfer or discharge;

33 (c) The location to which the resident is transferred or  
34 discharged;

35 (d) The name, address, and telephone number of the state long-term  
36 care (~~ombudsman~~) ombuds;

37 (e) For residents with developmental disabilities, the mailing  
38 address and telephone number of the agency responsible for the

1 protection and advocacy of (~~developmentally disabled~~) individuals  
2 with developmental disabilities established under part C of the  
3 developmental disabilities assistance and bill of rights act; and

4 (f) For residents (~~who are mentally ill~~) with mental illness, the  
5 mailing address and telephone number of the agency responsible for the  
6 protection and advocacy of (~~mentally ill~~) individuals with mental  
7 illness established under the protection and advocacy for mentally ill  
8 individuals act.

9 (6) A facility must provide sufficient preparation and orientation  
10 to residents to ensure safe and orderly transfer or discharge from the  
11 facility.

12 (7) A resident discharged in violation of this section has the  
13 right to be readmitted immediately upon the first availability of a  
14 gender-appropriate bed in the facility.

15 **Sec. 187.** RCW 70.129.160 and 2012 c 10 s 58 are each amended to  
16 read as follows:

17 The long-term care (~~ombudsman~~) ombuds shall monitor  
18 implementation of this chapter and determine the degree to which  
19 veterans' homes, nursing facilities, adult family homes, and assisted  
20 living facilities ensure that residents are able to exercise their  
21 rights. The long-term care (~~ombudsman~~) ombuds shall consult with the  
22 departments of health and social and health services, long-term care  
23 facility organizations, resident groups, senior citizen organizations,  
24 and organizations concerning individuals with disabilities.

25 **Sec. 188.** RCW 70.129.170 and 1994 c 214 s 19 are each amended to  
26 read as follows:

27 The legislature intends that long-term care facility or nursing  
28 home residents, their family members or guardians, the long-term care  
29 (~~ombudsman~~) ombuds, protection and advocacy personnel identified in  
30 RCW 70.129.110(~~(+4)~~) (5) (e) and (f), and others who may seek to  
31 assist long-term care facility or nursing home residents, use the least  
32 formal means available to satisfactorily resolve disputes that may  
33 arise regarding the rights conferred by the provisions of this chapter  
34 (~~(70.129-RCW)~~) and RCW 18.20.180, 18.51.009, 72.36.037, and 70.128.125.  
35 Wherever feasible, direct discussion with facility personnel or  
36 administrators should be employed. Failing that, and where feasible,

1 recourse may be sought through state or federal long-term care or  
2 nursing home licensing or other regulatory authorities. However, the  
3 procedures suggested in this section are cumulative and shall not  
4 restrict an agency or person from seeking a remedy provided by law or  
5 from obtaining additional relief based on the same facts, including any  
6 remedy available to an individual at common law. Chapter 214, Laws of  
7 1994 is not intended to, and shall not be construed to, create any  
8 right of action on the part of any individual beyond those in existence  
9 under any common law or statutory doctrine. Chapter 214, Laws of 1994  
10 is not intended to, and shall not be construed to, operate in  
11 derogation of any right of action on the part of any individual in  
12 existence on June 9, 1994.

13 **Sec. 189.** RCW 71.24.350 and 2005 c 504 s 803 are each amended to  
14 read as follows:

15 The department shall require each regional support network to  
16 provide for a separately funded mental health (~~((ombudsman))~~) ombuds  
17 office in each regional support network that is independent of the  
18 regional support network. The (~~((ombudsman))~~) ombuds office shall  
19 maximize the use of consumer advocates.

20 **Sec. 190.** RCW 73.16.061 and 2001 c 133 s 10 are each amended to  
21 read as follows:

22 (1) In case any employer, his or her successor or successors fails  
23 or refuses to comply with the provisions of RCW 73.16.031 through  
24 73.16.061 and 73.16.090, the attorney general shall bring action in the  
25 superior court in the county in which the employer is located or does  
26 business to obtain an order to specifically require such employer to  
27 comply with the provisions of this chapter, and, as an incident  
28 thereto, to compensate such person for any loss of wages or benefits  
29 suffered by reason of such employer's unlawful act if:

30 (a) The service in question was state duty not covered by the  
31 uniformed services employment and reemployment rights act of 1994, P.L.  
32 103-353 (38 U.S.C. Sec. 4301 et seq.); and

33 (b) The employer support for guard and reserve (~~((ombudsman))~~)  
34 ombuds, or his or her designee, has inquired in the matter and has been  
35 unable to resolve it.

1 (2) If the conditions in subsection (1)(a) and (b) of this section  
2 are met, any such person who does not desire the services of the  
3 attorney general may, by private counsel, bring such action.

4 **Sec. 191.** RCW 73.20.010 and 1945 c 271 s 1 are each amended to  
5 read as follows:

6 In addition to the acknowledgment of instruments and the  
7 performance of other notarial acts in the manner and form and as  
8 otherwise authorized by law, instruments may be acknowledged, documents  
9 attested, oaths and affirmations administered, depositions and  
10 affidavits executed, and other notarial acts performed, before or by  
11 any commissioned officer in active service of the armed forces of the  
12 United States with the rank of second lieutenant or higher in the army  
13 or marine corps, or with the rank of ensign or higher in the navy or  
14 coast guard, or with equivalent rank in any other component part of the  
15 armed forces of the United States, by any person who either:

16 (1) Is a member of the armed forces of the United States((~~7~~)); or

17 (2) Is serving as a merchant seaman or seawoman outside the limits  
18 of the United States included within the forty-eight states and the  
19 District of Columbia; or

20 (3) Is outside said limits by permission, assignment, or direction  
21 of any department or official of the United States government, in  
22 connection with any activity pertaining to the prosecution of any war  
23 in which the United States is then engaged.

24 Such acknowledgment of instruments, attestation of documents,  
25 administration of oaths and affirmations, execution of depositions and  
26 affidavits, and performance of other notarial acts, heretofore or  
27 hereafter made or taken, are hereby declared legal, valid, and binding,  
28 and instruments and documents so acknowledged, authenticated, or sworn  
29 to shall be admissible in evidence and eligible to record in this state  
30 under the same circumstances, and with the same force and effect as if  
31 such acknowledgment, attestation, oath, affirmation, deposition,  
32 affidavit, or other notarial act, had been made or taken within this  
33 state before or by a duly qualified officer or official as otherwise  
34 provided by law.

35 In the taking of acknowledgments and the performing of other  
36 notarial acts requiring certification, a certificate endorsed upon or  
37 attached to the instrument or documents, which shows the date of the

1 notarial act and which states, in substance, that the person appearing  
2 before the officer acknowledged the instrument as his or her act or  
3 made or signed the instrument or document under oath, shall be  
4 sufficient for all intents and purposes. The instrument or document  
5 shall not be rendered invalid by the failure to state the place of  
6 execution or acknowledgment.

7 If the signature, rank, and branch of service or subdivision  
8 thereof, of any such commissioned officer appear upon such instrument  
9 or document or certificate, no further proof of the authority of such  
10 officer so to act shall be required and such action by such  
11 commissioned officer shall be prima facie evidence that the person  
12 making such oath or acknowledgment is within the purview of this  
13 section.

14 **Sec. 192.** RCW 74.04.011 and 1979 c 141 s 295 are each amended to  
15 read as follows:

16 The secretary of social and health services shall be the  
17 administrative head and appointing authority of the department of  
18 social and health services and he or she shall have the power to and  
19 shall employ such assistants and personnel as may be necessary for the  
20 general administration of the department: PROVIDED, That such  
21 employment is in accordance with the rules and regulations of the state  
22 merit system. The secretary shall through and by means of his or her  
23 assistants and personnel exercise such powers and perform such duties  
24 as may be prescribed by the public assistance laws of this state.

25 The authority vested in the secretary as appointing authority may  
26 be delegated by the secretary or his or her designee to any suitable  
27 employee of the department.

28 **Sec. 193.** RCW 74.04.014 and 2012 c 253 s 4 are each amended to  
29 read as follows:

30 (1) In carrying out the provisions of this chapter, the office of  
31 fraud and accountability shall have prompt access to all individuals,  
32 records, electronic data, reports, audits, reviews, documents, and  
33 other materials available to the department of revenue, department of  
34 labor and industries, department of early learning, employment security  
35 department, department of licensing, and any other government entity

1 that can be used to help facilitate investigations of fraud or abuse as  
2 determined necessary by the director of the office of fraud and  
3 accountability.

4 (2) The investigator shall have access to all original child care  
5 records maintained by licensed and unlicensed child care providers with  
6 the consent of the provider or with a court order or valid search  
7 warrant.

8 (3) Information gathered by the department, the office, or the  
9 fraud (~~ombudsman~~) ombuds shall be safeguarded and remain confidential  
10 as required by applicable state or federal law. Whenever information  
11 or assistance requested under subsection (1) or (2) of this section is,  
12 in the judgment of the director, unreasonably refused or not provided,  
13 the director of the office of fraud and accountability must report the  
14 circumstances to the secretary immediately.

15 **Sec. 194.** RCW 74.04.080 and 1979 c 141 s 300 are each amended to  
16 read as follows:

17 The county administrator shall have the power to, and shall, employ  
18 such personnel as may be necessary to carry out the provisions of this  
19 title, which employment shall be in accordance with the rules and  
20 regulations of the state merit system, and in accordance with personnel  
21 and administrative standards established by the department. The county  
22 administrator before qualifying shall furnish a surety bond in such  
23 amount as may be fixed by the secretary, but not less than five  
24 thousand dollars, conditioned that the administrator will faithfully  
25 account for all money and property that may come into his or her  
26 possession or control. The cost of such bond shall be an  
27 administrative expense and shall be paid by the department.

28 **Sec. 195.** RCW 74.04.350 and 1959 c 26 s 74.04.350 are each amended  
29 to read as follows:

30 Federal surplus commodities shall not be deemed or construed to be  
31 public assistance and care or a substitute, in whole or in part,  
32 therefor; and the receipt of such commodities by eligible families and  
33 individuals shall not subject them, their legally responsible  
34 relatives, their property, or their estates to any demand, claim, or  
35 liability on account thereof. A person's need or eligibility for

1 public assistance or care shall not be affected by his or her receipt  
2 of federal surplus commodities.

3 **Sec. 196.** RCW 74.04.385 and 1979 c 141 s 314 are each amended to  
4 read as follows:

5 It shall be unlawful for any recipient of federal or other surplus  
6 commodities received under RCW 74.04.380 to sell, transfer, barter, or  
7 otherwise dispose of such commodities to any other person. It shall be  
8 unlawful for any person to receive, possess, or use any surplus  
9 commodities received under RCW 74.04.380 unless he or she has been  
10 certified as eligible to receive, possess, and use such commodities by  
11 the state department of social and health services.

12 Violation of the provisions of RCW 74.04.380 or this section shall  
13 constitute a misdemeanor and upon conviction thereof shall be punished  
14 by imprisonment in the county jail for not more than six months or by  
15 a fine of not more than five hundred dollars or both.

16 **Sec. 197.** RCW 74.04.480 and 1979 c 141 s 321 are each amended to  
17 read as follows:

18 The state department of social and health services is hereby  
19 authorized to promulgate rules and regulations governing the granting  
20 to any employee of the department, other than a provisional employee,  
21 a leave of absence for educational purposes to attend an institution of  
22 learning for the purpose of improving his or her skill, knowledge, and  
23 technique in the administration of social welfare programs which will  
24 benefit the department.

25 Pursuant to the rules and regulations of the department, employees  
26 of the department who are engaged in the administration of public  
27 welfare programs may (1) attend courses of training provided by  
28 institutions of higher learning; (2) attend special courses of study or  
29 seminars of short duration conducted by experts on a temporary basis  
30 for the purpose; (3) accept fellowships or traineeships at institutions  
31 of higher learning with such stipends as are permitted by regulations  
32 of the federal government.

33 The department of social and health services is hereby authorized  
34 to accept any funds from the federal government or any other public or  
35 private agency made available for training purposes for public

1 assistance personnel and to conform with such requirements as are  
2 necessary in order to receive such funds.

3 **Sec. 198.** RCW 74.08.050 and 1971 ex.s. c 169 s 3 are each amended  
4 to read as follows:

5 Application for a grant in any category of public assistance shall  
6 be made to the county office by the applicant or by another on his or  
7 her behalf, and shall be reduced to writing upon standard forms  
8 prescribed by the department, and a written acknowledgment of receipt  
9 of the application by the department shall be given to each applicant  
10 at the time of making application.

11 **Sec. 199.** RCW 74.08.280 and 1987 c 406 s 10 are each amended to  
12 read as follows:

13 If any person receiving public assistance has demonstrated an  
14 inability to care for oneself or for money, the department may direct  
15 the payment of the installments of public assistance to any responsible  
16 person, social service agency, or corporation or to a legally appointed  
17 guardian for his or her benefit. The state may contract with persons,  
18 social service agencies, or corporations approved by the department to  
19 provide protective payee services for a fixed amount per recipient  
20 receiving protective payee services to cover administrative costs. The  
21 department may by rule specify a fee to cover administrative costs.  
22 Such fee shall not be withheld from a recipient's grant.

23 If the state requires the appointment of a guardian for this  
24 purpose, the department shall pay all costs and reasonable fees as  
25 fixed by the court.

26 **Sec. 200.** RCW 74.08.340 and 1997 c 58 s 102 are each amended to  
27 read as follows:

28 All assistance granted under this title shall be deemed to be  
29 granted and to be held subject to the provisions of any amending or  
30 repealing act that may hereafter be enacted, and no recipient shall  
31 have any claim for compensation, or otherwise, by reason of his or her  
32 assistance being affected in any way by such amending or repealing act.  
33 There is no legal entitlement to public assistance.



1       **Sec. 201.** RCW 74.08.370 and 1973 c 106 s 33 are each amended to  
2 read as follows:

3       All old age assistance grants under this title shall be a charge  
4 against and payable out of the general fund of the state. Payment  
5 thereof shall be by warrant drawn upon vouchers duly prepared and  
6 verified by the secretary of the department of social and health  
7 services or his or her official representative.

8       **Sec. 202.** RCW 74.09.210 and 2012 c 241 s 102 are each amended to  
9 read as follows:

10       (1) No person, firm, corporation, partnership, association, agency,  
11 institution, or other legal entity, but not including an individual  
12 public assistance recipient of health care, shall, on behalf of himself  
13 or herself or others, obtain or attempt to obtain benefits or payments  
14 under this chapter in a greater amount than that to which entitled by  
15 means of:

16       (a) A willful false statement;

17       (b) By willful misrepresentation, or by concealment of any material  
18 facts; or

19       (c) By other fraudulent scheme or device, including, but not  
20 limited to:

21       (i) Billing for services, drugs, supplies, or equipment that were  
22 unfurnished, of lower quality, or a substitution or misrepresentation  
23 of items billed; or

24       (ii) Repeated billing for purportedly covered items, which were not  
25 in fact so covered.

26       (2) Any person or entity knowingly violating any of the provisions  
27 of subsection (1) of this section shall be liable for repayment of any  
28 excess benefits or payments received, plus interest at the rate and in  
29 the manner provided in RCW 43.20B.695. Such person or other entity  
30 shall further, in addition to any other penalties provided by law, be  
31 subject to civil penalties. The director or the attorney general may  
32 assess civil penalties in an amount not to exceed three times the  
33 amount of such excess benefits or payments: PROVIDED, That these civil  
34 penalties shall not apply to any acts or omissions occurring prior to  
35 September 1, 1979. RCW 43.20A.215 governs notice of a civil fine  
36 assessed by the director and provides the right to an adjudicative  
37 proceeding.

1 (3) A criminal action need not be brought against a person for that  
2 person to be civilly liable under this section.

3 (4) In all administrative proceedings under this section, service,  
4 adjudicative proceedings, and judicial review of such determinations  
5 shall be in accordance with chapter 34.05 RCW, the administrative  
6 procedure act.

7 (5) Civil penalties shall be deposited upon their receipt into the  
8 medicaid fraud penalty account established in RCW 74.09.215.

9 (6) The attorney general may contract with private attorneys and  
10 local governments in bringing actions under this section as necessary.

11 **Sec. 203.** RCW 74.09.230 and 1979 ex.s. c 152 s 4 are each amended  
12 to read as follows:

13 Any person, including any corporation, that

14 (1) knowingly makes or causes to be made any false statement or  
15 representation of a material fact in any application for any payment  
16 under any medical care program authorized under this chapter, or

17 (2) at any time knowingly makes or causes to be made any false  
18 statement or representation of a material fact for use in determining  
19 rights to such payment, or knowingly falsifies, conceals, or covers up  
20 by any trick, scheme, or device a material fact in connection with such  
21 application or payment, or

22 (3) having knowledge of the occurrence of any event affecting (a)  
23 the initial or continued right to any payment, or (b) the initial or  
24 continued right to any such payment of any other individual in whose  
25 behalf he or she has applied for or is receiving such payment, conceals  
26 or fails to disclose such event with an intent fraudulently to secure  
27 such payment either in a greater amount or quantity than is due or when  
28 no such payment is authorized,

29 shall be guilty of a class C felony: PROVIDED, That the fine, if  
30 imposed, shall not be in an amount more than twenty-five thousand  
31 dollars, except as authorized by RCW 9A.20.030.

32 **Sec. 204.** RCW 74.12.010 and 1999 c 120 s 1 are each amended to  
33 read as follows:

34 For the purposes of the administration of temporary assistance for  
35 needy families, the term "dependent child" means any child in need  
36 under the age of eighteen years who is living with a relative as

1 specified under federal temporary assistance for needy families program  
2 requirements, in a place of residence maintained by one or more of such  
3 relatives as his or her or their homes. The term a "dependent child"  
4 shall, notwithstanding the foregoing, also include a child who would  
5 meet such requirements except for his or her removal from the home of  
6 a relative specified above as a result of a judicial determination that  
7 continuation therein would be contrary to the welfare of such child,  
8 for whose placement and care the state department of social and health  
9 services or the county office is responsible, and who has been placed  
10 in a licensed or approved child care institution or foster home as a  
11 result of such determination and who: (1) Was receiving an aid to  
12 families with dependent children grant for the month in which court  
13 proceedings leading to such determination were initiated; or (2) would  
14 have received aid to families with dependent children for such month if  
15 application had been made therefor; or (3) in the case of a child who  
16 had been living with a specified relative within six months prior to  
17 the month in which such proceedings were initiated, would have received  
18 aid to families with dependent children for such month if in such month  
19 he or she had been living with such a relative and application had been  
20 made therefor, as authorized by the social security act.

21 "Temporary assistance for needy families" means money payments,  
22 services, and remedial care with respect to a dependent child or  
23 dependent children and the needy parent or relative with whom the child  
24 lives.

25 **Sec. 205.** RCW 74.12.250 and 1997 c 58 s 506 are each amended to  
26 read as follows:

27 If the department, after investigation, finds that any applicant  
28 for assistance under this chapter or any recipient of funds under this  
29 chapter would not use, or is not utilizing, the grant adequately for  
30 the needs of his or her child or children or would dissipate the grant  
31 or is dissipating such grant, or would be or is unable to manage  
32 adequately the funds paid on behalf of said child and that to provide  
33 or continue payments to the applicant or recipient would be contrary to  
34 the welfare of the child, the department may make such payments to  
35 another individual who is interested in or concerned with the welfare  
36 of such child and relative: PROVIDED, That the department shall  
37 provide such counseling and other services as are available and

1 necessary to develop greater ability on the part of the relative to  
2 manage funds in such manner as to protect the welfare of the family.  
3 Periodic review of each case shall be made by the department to  
4 determine if said relative is able to resume management of the  
5 assistance grant. If after a reasonable period of time the payments to  
6 the relative cannot be resumed, the department may request the attorney  
7 general to file a petition in the superior court for the appointment of  
8 a guardian for the child or children. Such petition shall set forth  
9 the facts warranting such appointment. Notice of the hearing on such  
10 petition shall be served upon the recipient and the department not less  
11 than ten days before the date set for such hearing. Such petition may  
12 be filed with the clerk of superior court and all process issued and  
13 served without payment of costs. If upon the hearing of such petition  
14 the court is satisfied that it is for the best interest of the child or  
15 children, and all parties concerned, that a guardian be appointed, he  
16 or she shall order the appointment, and may require the guardian to  
17 render to the court a detailed itemized account of expenditures of such  
18 assistance payments at such time as the court may deem advisable.

19 It is the intention of this section that the guardianship herein  
20 provided for shall be a special and limited guardianship solely for the  
21 purpose of safeguarding the assistance grants made to dependent  
22 children. Such guardianship shall terminate upon the termination of  
23 such assistance grant, or sooner on order of the court, upon good cause  
24 shown.

25 **Sec. 206.** RCW 74.13.333 and 2009 c 520 s 82 and 2009 c 491 s 11  
26 are each reenacted and amended to read as follows:

27 (1) A foster parent who believes that a department or supervising  
28 agency employee has retaliated against the foster parent or in any  
29 other manner discriminated against the foster parent because:

30 (a) The foster parent made a complaint with the office of the  
31 family and children's (~~ombudsman~~) ombuds, the attorney general, law  
32 enforcement agencies, the department, or the supervising agency,  
33 provided information, or otherwise cooperated with the investigation of  
34 such a complaint;

35 (b) The foster parent has caused to be instituted any proceedings  
36 under or related to Title 13 RCW;

1 (c) The foster parent has testified or is about to testify in any  
2 proceedings under or related to Title 13 RCW;

3 (d) The foster parent has advocated for services on behalf of the  
4 foster child;

5 (e) The foster parent has sought to adopt a foster child in the  
6 foster parent's care; or

7 (f) The foster parent has discussed or consulted with anyone  
8 concerning the foster parent's rights under this chapter or chapter  
9 74.15 or 13.34 RCW, may file a complaint with the office of the family  
10 and children's (~~ombudsman~~) ombuds.

11 (2) The (~~ombudsman~~) ombuds may investigate the allegations of  
12 retaliation. The (~~ombudsman~~) ombuds shall have access to all  
13 relevant information and resources held by or within the department by  
14 which to conduct the investigation. Upon the conclusion of its  
15 investigation, the (~~ombudsman~~) ombuds shall provide its findings in  
16 written form to the department.

17 (3) The department shall notify the office of the family and  
18 children's (~~ombudsman~~) ombuds in writing, within thirty days of  
19 receiving the (~~ombudsman's~~) ombuds's findings, of any personnel  
20 action taken or to be taken with regard to the department employee.

21 (4) The office of the family and children's (~~ombudsman~~) ombuds  
22 shall also include its recommendations regarding complaints filed under  
23 this section in its annual report pursuant to RCW 43.06A.030. The  
24 office of the family and children's (~~ombudsman~~) ombuds shall identify  
25 trends which may indicate a need to improve relations between the  
26 department or supervising agency and foster parents.

27 **Sec. 207.** RCW 74.13.334 and 2009 c 520 s 83 are each amended to  
28 read as follows:

29 The department and supervising agency shall develop procedures for  
30 responding to recommendations of the office of the family and  
31 children's (~~ombudsman~~) ombuds as a result of any and all complaints  
32 filed by foster parents under RCW 74.13.333.

33 **Sec. 208.** RCW 74.13.368 and 2012 c 205 s 10 are each amended to  
34 read as follows:

35 (1)(a) The child welfare transformation design committee is  
36 established, with members as provided in this subsection.

- 1 (i) The governor or the governor's designee;
- 2 (ii) Four private agencies that, as of May 18, 2009, provide child  
3 welfare services to children and families referred to them by the  
4 department. Two agencies must be headquartered in western Washington  
5 and two must be headquartered in eastern Washington. Two agencies must  
6 have an annual budget of at least one million state-contracted dollars  
7 and two must have an annual budget of less than one million state-  
8 contracted dollars;
- 9 (iii) The assistant secretary of the children's administration in  
10 the department;
- 11 (iv) Two regional administrators in the children's administration  
12 selected by the assistant secretary, one from one of the department's  
13 administrative regions one or two, and one from one of the department's  
14 administrative regions three, four, five, or six;
- 15 (v) The administrator for the division of licensed resources in the  
16 children's administration;
- 17 (vi) Two nationally recognized experts in performance-based  
18 contracts;
- 19 (vii) The attorney general or the attorney general's designee;
- 20 (viii) A representative of the collective bargaining unit that  
21 represents the largest number of employees in the children's  
22 administration;
- 23 (ix) A representative from the office of the family and children's  
24 (~~ombudsman~~) ombuds;
- 25 (x) Four representatives from the Indian policy advisory committee  
26 convened by the department's office of Indian policy and support  
27 services;
- 28 (xi) Two currently elected or former superior court judges with  
29 significant experience in dependency matters, selected by the superior  
30 court judges' association;
- 31 (xii) One representative from partners for our children affiliated  
32 with the University of Washington school of social work;
- 33 (xiii) A member of the Washington state racial disproportionality  
34 advisory committee;
- 35 (xiv) A foster parent;
- 36 (xv) A youth currently in or a recent alumnus of the Washington  
37 state foster care system, to be designated by the cochairs of the  
38 committee; and

1 (xvi) A parent representative who has had personal experience with  
2 the dependency system.

3 (b) The president of the senate and the speaker of the house of  
4 representatives shall jointly appoint the members under (a)(ii), (xiv),  
5 and (xvi) of this subsection.

6 (c) The representative from partners for our children shall convene  
7 the initial meeting of the committee no later than June 15, 2009.

8 (d) The cochairs of the committee shall be the assistant secretary  
9 for the children's administration and another member selected by a  
10 majority vote of those members present at the initial meeting.

11 (2) The committee shall establish a transition plan containing  
12 recommendations to the legislature and the governor consistent with  
13 this section for the provision of child welfare services by supervising  
14 agencies pursuant to RCW 74.13.360.

15 (3) The plan shall include the following:

16 (a) A model or framework for performance-based contracts to be used  
17 by the department that clearly defines:

18 (i) The target population;

19 (ii) The referral and exit criteria for the services;

20 (iii) The child welfare services including the use of evidence-  
21 based services and practices to be provided by contractors;

22 (iv) The roles and responsibilities of public and private agency  
23 workers in key case decisions;

24 (v) Contract performance and outcomes, including those related to  
25 eliminating racial disparities in child outcomes;

26 (vi) That supervising agencies will provide culturally competent  
27 service;

28 (vii) How to measure whether each contractor has met the goals  
29 listed in RCW 74.13.360(4); and

30 (viii) Incentives to meet performance outcomes;

31 (b) A method or methods by which clients will access community-  
32 based services, how private supervising agencies will engage other  
33 services or form local service networks, develop subcontracts, and  
34 share information and supervision of children;

35 (c) Methods to address the effects of racial disproportionality, as  
36 identified in the 2008 Racial Disproportionality Advisory Committee  
37 Report published by the Washington state institute for public policy in  
38 June 2008;

1 (d) Methods for inclusion of the principles and requirements of the  
2 centennial accord executed in November 2001, executed between the state  
3 of Washington and federally recognized tribes in Washington state;

4 (e) Methods for assuring performance-based contracts adhere to the  
5 letter and intent of the federal Indian child welfare act;

6 (f) Contract monitoring and evaluation procedures that will ensure  
7 that children and families are receiving timely and quality services  
8 and that contract terms are being implemented;

9 (g) A method or methods by which to ensure that the children's  
10 administration has sufficiently trained and experienced staff to  
11 monitor and manage performance-based contracts;

12 (h) A process by which to expand the capacity of supervising and  
13 other private agencies to meet the service needs of children and  
14 families in a performance-based contractual arrangement;

15 (i) A method or methods by which supervising and other private  
16 agencies can expand services in underserved areas of the state;

17 (j) The appropriate amounts and procedures for the reimbursement of  
18 supervising agencies given the proposed services restructuring;

19 (k) A method by which to access and enhance existing data systems  
20 to include contract performance information;

21 (l) A financing arrangement for the contracts that examines:

22 (i) The use of case rates or performance-based fee-for-service  
23 contracts that include incentive payments or payment schedules that  
24 link reimbursement to outcomes; and

25 (ii) Ways to reduce a contractor's financial risk that could  
26 jeopardize the solvency of the contractor, including consideration of  
27 the use of a risk-reward corridor that limits risk of loss and  
28 potential profits or the establishment of a statewide risk pool;

29 (m) A description of how the transition will impact the state's  
30 ability to obtain federal funding and examine options to further  
31 maximize federal funding opportunities and increased flexibility;

32 (n) A review of whether current administrative staffing levels in  
33 the regions should be continued when the majority of child welfare  
34 services are being provided by supervising agencies;

35 (o) A description of the costs of the transition, the initial  
36 start-up costs and the mechanisms to periodically assess the overall  
37 adequacy of funds and the fiscal impact of the changes, and the



1 feasibility of the plan and the impact of the plan on department  
2 employees during the transition; and

3 (p) Identification of any statutory and regulatory revisions  
4 necessary to accomplish the transition.

5 (4)(a) The committee, with the assistance of the department, shall  
6 select two demonstration sites within which to implement chapter 520,  
7 Laws of 2009. One site must be located on the eastern side of the  
8 state. The other site must be located on the western side of the  
9 state. Neither site must be wholly located in any of the department's  
10 administrative regions.

11 (b) The committee shall develop two sets of performance outcomes to  
12 be included in the performance-based contracts the department enters  
13 into with supervising agencies. The first set of outcomes shall be  
14 used for those cases transferred to a supervising agency over time.  
15 The second set of outcomes shall be used for new entrants to the child  
16 welfare system.

17 (c) The committee shall also identify methods for ensuring that  
18 comparison of performance between supervising agencies and the existing  
19 service delivery system takes into account the variation in the  
20 characteristics of the populations being served as well as historical  
21 trends in outcomes for those populations.

22 (5) The committee shall determine the appropriate size of the child  
23 and family populations to be provided services under performance-based  
24 contracts with supervising agencies. The committee shall also identify  
25 the time frame within which cases will be transferred to supervising  
26 agencies. The performance-based contracts entered into with  
27 supervising agencies shall encompass the provision of child welfare  
28 services to enough children and families in each demonstration site to  
29 allow for the assessment of whether there are meaningful differences,  
30 to be defined by the committee, between the outcomes achieved in the  
31 demonstration sites and the comparison sites or populations. To ensure  
32 adequate statistical power to assess these differences, the populations  
33 served shall be large enough to provide a probability greater than  
34 seventy percent that meaningful difference will be detected and a  
35 ninety-five percent probability that observed differences are not due  
36 to chance alone.

37 (6) The committee shall also prepare as part of the plan a

1 recommendation as to how to implement chapter 520, Laws of 2009 so that  
2 full implementation of chapter 520, Laws of 2009 is achieved no later  
3 than December 30, 2015.

4 (7) The committee shall prepare the plan to manage the delivery of  
5 child welfare services in a manner that achieves coordination of the  
6 services and programs that deliver primary prevention services.

7 (8) Beginning June 30, 2009, the committee shall report quarterly  
8 to the governor and the legislative children's oversight committee  
9 established in RCW 44.04.220. From June 30, 2012, until December 30,  
10 2015, the committee need only report twice a year. The committee shall  
11 report on its progress in meeting its duties under subsections (2) and  
12 (3) of this section and on any other matters the committee or the  
13 legislative children's oversight committee or the governor deems  
14 appropriate. The portion of the plan required in subsection (6) of  
15 this section shall be due to the legislative children's oversight  
16 committee on or before June 1, 2010. The reports shall be in written  
17 form.

18 (9) The committee, by majority vote, may establish advisory  
19 committees as it deems necessary.

20 (10) All state executive branch agencies and the agencies with whom  
21 the department contracts for child welfare services shall cooperate  
22 with the committee and provide timely information as the chair or  
23 cochairs may request. Cooperation by the children's administration  
24 must include developing and scheduling training for supervising  
25 agencies to access data and information necessary to implement and  
26 monitor the contracts.

27 (11) It is expected that the administrative costs for the committee  
28 will be supported through private funds.

29 (12) The committee is subject to chapters 42.30 (open public  
30 meetings act) and 42.52 (ethics in public service) RCW.

31 (13) This section expires July 1, 2016.

32 **Sec. 209.** RCW 74.13.640 and 2011 c 61 s 2 are each amended to read  
33 as follows:

34 (1)(a) The department shall conduct a child fatality review in the  
35 event of a fatality suspected to be caused by child abuse or neglect of  
36 any minor who is in the care of the department or a supervising agency

1 or receiving services described in this chapter or who has been in the  
2 care of the department or a supervising agency or received services  
3 described in this chapter within one year preceding the minor's death.

4 (b) The department shall consult with the office of the family and  
5 children's (~~ombudsman~~) ombuds to determine if a child fatality review  
6 should be conducted in any case in which it cannot be determined  
7 whether the child's death is the result of suspected child abuse or  
8 neglect.

9 (c) The department shall ensure that the fatality review team is  
10 made up of individuals who had no previous involvement in the case,  
11 including individuals whose professional expertise is pertinent to the  
12 dynamics of the case.

13 (d) Upon conclusion of a child fatality review required pursuant to  
14 this section, the department shall within one hundred eighty days  
15 following the fatality issue a report on the results of the review,  
16 unless an extension has been granted by the governor. Reports must be  
17 distributed to the appropriate committees of the legislature, and the  
18 department shall create a public web site where all child fatality  
19 review reports required under this section must be posted and  
20 maintained. A child fatality review report completed pursuant to this  
21 section is subject to public disclosure and must be posted on the  
22 public web site, except that confidential information may be redacted  
23 by the department consistent with the requirements of RCW 13.50.100,  
24 68.50.105, 74.13.500 through 74.13.525, chapter 42.56 RCW, and other  
25 applicable state and federal laws.

26 (e) The department shall develop and implement procedures to carry  
27 out the requirements of this section.

28 (2) In the event of a near fatality of a child who is in the care  
29 of or receiving services described in this chapter from the department  
30 or a supervising agency or who has been in the care of or received  
31 services described in this chapter from the department or a supervising  
32 agency within one year preceding the near fatality, the department  
33 shall promptly notify the office of the family and children's  
34 (~~ombudsman~~) ombuds. The department may conduct a review of the near  
35 fatality at its discretion or at the request of the office of the  
36 family and children's (~~ombudsman~~) ombuds.

37 (3) In any review of a child fatality or near fatality in which the  
38 child was placed with or received services from a supervising agency

1 pursuant to a contract with the department, the department and the  
2 fatality review team shall have access to all records and files  
3 regarding the child or otherwise relevant to the review that have been  
4 produced or retained by the supervising agency.

5 (4)(a) A child fatality or near fatality review completed pursuant  
6 to this section is subject to discovery in a civil or administrative  
7 proceeding, but may not be admitted into evidence or otherwise used in  
8 a civil or administrative proceeding except pursuant to this section.

9 (b) A department employee responsible for conducting a child  
10 fatality or near fatality review, or member of a child fatality or near  
11 fatality review team, may not be examined in a civil or administrative  
12 proceeding regarding (i) the work of the child fatality or near  
13 fatality review team, (ii) the incident under review, (iii) his or her  
14 statements, deliberations, thoughts, analyses, or impressions relating  
15 to the work of the child fatality or near fatality review team or the  
16 incident under review, or (iv) the statements, deliberations, thoughts,  
17 analyses, or impressions of any other member of the child fatality or  
18 near fatality review team, or any person who provided information to  
19 the child fatality or near fatality review team, relating to the work  
20 of the child fatality or near fatality review team or the incident  
21 under review.

22 (c) Documents prepared by or for a child fatality or near fatality  
23 review team are inadmissible and may not be used in a civil or  
24 administrative proceeding, except that any document that exists before  
25 its use or consideration in a child fatality or near fatality review,  
26 or that is created independently of such review, does not become  
27 inadmissible merely because it is reviewed or used by a child fatality  
28 or near fatality review team. A person is not unavailable as a witness  
29 merely because the person has been interviewed by or has provided a  
30 statement for a child fatality or near fatality review, but if called  
31 as a witness, a person may not be examined regarding the person's  
32 interactions with the child fatality or near fatality review including,  
33 without limitation, whether the person was interviewed during such  
34 review, the questions that were asked during such review, and the  
35 answers that the person provided during such review. This section may  
36 not be construed as restricting the person from testifying fully in any  
37 proceeding regarding his or her knowledge of the incident under review.

1 (d) The restrictions set forth in this section do not apply in a  
2 licensing or disciplinary proceeding arising from an agency's effort to  
3 revoke or suspend the license of any licensed professional based in  
4 whole or in part upon allegations of wrongdoing in connection with a  
5 minor's death or near fatality reviewed by a child fatality or near  
6 fatality review team.

7 **Sec. 210.** RCW 74.13A.025 and 1996 c 130 s 1 are each amended to  
8 read as follows:

9 The factors to be considered by the secretary in setting the amount  
10 of any payment or payments to be made pursuant to RCW 26.33.320 and  
11 ~~((74.13.100))~~ 74.13A.005 through ~~((74.13.145))~~ 74.13A.080 and in  
12 adjusting standards hereunder shall include: The size of the family  
13 including the adoptive child, the usual living expenses of the family,  
14 the special needs of any family member including education needs, the  
15 family income, the family resources and plan for savings, the medical  
16 and hospitalization needs of the family, the family's means of  
17 purchasing or otherwise receiving such care, and any other expenses  
18 likely to be needed by the child to be adopted. In setting the amount  
19 of any initial payment made pursuant to RCW 26.33.320 and ~~((74.13.100))~~  
20 74.13A.005 through ~~((74.13.145))~~ 74.13A.080, the secretary is  
21 authorized to establish maximum payment amounts that are reasonable and  
22 allow permanency planning goals related to adoption of children under  
23 RCW 13.34.145 to be achieved at the earliest possible date.

24 The amounts paid for the support of a child pursuant to RCW  
25 26.33.320 and ~~((74.13.100))~~ 74.13A.005 through ~~((74.13.145))~~ 74.13A.080  
26 may vary from family to family and from year to year. Due to changes  
27 in economic circumstances or the needs of the child such payments may  
28 be discontinued and later resumed.

29 Payments under RCW 26.33.320 and ~~((74.13.100))~~ 74.13A.005 through  
30 ~~((74.13.145))~~ 74.13A.080 may be continued by the secretary subject to  
31 review as provided for herein, if such parent or parents having such  
32 child in their custody establish their residence in another state or a  
33 foreign jurisdiction.

34 In fixing the standards to govern the amount and character of  
35 payments to be made for the support of adopted children pursuant to RCW  
36 26.33.320 and ~~((74.13.100))~~ 74.13A.005 through ~~((74.13.145))~~ 74.13A.080  
37 and before issuing rules and regulations to carry out the provisions of

1 RCW 26.33.320 and (~~74.13.100~~) 74.13A.005 through (~~74.13.145~~)  
2 74.13A.080, the secretary shall consider the comments and  
3 recommendations of the committee designated by the secretary to advise  
4 him or her with respect to child welfare.

5 **Sec. 211.** RCW 74.13A.040 and 2009 c 527 s 1 are each amended to  
6 read as follows:

7 (1) Any parent who is a party to an agreement under RCW  
8 (~~74.13.100~~) 74.13A.005 through (~~74.13.145~~) 74.13A.080 may at any  
9 time, in writing, request, for reasons set forth in such request, a  
10 review of the amount of any payment or the level of continuing  
11 payments. The review shall begin not later than thirty days from the  
12 receipt of such request. Any adjustment may be made retroactive to the  
13 date such request was received by the secretary. If such request is  
14 not acted on within thirty days after it has been received by the  
15 secretary, such parent may invoke his or her rights under the hearing  
16 provisions set forth in RCW (~~74.13.127~~) 74.13A.055.

17 (2) The secretary may make adjustments in payments at the time of  
18 the review, or at other times, if the secretary finds that  
19 circumstances have changed and warrant an adjustment in payments.  
20 Changes in circumstances may include, but are not limited to,  
21 variations in medical opinions, prognosis, and costs. Appropriate  
22 adjustments in payments shall be made based upon changes in the needs  
23 of the child and/or changes in the adoptive parents' income, resources,  
24 and expenses for the care of such child or other members of the family,  
25 including medical and/or hospitalization expense not otherwise covered  
26 by or subject to reimbursement from insurance or other sources of  
27 financial assistance.

28 **Sec. 212.** RCW 74.13A.075 and 1985 c 7 s 145 are each amended to  
29 read as follows:

30 As used in RCW 26.33.320 and (~~74.13.100~~) 74.13A.005 through  
31 (~~74.13.145~~) 74.13A.080 the following definitions shall apply:

32 (1) "Secretary" means the secretary of the department of social and  
33 health services or his or her designee.

34 (2) "Department" means the department of social and health  
35 services.

1       **Sec. 213.** RCW 74.15.140 and 1979 c 141 s 363 are each amended to  
2 read as follows:

3       Notwithstanding the existence or pursuit of any other remedy, the  
4 secretary may, in the manner provided by law, upon the advice of the  
5 attorney general, who shall represent the department in the proceeding,  
6 maintain an action in the name of the state for injunction or such  
7 other relief as he or she may deem advisable against any agency subject  
8 to licensing under the provisions of chapter 74.15 RCW and RCW  
9 74.13.031 or against any such agency not having a license as heretofore  
10 provided in chapter 74.15 RCW and RCW 74.13.031.

11       **Sec. 214.** RCW 74.20.260 and 1979 c 141 s 368 are each amended to  
12 read as follows:

13       Any parent in the state whose absence is the basis upon which an  
14 application is filed for public assistance on behalf of a child shall  
15 be required to complete a statement, under oath, of his or her current  
16 monthly income, his or her total income over the past twelve months,  
17 the number of dependents for whom he or she is providing support, the  
18 amount he or she is contributing regularly toward the support of all  
19 children for whom application for such assistance is made, his or her  
20 current monthly living expenses, and such other information as is  
21 pertinent to determining his or her ability to support his or her  
22 children. Such statement shall be provided upon demand made by the  
23 state department of social and health services or attorney general, and  
24 if assistance based upon such application is granted on behalf of such  
25 child, additional statements shall be filed annually thereafter with  
26 the state department of social and health services until such time as  
27 the child is no longer receiving such assistance. Failure to comply  
28 with this section shall constitute a misdemeanor.

29       **Sec. 215.** RCW 74.20A.040 and 1989 c 360 s 8 are each amended to  
30 read as follows:

31       (1) The secretary may issue a notice of a support debt accrued  
32 and/or accruing based upon RCW 74.20A.030, assignment of a support debt  
33 or a request for support enforcement services under RCW 74.20.040 (2)  
34 or (3), to enforce and collect a support debt created by a superior  
35 court order or administrative order. The payee under the order shall  
36 be informed when a notice of support debt is issued under this section.

1 (2) The notice may be served upon the debtor in the manner  
2 prescribed for the service of a summons in a civil action or be mailed  
3 to the debtor at his or her last known address by certified mail,  
4 return receipt requested, demanding payment within twenty days of the  
5 date of receipt.

6 (3) The notice of debt shall include:

7 (a) A statement of the support debt accrued and/or accruing,  
8 computable on the amount required to be paid under any superior court  
9 order to which the department is subrogated or is authorized to enforce  
10 and collect under RCW 74.20A.030, has an assigned interest, or has been  
11 authorized to enforce pursuant to RCW 74.20.040 (2) or (3);

12 (b) A statement that the property of the debtor is subject to  
13 collection action;

14 (c) A statement that the property is subject to lien and  
15 foreclosure, distraint, seizure and sale, or order to withhold and  
16 deliver; and

17 (d) A statement that the net proceeds will be applied to the  
18 satisfaction of the support debt.

19 (4) Action to collect a support debt by lien and foreclosure, or  
20 distraint, seizure and sale, or order to withhold and deliver shall be  
21 lawful after twenty days from the date of service upon the debtor or  
22 twenty days from the receipt or refusal by the debtor of said notice of  
23 debt.

24 (5) The secretary shall not be required to issue or serve such  
25 notice of support debt prior to taking collection action under this  
26 chapter when a responsible parent's support order:

27 (a) Contains language directing the parent to make support payments  
28 to the Washington state support registry; and

29 (b) Includes a statement that income-withholding action under this  
30 chapter may be taken without further notice to the responsible parent,  
31 as provided in RCW 26.23.050(1).

32 **Sec. 216.** RCW 74.20A.130 and 1987 c 435 s 32 are each amended to  
33 read as follows:

34 Whenever a support lien has been filed pursuant to RCW 74.20A.060,  
35 the secretary may collect the support debt stated in said lien by the  
36 distraint, seizure, and sale of the property subject to said lien. Not  
37 less than ten days prior to the date of sale, the secretary shall cause



1 a copy of the notice of sale to be transmitted by regular mail and by  
2 any form of mailing requiring a return receipt to the debtor and any  
3 person known to have or claim an interest in the property. Said notice  
4 shall contain a general description of the property to be sold and the  
5 time, date, and place of the sale. The notice of sale shall be posted  
6 in at least two public places in the county wherein the distraint has  
7 been made. The time of sale shall not be less than ten nor more than  
8 twenty days from the date of posting of such notices. Said sale shall  
9 be conducted by the secretary, who shall proceed to sell such property  
10 by parcel or by lot at a public auction, and who may set a minimum  
11 reasonable price to include the expenses of making a levy and of  
12 advertising the sale, and if the amount bid for such property at the  
13 sale is not equal to the price so fixed, the secretary may declare such  
14 property to be purchased by the department for such price, or may  
15 conduct another sale of such property pursuant to the provisions of  
16 this section. In the event of sale, the debtor's account shall be  
17 credited with the amount for which the property has been sold.  
18 Property acquired by the department as herein prescribed may be sold by  
19 the secretary at public or private sale, and the amount realized shall  
20 be placed in the state general fund to the credit of the department of  
21 social and health services. In all cases of sale, as aforesaid, the  
22 secretary shall issue a bill of sale or a deed to the purchaser and  
23 said bill of sale or deed shall be prima facie evidence of the right of  
24 the secretary to make such sale and conclusive evidence of the  
25 regularity of his or her proceeding in making the sale, and shall  
26 transfer to the purchaser all right, title, and interest of the debtor  
27 in said property. The proceeds of any such sale, except in those cases  
28 wherein the property has been acquired by the department, shall be  
29 first applied by the secretary to reimbursement of the costs of  
30 distraint and sale, and thereafter in satisfaction of the delinquent  
31 account. Any excess which shall thereafter remain in the hands of the  
32 secretary shall be refunded to the debtor. Sums so refundable to a  
33 debtor may be subject to seizure or distraint by any taxing authority  
34 of the state or its political subdivisions or by the secretary for new  
35 sums due and owing subsequent to the subject proceeding. Except as  
36 specifically provided in this chapter, there shall be exempt from  
37 distraint, seizure, and sale under this chapter such property as is  
38 exempt therefrom under the laws of this state.

1           **Sec. 217.** RCW 74.20A.150 and 1973 1st ex.s. c 183 s 14 are each  
2 amended to read as follows:

3           Any person owning real property, or any interest in real property,  
4 against which a support lien has been filed and foreclosure instituted,  
5 shall have the right to pay the amount due, together with expenses of  
6 the proceedings and reasonable attorneys' fees to the secretary and  
7 upon such payment the secretary shall restore said property to him or  
8 her and all further proceedings in the said foreclosure action shall  
9 cease. Said person shall also have the right within two hundred forty  
10 days after sale of property foreclosed under RCW 74.20A.140 to redeem  
11 said property by making payment to the purchaser in the amount paid by  
12 the purchaser plus interest thereon at the rate of six percent per  
13 annum.

14           **Sec. 218.** RCW 74.34.095 and 2000 c 87 s 4 are each amended to read  
15 as follows:

16           (1) The following information is confidential and not subject to  
17 disclosure, except as provided in this section:

18           (a) A report of abandonment, abuse, financial exploitation, or  
19 neglect made under this chapter;

20           (b) The identity of the person making the report; and

21           (c) All files, reports, records, communications, and working papers  
22 used or developed in the investigation or provision of protective  
23 services.

24           (2) Information considered confidential may be disclosed only for  
25 a purpose consistent with this chapter or as authorized by chapter  
26 18.20, 18.51, or 74.39A RCW, or as authorized by the long-term care  
27 (~~ombudsman~~) ombuds programs under federal law or state law, chapter  
28 43.190 RCW.

29           (3) A court or presiding officer in an administrative proceeding  
30 may order disclosure of confidential information only if the court, or  
31 presiding officer in an administrative proceeding, determines that  
32 disclosure is essential to the administration of justice and will not  
33 endanger the life or safety of the vulnerable adult or individual who  
34 made the report. The court or presiding officer in an administrative  
35 hearing may place restrictions on such disclosure as the court or  
36 presiding officer deems proper.

1           **Sec. 219.** RCW 74.34.200 and 1999 c 176 s 15 are each amended to  
2 read as follows:

3           (1) In addition to other remedies available under the law, a  
4 vulnerable adult who has been subjected to abandonment, abuse,  
5 financial exploitation, or neglect either while residing in a facility  
6 or in the case of a person residing at home who receives care from a  
7 home health, hospice, or home care agency, or an individual provider,  
8 shall have a cause of action for damages on account of his or her  
9 injuries, pain and suffering, and loss of property sustained thereby.  
10 This action shall be available where the defendant is or was a  
11 corporation, trust, unincorporated association, partnership,  
12 administrator, employee, agent, officer, partner, or director of a  
13 facility, or of a home health, hospice, or home care agency licensed or  
14 required to be licensed under chapter 70.127 RCW, as now or  
15 subsequently designated, or an individual provider.

16           (2) It is the intent of the legislature, however, that where there  
17 is a dispute about the care or treatment of a vulnerable adult, the  
18 parties should use the least formal means available to try to resolve  
19 the dispute. Where feasible, parties are encouraged but not mandated  
20 to employ direct discussion with the health care provider, use of the  
21 long-term care (~~ombudsman~~) ombuds or other intermediaries, and, when  
22 necessary, recourse through licensing or other regulatory authorities.

23           (3) In an action brought under this section, a prevailing plaintiff  
24 shall be awarded his or her actual damages, together with the costs of  
25 the suit, including a reasonable attorneys' fee. The term "costs"  
26 includes, but is not limited to, the reasonable fees for a guardian,  
27 guardian ad litem, and experts, if any, that may be necessary to the  
28 litigation of a claim brought under this section.

29           **Sec. 220.** RCW 76.09.100 and 1975 1st ex.s. c 200 s 7 are each  
30 amended to read as follows:

31           If the department of ecology determines that a person has failed to  
32 comply with the forest practices regulations relating to water quality  
33 protection, and that the department of natural resources has not issued  
34 a stop work order or notice to comply, the department of ecology shall  
35 inform the department thereof. If the department of natural resources  
36 fails to take authorized enforcement action within twenty-four hours  
37 under RCW 76.09.080, 76.09.090, 76.09.120, or 76.09.130, the department

1 of ecology may petition to the ((~~chairman~~)) chair of the appeals board,  
2 who shall, within forty-eight hours, either deny the petition or direct  
3 the department of natural resources to immediately issue a stop work  
4 order or notice to comply, or to impose a penalty. No civil or  
5 criminal penalties shall be imposed for past actions or omissions if  
6 such actions or omissions were conducted pursuant to an approval or  
7 directive of the department of natural resources.

8 **Sec. 221.** RCW 76.36.100 and 1925 ex.s. c 154 s 10 are each amended  
9 to read as follows:

10 The owner of any mark or brand registered as herein provided, by  
11 himself or herself or his or her duly authorized agent or  
12 representative, shall have a lawful right, at any time and in any  
13 peaceable manner, to enter into or upon any tidelands, marshes, and  
14 beaches of this state and any mill, mill yard, mill boom, rafting, or  
15 storage grounds and any forest products or raft or boom thereof, for  
16 the purpose of searching for any forest products and booming equipment  
17 having impressed thereupon or cut therein a registered mark or brand  
18 belonging to him or her and to retake any forest products and booming  
19 equipment so found by him or her.

20 **Sec. 222.** RCW 74.36.110 and 1971 ex.s. c 169 s 10 are each amended  
21 to read as follows:

22 The secretary of the department of social and health services or  
23 his or her designee is authorized to allot for such purposes all or a  
24 portion of whatever state funds the legislature appropriates or are  
25 otherwise made available for the purpose of matching local funds  
26 dedicated to community programs and projects for the aging. The  
27 purpose of RCW 74.36.110 through 74.36.130 is to stimulate and assist  
28 local communities to obtain federal funds made available under the  
29 federal older Americans act of 1965 as amended.

30 **Sec. 223.** RCW 74.36.120 and 1971 ex.s. c 169 s 11 are each amended  
31 to read as follows:

32 (1) The secretary or his or her designee shall adopt and set forth  
33 standards for determining the eligibility and approval of community  
34 projects and priorities therefor, and shall have final authority to

1 approve or deny such projects and funding requested under RCW 74.36.110  
2 through 74.36.130.

3 (2) Only community project proposals submitted by local public  
4 agencies, by private nonprofit agencies or organizations, or by public  
5 or other nonprofit institutions of higher education, shall be eligible  
6 for approval.

7 (3) Any community project applicant whose application for approval  
8 is denied will be afforded an opportunity for an informal hearing  
9 before the secretary or his or her designee, but the administrative  
10 procedure act, chapter 34.05 RCW, shall not apply.

11 **Sec. 224.** RCW 74.36.130 and 1971 ex.s. c 169 s 12 are each amended  
12 to read as follows:

13 (1) State funds made available under RCW 74.36.110 through  
14 74.36.130 for any project shall not exceed fifty per centum of the  
15 nonfederal share of the costs. To the extent that federal law permits,  
16 and the secretary or his or her designee deems appropriate, the local  
17 community share and/or the state share may be in the form of cash or  
18 in-kind resources.

19 (2) Payments made under RCW 74.36.110 through 74.36.130 may be made  
20 in advance or by way of reimbursement, and in such installments and on  
21 such conditions as the secretary or his or her designee may determine,  
22 including provisions for adequate accounting systems, reasonable record  
23 retention periods, and financial audits.

24 **Sec. 225.** RCW 74.38.040 and 1983 c 290 s 14 are each amended to  
25 read as follows:

26 The community based services for low-income eligible persons  
27 provided by the department or the respective area agencies may include:

28 (1) Access services designed to provide identification of eligible  
29 persons, assessment of individual needs, reference to the appropriate  
30 service, and follow-up service where required. These services shall  
31 include information and referral, outreach, transportation, and  
32 counseling;

33 (2) Day care offered on a regular, recurrent basis. General  
34 nursing, rehabilitation, personal care, nutritional services, social  
35 casework, mental health as provided pursuant to chapter 71.24 RCW,

1 and/or limited transportation services may be made available within  
2 this program;

3 (3) In-home care for persons, including basic health care;  
4 performance of various household tasks and other necessary chores, or,  
5 a combination of these services;

6 (4) Counseling on death for the terminally ill and care and  
7 attendance at the time of death; except, that this is not to include  
8 reimbursement for the use of life-sustaining mechanisms;

9 (5) Health services which will identify health needs and which are  
10 designed to avoid institutionalization; assist in securing admission to  
11 medical institutions or other health related facilities when required;  
12 and, assist in obtaining health services from public or private  
13 agencies or providers of health services. These services shall include  
14 health screening and evaluation, in-home services, health education,  
15 and such health appliances which will further the independence and  
16 well-being of the person;

17 (6) The provision of low-cost, nutritionally sound meals in central  
18 locations or in the person's home in the instance of incapacity. Also,  
19 supportive services may be provided in nutritional education, shopping  
20 assistance, diet counseling, and other services to sustain the  
21 nutritional well-being of these persons;

22 (7) The provisions of services to maintain a person's home in a  
23 state of adequate repair, insofar as is possible, for their safety and  
24 comfort. These services shall be limited, but may include housing  
25 counseling, minor repair and maintenance, and moving assistance when  
26 such repair will not attain standards of health and safety, as  
27 determined by the department;

28 (8) Civil legal services, as limited by RCW 2.50.100, for  
29 counseling and representation in the areas of housing, consumer  
30 protection, public entitlements, property, and related fields of law;

31 (9) Long-term care (~~ombudsman~~) ombuds programs for residents of  
32 all long-term care facilities.

33 **Sec. 226.** RCW 74.38.050 and 1983 c 290 s 15 are each amended to  
34 read as follows:

35 The services provided in RCW 74.38.040 may be provided to nonlow-  
36 income eligible persons: PROVIDED, That the department and the area  
37 agencies on aging shall utilize volunteer workers and public assistant

1 recipients to the maximum extent possible to provide the services  
2 provided in RCW 74.38.040: PROVIDED, FURTHER, That the department and  
3 the area agencies shall utilize the bid procedure pursuant to chapter  
4 43.19 RCW for providing such services to low\_income and nonlow\_income  
5 persons whenever the services to be provided are available through  
6 private agencies at a cost savings to the department. The department  
7 shall establish a fee schedule based on the ability to pay and  
8 graduated to full recovery of the cost of the service provided; except,  
9 that nutritional services, health screening, services under the long-  
10 term care ((ombudsman)) ombuds program under chapter 43.190 RCW, and  
11 access services provided in RCW 74.38.040 shall not be based on need  
12 and no fee shall be charged; except further, notwithstanding any other  
13 provision of this chapter, that well\_adult clinic services may be  
14 provided in lieu of health screening services if such clinics use the  
15 fee schedule established by this section.

16 **Sec. 227.** RCW 74.39A.060 and 2001 c 193 s 1 are each amended to  
17 read as follows:

18 (1) The aging and adult services administration of the department  
19 shall establish and maintain a toll-free telephone number for receiving  
20 complaints regarding a facility that the administration licenses or  
21 with which it contracts for long-term care services.

22 (2) All facilities that are licensed by, or that contract with the  
23 aging and adult services administration to provide chronic long-term  
24 care services shall post in a place and manner clearly visible to  
25 residents and visitors the department's toll-free complaint telephone  
26 number and the toll-free number and program description of the long-  
27 term care ((ombudsman)) ombuds as provided by RCW 43.190.050.

28 (3) The aging and adult services administration shall investigate  
29 complaints if the subject of the complaint is within its authority  
30 unless the department determines that: (a) The complaint is intended  
31 to willfully harass a licensee or employee of the licensee; or (b)  
32 there is no reasonable basis for investigation; or (c) corrective  
33 action has been taken as determined by the ((ombudsman)) ombuds or the  
34 department.

35 (4) The aging and adult services administration shall refer  
36 complaints to appropriate state agencies, law enforcement agencies, the  
37 attorney general, the long-term care ((ombudsman)) ombuds, or other

1 entities if the department lacks authority to investigate or if its  
2 investigation reveals that a follow-up referral to one or more of these  
3 entities is appropriate.

4 (5) The department shall adopt rules that include the following  
5 complaint investigation protocols:

6 (a) Upon receipt of a complaint, the department shall make a  
7 preliminary review of the complaint, assess the severity of the  
8 complaint, and assign an appropriate response time. Complaints  
9 involving imminent danger to the health, safety, or well-being of a  
10 resident must be responded to within two days. When appropriate, the  
11 department shall make an on-site investigation within a reasonable time  
12 after receipt of the complaint or otherwise ensure that complaints are  
13 responded to.

14 (b) The complainant must be: Promptly contacted by the department,  
15 unless anonymous or unavailable despite several attempts by the  
16 department, and informed of the right to discuss the alleged violations  
17 with the inspector and to provide other information the complainant  
18 believes will assist the inspector; informed of the department's course  
19 of action; and informed of the right to receive a written copy of the  
20 investigation report.

21 (c) In conducting the investigation, the department shall interview  
22 the complainant, unless anonymous, and shall use its best efforts to  
23 interview the vulnerable adult or adults allegedly harmed, and,  
24 consistent with the protection of the vulnerable adult shall interview  
25 facility staff, any available independent sources of relevant  
26 information, including if appropriate the family members of the  
27 vulnerable adult.

28 (d) Substantiated complaints involving harm to a resident, if an  
29 applicable law or rule has been violated, shall be subject to one or  
30 more of the actions provided in RCW 74.39A.080 or 70.128.160. Whenever  
31 appropriate, the department shall also give consultation and technical  
32 assistance to the provider.

33 (e) After a department finding of a violation for which a stop  
34 placement has been imposed, the department shall make an on-site  
35 revisit of the provider within fifteen working days from the request  
36 for revisit, to ensure correction of the violation. For violations  
37 that are serious or recurring or uncorrected following a previous  
38 citation, and create actual or threatened harm to one or more



1 residents' well-being, including violations of residents' rights, the  
2 department shall make an on-site revisit as soon as appropriate to  
3 ensure correction of the violation. Verification of correction of all  
4 other violations may be made by either a department on-site revisit or  
5 by written or photographic documentation found by the department to be  
6 credible. This subsection does not prevent the department from  
7 enforcing license or contract suspensions or revocations. Nothing in  
8 this subsection shall interfere with or diminish the department's  
9 authority and duty to ensure that the provider adequately cares for  
10 residents, including to make departmental on-site revisits as needed to  
11 ensure that the provider protects residents and to enforce compliance  
12 with this chapter.

13 (f) Substantiated complaints of neglect, abuse, exploitation, or  
14 abandonment of residents, or suspected criminal violations, shall also  
15 be referred by the department to the appropriate law enforcement  
16 agencies, the attorney general, and appropriate professional  
17 disciplining authority.

18 (6) The department may provide the substance of the complaint to  
19 the licensee or contractor before the completion of the investigation  
20 by the department unless such disclosure would reveal the identity of  
21 a complainant, witness, or resident who chooses to remain anonymous.  
22 Neither the substance of the complaint provided to the licensee or  
23 contractor nor any copy of the complaint or related report published,  
24 released, or made otherwise available shall disclose, or reasonably  
25 lead to the disclosure of, the name, title, or identity of any  
26 complainant, or other person mentioned in the complaint, except that  
27 the name of the provider and the name or names of any officer,  
28 employee, or agent of the department conducting the investigation shall  
29 be disclosed after the investigation has been closed and the complaint  
30 has been substantiated. The department may disclose the identity of  
31 the complainant if such disclosure is requested in writing by the  
32 complainant. Nothing in this subsection shall be construed to  
33 interfere with the obligation of the long-term care ((ombudsman))  
34 ombuds program or department staff to monitor the department's  
35 licensing, contract, and complaint investigation files for long-term  
36 care facilities.

37 (7) The resident has the right to be free of interference,  
38 coercion, discrimination, and reprisal from a facility in exercising

1 his or her rights, including the right to voice grievances about  
2 treatment furnished or not furnished. A facility that provides long-  
3 term care services shall not discriminate or retaliate in any manner  
4 against a resident, employee, or any other person on the basis or for  
5 the reason that such resident or any other person made a complaint to  
6 the department, the attorney general, law enforcement agencies, or the  
7 long-term care ((ombudsman)) ombuds, provided information, or otherwise  
8 cooperated with the investigation of such a complaint. Any attempt to  
9 discharge a resident against the resident's wishes, or any type of  
10 retaliatory treatment of a resident by whom or upon whose behalf a  
11 complaint substantiated by the department has been made to the  
12 department, the attorney general, law enforcement agencies, or the  
13 long-term care ((ombudsman)) ombuds, within one year of the filing of  
14 the complaint, raises a rebuttable presumption that such action was in  
15 retaliation for the filing of the complaint. "Retaliatory treatment"  
16 means, but is not limited to, monitoring a resident's phone, mail, or  
17 visits; involuntary seclusion or isolation; transferring a resident to  
18 a different room unless requested or based upon legitimate management  
19 reasons; withholding or threatening to withhold food or treatment  
20 unless authorized by a terminally ill resident or his or her  
21 representative pursuant to law; or persistently delaying responses to  
22 a resident's request for service or assistance. A facility that  
23 provides long-term care services shall not willfully interfere with the  
24 performance of official duties by a long-term care ((ombudsman))  
25 ombuds. The department shall sanction and may impose a civil penalty  
26 of not more than three thousand dollars for a violation of this  
27 subsection.

28 **Sec. 228.** RCW 74.39A.380 and 2011 1st sp.s. c 3 s 502 are each  
29 amended to read as follows:

30 (1) Subject to funding provided for this specific purpose, the  
31 department of social and health services shall develop for phased-in  
32 implementation a statewide internal quality review and accountability  
33 program for residential care services. The program must be designed to  
34 enable the department to improve the accountability of staff and the  
35 consistent application of investigative activities across all long-term  
36 care settings, and must allow the systematic monitoring and evaluation  
37 of long-term care licensing and certification. The program must be

1 designed to improve and standardize investigative outcomes for the  
2 vulnerable individuals at risk of abuse and neglect, and coordinate  
3 outcomes across the department to prevent perpetrators from changing  
4 settings and continuing to work with vulnerable adults.

5 (2) The department shall convene a quality assurance panel to  
6 review problems in the quality of care in adult family homes and to  
7 reduce incidents of abuse, neglect, abandonment, and financial  
8 exploitation. The state's long-term care (~~ombudsman~~) ombuds shall  
9 chair the panel and identify appropriate stakeholders to participate.  
10 The panel must consider inspection, investigation, public complaint,  
11 and enforcement issues that relate to adult family homes. The panel  
12 must also focus on oversight issues to address de minimis violations,  
13 processes for handling unresolved citations, and better ways to oversee  
14 new providers. The panel shall meet at least quarterly, and provide a  
15 report with recommendations to the governor's office, the senate health  
16 and long-term care committee, and the house of representatives health  
17 and wellness committee by December 1, 2012.

18 **Sec. 229.** RCW 74.42.450 and 1997 c 392 s 216 are each amended to  
19 read as follows:

20 (1) The facility shall admit as residents only those individuals  
21 whose needs can be met by:

22 (a) The facility;

23 (b) The facility cooperating with community resources; or

24 (c) The facility cooperating with other providers of care  
25 affiliated or under contract with the facility.

26 (2) The facility shall transfer a resident to a hospital or other  
27 appropriate facility when a change occurs in the resident's physical or  
28 mental condition that requires care or service that the facility cannot  
29 provide. The resident, the resident's guardian, if any, the resident's  
30 next of kin, the attending physician, and the department shall be  
31 consulted at least fifteen days before a transfer or discharge unless  
32 the resident is transferred under emergency circumstances. The  
33 department shall use casework services or other means to insure that  
34 adequate arrangements are made to meet the resident's needs.

35 (3) A resident shall be transferred or discharged only for medical  
36 reasons, the resident's welfare or request, the welfare of other

1 residents, or nonpayment. A resident may not be discharged for  
2 nonpayment if the discharge would be prohibited by the medicaid  
3 program.

4 (4) If a resident chooses to remain in the nursing facility, the  
5 department shall respect that choice, provided that if the resident is  
6 a medicaid recipient, the resident continues to require a nursing  
7 facility level of care.

8 (5) If the department determines that a resident no longer requires  
9 a nursing facility level of care, the resident shall not be discharged  
10 from the nursing facility until at least thirty days after written  
11 notice is given to the resident, the resident's surrogate decision  
12 maker and, if appropriate, a family member or the resident's  
13 representative. A form for requesting a hearing to appeal the  
14 discharge decision shall be attached to the written notice. The  
15 written notice shall include at least the following:

16 (a) The reason for the discharge;

17 (b) A statement that the resident has the right to appeal the  
18 discharge; and

19 (c) The name, address, and telephone number of the state long-term  
20 care (~~ombudsman~~) ombuds.

21 (6) If the resident appeals a department discharge decision, the  
22 resident shall not be discharged without the resident's consent until  
23 at least thirty days after a final order is entered upholding the  
24 decision to discharge the resident.

25 (7) Before the facility transfers or discharges a resident, the  
26 facility must first attempt through reasonable accommodations to avoid  
27 the transfer or discharge unless the transfer or discharge is agreed to  
28 by the resident. The facility shall admit or retain only individuals  
29 whose needs it can safely and appropriately serve in the facility with  
30 available staff or through the provision of reasonable accommodations  
31 required by state or federal law. "Reasonable accommodations" has the  
32 meaning given to this term under the federal Americans with  
33 disabilities act of 1990, 42 U.S.C. Sec. 12101 et seq. and other  
34 applicable federal or state antidiscrimination laws and regulations.

35 **Sec. 230.** RCW 74.42.640 and 2006 c 209 s 13 are each amended to  
36 read as follows:

37 (1) To ensure the proper delivery of services and the maintenance

1 and improvement in quality of care through self-review, each facility  
2 may maintain a quality assurance committee that, at a minimum,  
3 includes:

- 4 (a) The director of nursing services;
- 5 (b) A physician designated by the facility; and
- 6 (c) Three other members from the staff of the facility.

7 (2) When established, the quality assurance committee shall meet at  
8 least quarterly to identify issues that may adversely affect quality of  
9 care and services to residents and to develop and implement plans of  
10 action to correct identified quality concerns or deficiencies in the  
11 quality of care provided to residents.

12 (3) To promote quality of care through self-review without the fear  
13 of reprisal, and to enhance the objectivity of the review process, the  
14 department shall not require, and the long-term care ((ombudsman))  
15 ombuds program shall not request, disclosure of any quality assurance  
16 committee records or reports, unless the disclosure is related to the  
17 committee's compliance with this section, if:

18 (a) The records or reports are not maintained pursuant to statutory  
19 or regulatory mandate; and

20 (b) The records or reports are created for and collected and  
21 maintained by the committee.

22 (4) The department may request only information related to the  
23 quality assurance committee that may be necessary to determine whether  
24 a facility has a quality assurance committee and that it is operating  
25 in compliance with this section.

26 (5) Good faith attempts by the committee to identify and correct  
27 quality deficiencies shall not be used as a basis for imposing  
28 sanctions.

29 (6) If the facility offers the department documents generated by,  
30 or for, the quality assurance committee as evidence of compliance with  
31 nursing facility requirements, the documents are protected as quality  
32 assurance committee documents under subsections (7) and (9) of this  
33 section when in the possession of the department. The department is  
34 not liable for an inadvertent disclosure, a disclosure related to a  
35 required federal or state audit, or disclosure of documents incorrectly  
36 marked as quality assurance committee documents by the facility.

37 (7) Information and documents, including the analysis of complaints  
38 and incident reports, created specifically for, and collected and

1 maintained by, a quality assurance committee are not subject to  
2 discovery or introduction into evidence in any civil action, and no  
3 person who was in attendance at a meeting of such committee or who  
4 participated in the creation, collection, or maintenance of information  
5 or documents specifically for the committee shall be permitted or  
6 required to testify in any civil action as to the content of such  
7 proceedings or the documents and information prepared specifically for  
8 the committee. This subsection does not preclude: (a) In any civil  
9 action, the discovery of the identity of persons involved in the care  
10 that is the basis of the civil action whose involvement was independent  
11 of any quality improvement committee activity; and (b) in any civil  
12 action, the testimony of any person concerning the facts which form the  
13 basis for the institution of such proceedings of which the person had  
14 personal knowledge acquired independently of their participation in the  
15 quality assurance committee activities.

16 (8) A quality assurance committee under subsection (1) of this  
17 section, RCW 18.20.390, 70.41.200, 4.24.250, or 43.70.510 may share  
18 information and documents, including the analysis of complaints and  
19 incident reports, created specifically for, and collected and  
20 maintained by, the committee, with one or more other quality assurance  
21 committees created under subsection (1) of this section, RCW 18.20.390,  
22 70.41.200, 4.24.250, or 43.70.510 for the improvement of the quality of  
23 care and services rendered to nursing facility residents. Information  
24 and documents disclosed by one quality assurance committee to another  
25 quality assurance committee and any information and documents created  
26 or maintained as a result of the sharing of information and documents  
27 shall not be subject to the discovery process and confidentiality shall  
28 be respected as required by subsections (7) and (9) of this section,  
29 RCW 18.20.390 (6) and (8), 43.70.510(4), 70.41.200(3), and 4.24.250(1).  
30 The privacy protections of chapter 70.02 RCW and the federal health  
31 insurance portability and accountability act of 1996 and its  
32 implementing regulations apply to the sharing of individually  
33 identifiable patient information held by a coordinated quality  
34 improvement program. Any rules necessary to implement this section  
35 shall meet the requirements of applicable federal and state privacy  
36 laws.

37 (9) Information and documents, including the analysis of complaints

1 and incident reports, created specifically for, and collected and  
2 maintained by, a quality assurance committee are exempt from disclosure  
3 under chapter 42.56 RCW.

4 (10) Notwithstanding any records created for the quality assurance  
5 committee, the facility shall fully set forth in the resident's  
6 records, available to the resident, the department, and others as  
7 permitted by law, the facts concerning any incident of injury or loss  
8 to the resident, the steps taken by the facility to address the  
9 resident's needs, and the resident outcome.

10 (11) A facility operated as part of a hospital licensed under  
11 chapter 70.41 RCW may maintain a quality assurance committee in  
12 accordance with this section which shall be subject to the provisions  
13 of subsections (1) through (10) of this section or may conduct quality  
14 improvement activities for the facility through a quality improvement  
15 committee under RCW 70.41.200 which shall be subject to the provisions  
16 of RCW 70.41.200(9).

17 **Sec. 231.** RCW 76.09.320 and 1987 c 95 s 6 are each amended to read  
18 as follows:

19 (1) Subject to the availability of appropriated funds, the  
20 department shall pay fifty percent of the cost of implementing the  
21 hazard-reduction program, except as provided in subsection (2) of this  
22 section.

23 (2) In the event department funds described in subsection (1) of  
24 this section are not available for all or a portion of a forest  
25 landowner's property, the landowner may request application of the  
26 hazard-reduction program to the owner's lands, provided the landowner  
27 funds one hundred percent of the cost of implementation of the  
28 department's recommended actions on his or her property.

29 (3) No cost-sharing funds may be made available for sites where the  
30 department determines that the hazardous condition results from a  
31 violation of then-prevailing standards as established by statute or  
32 rule.

33 **Sec. 232.** RCW 76.14.080 and 1988 c 128 s 43 are each amended to  
34 read as follows:

35 The department shall develop fire protection projects within the  
36 high hazard forest area and shall determine the boundaries thereof in

1 accordance with the lands benefited thereby and shall assess one-sixth  
2 of the cost of such projects equally upon all forest lands within the  
3 project on an acreage basis. Such assessment shall not, however,  
4 exceed twenty-five cents per acre annually nor more than one dollar and  
5 fifty cents per acre in the aggregate and shall constitute a lien upon  
6 any forest products harvested therefrom. The landowner may by written  
7 notice to the department elect to pay his or her assessment on a  
8 deferred basis at a rate of ten cents per thousand board feet and/or  
9 one cent per Christmas tree when these products are harvested from the  
10 lands for commercial use until the assessment plus two percent interest  
11 from the date of completion of each project has been paid for each  
12 acre. Payments under the deferred plan shall be credited by forty acre  
13 tracts and shall be first applied to payment of the assessment against  
14 the forty acre tract from which the funds were derived and secondly to  
15 other forty acre tracts held and designated by the payor. In the event  
16 total ownership is less than forty acres, then payment shall be applied  
17 on an undivided basis to the entire areas as to which the assessment  
18 remains unpaid. The landowner who elects to pay on deferred basis may  
19 pay any unpaid assessment and interest at any time.

20 **Sec. 233.** RCW 76.14.090 and 1988 c 128 s 44 are each amended to  
21 read as follows:

22 Notice of each project, the estimated assessment per acre, and a  
23 description of the boundaries thereof shall be given by publication in  
24 a local newspaper of general circulation thirty days in advance of  
25 commencing work. Any person owning land within the project may within  
26 ten days after publication of notice demand a hearing before the  
27 department in Olympia and present any reasons why he or she feels the  
28 assessment should not be made upon his or her land. Thereafter, the  
29 department may change the boundaries of said project to eliminate land  
30 from the project which it determines in its discretion will not be  
31 benefited by the project.

32 **Sec. 234.** RCW 76.14.100 and 1988 c 128 s 45 are each amended to  
33 read as follows:

34 Except when the owner has notified the department in writing that  
35 he or she will make payment on the deferred plan, the assessment shall  
36 be collected by the department reporting the same to the county



1 assessor of the county in which the property is situated upon  
2 completion of the work in that project and the assessor shall annually  
3 extend the amounts upon the tax rolls covering the property, and the  
4 amounts shall be collected in the same manner, by the same procedure,  
5 and with the same penalties attached as the next general state and  
6 county taxes on the same property are collected. Errors in assessments  
7 may be corrected at any time by the department by certifying them to  
8 the treasurer of the county in which the land involved is situated.  
9 Upon the collection of such assessments, the county treasurer shall  
10 transmit them to the department. Payment on the deferred plan shall be  
11 made directly to the department. Such payment must be made by January  
12 31st for any timber or Christmas trees harvested during the previous  
13 calendar year and must be accompanied by a statement of the amount of  
14 timber or number of Christmas trees harvested and the legal description  
15 of the property from which they were harvested. Whenever an owner  
16 paying on the deferred plan desires to pay any unpaid balance or  
17 portion thereof, he or she may make direct payment to the department.

18 **Sec. 235.** RCW 76.14.110 and 1988 c 128 s 46 are each amended to  
19 read as follows:

20 Where the department finds that a portion of the work in any  
21 project, except road building, has been done by private expenditures  
22 for fire protection purposes only and that the work was not required by  
23 other forestry laws having general application, then the department  
24 shall appraise the work on the basis of what it would have cost the  
25 state and shall credit the amount of the appraisal toward payment of  
26 any sums assessed against lands contained in the project and owned by  
27 the person or his or her predecessors in title making the expenditure.  
28 Such appraisal shall be added to the cost of the project for purposes  
29 of determining the general assessment.

30 **Sec. 236.** RCW 76.42.030 and 1994 c 163 s 3 are each amended to  
31 read as follows:

32 The department of natural resources may by contract, license, or  
33 permit, or other arrangements, cause such wood debris to be removed by  
34 private contractors, department of natural resources employees, or by  
35 other public bodies. Nothing contained in this chapter shall prohibit

1 any individual from using any nonmerchtable wood debris for his or  
2 her own personal use.

3 **Sec. 237.** RCW 76.52.020 and 1979 c 100 s 2 are each amended to  
4 read as follows:

5 The department of natural resources may, by agreement, make  
6 available to forest landowners, equipment, materials, and personnel for  
7 the purpose of more intensively managing or protecting the land when  
8 the department determines that such services are not otherwise  
9 available at a cost which would encourage the landowner to so avail  
10 himself or herself, and that the use of department equipment,  
11 materials, or personnel will not jeopardize the management of state  
12 lands or other programs of the department. The department shall enter  
13 into a contractual agreement with the landowner for services rendered  
14 and shall recover the costs thereof.

15 **Sec. 238.** RCW 77.04.060 and 1993 sp.s. c 2 s 63 are each amended  
16 to read as follows:

17 The commission shall hold at least one regular meeting during the  
18 first two months of each calendar quarter, and special meetings when  
19 called by the chair and by five members. Five members constitute a  
20 quorum for the transaction of business.

21 The commission at a meeting in each odd-numbered year shall elect  
22 one of its members as (~~chairman~~) chair and another member as vice  
23 (~~chairman~~) chair, each of whom shall serve for a term of two years or  
24 until a successor is elected and qualified.

25 Members of the commission shall be compensated in accordance with  
26 RCW 43.03.250. In addition, members are allowed their travel expenses  
27 incurred while absent from their usual places of residence in  
28 accordance with RCW 43.03.050 and 43.03.060.

29 **Sec. 239.** RCW 77.12.370 and 1987 c 506 s 43 are each amended to  
30 read as follows:

31 Prior to the forwarding of a request needing endorsement under RCW  
32 77.12.360, the director shall present the request to the legislative  
33 authority of the county in which the lands are located for its  
34 approval. The legislative authority, before acting on the request, may

1 call a public hearing. The hearing shall take place within thirty days  
2 after presentation of the request to the legislative authority.

3 The director shall publish notice of the public hearing called by  
4 the legislative authority in a newspaper of general circulation within  
5 the county at least once a week for two successive weeks prior to the  
6 hearing. The notice shall contain a copy of the request and the time  
7 and place of the hearing.

8 The ((~~chairman~~)) chair of the county legislative authority shall  
9 preside at the public hearing. The proceedings shall be informal and  
10 all persons shall have a reasonable opportunity to be heard.

11 Within ten days after the hearing, the county legislative authority  
12 shall endorse its decision on the request for withdrawal. The decision  
13 is final and not subject to appeal.

14 **Sec. 240.** RCW 77.12.620 and 2000 c 107 s 226 are each amended to  
15 read as follows:

16 The department is authorized to require hunters and ((~~fishermen~~))  
17 fishers occupying a motor vehicle approaching or entering a check  
18 station to stop and produce for inspection: (1) Any wildlife, fish,  
19 shellfish, or seaweed in their possession; (2) licenses, permits, tags,  
20 stamps, or catch record cards, required under Title 77 RCW, or rules  
21 adopted thereunder. For these purposes, the department is authorized  
22 to operate check stations which shall be plainly marked by signs,  
23 operated by at least one uniformed fish and wildlife officer, and  
24 operated in a safe manner.

25 **Sec. 241.** RCW 77.12.760 and 1993 sp.s. c 2 s 78 are each amended  
26 to read as follows:

27 Steelhead trout shall be managed solely as a recreational fishery  
28 for non-Indian ((~~fishermen~~)) fishers under the rule-setting authority  
29 of the fish and wildlife commission.

30 Commercial non-Indian steelhead fisheries are not authorized.

31 **Sec. 242.** RCW 77.15.570 and 2000 c 107 s 251 are each amended to  
32 read as follows:

33 (1) Except as provided in subsection (3) of this section, it is  
34 unlawful for a person who is not a treaty Indian ((~~fisherman~~)) fisher  
35 to participate in the taking of fish or shellfish in a treaty Indian

1 fishery, or to be on board a vessel, or associated equipment, operating  
2 in a treaty Indian fishery. A violation of this subsection is a gross  
3 misdemeanor.

4 (2) A person who violates subsection (1) of this section with the  
5 intent of acting for commercial purposes, including any sale of catch,  
6 control of catch, profit from catch, or payment for fishing assistance,  
7 is guilty of a class C felony. Upon conviction, the department shall  
8 order revocation of any license and a one-year suspension of all  
9 commercial fishing privileges requiring a license under chapter 77.65  
10 or 77.70 RCW.

11 (3)(a) The spouse, forebears, siblings, children, and grandchildren  
12 of a treaty Indian (~~((fisherman))~~) fisher may assist the (~~((fisherman))~~)  
13 fisher in exercising treaty Indian fishing rights when the treaty  
14 Indian (~~((fisherman))~~) fisher is present at the fishing site.

15 (b) Other treaty Indian (~~((fishermen))~~) fishers with off-reservation  
16 treaty fishing rights in the same usual and accustomed places, whether  
17 or not the (~~((fishermen))~~) fishers are members of the same tribe or  
18 another treaty tribe, may assist a treaty Indian (~~((fisherman))~~) fisher  
19 in exercising treaty Indian fishing rights when the treaty Indian  
20 (~~((fisherman))~~) fisher is present at the fishing site.

21 (c) Biologists approved by the department may be on board a vessel  
22 operating in a treaty Indian fishery.

23 (4) For the purposes of this section:

24 (a) "Treaty Indian (~~((fisherman))~~) fisher" means a person who may  
25 exercise treaty Indian fishing rights as determined under United States  
26 v. Washington, 384 F. Supp. 312 (W.D. Wash. 1974), or Sohappay v. Smith,  
27 302 F. Supp. 899 (D. Oregon 1969), and post-trial orders of those  
28 courts;

29 (b) "Treaty Indian fishery" means a fishery open to only treaty  
30 Indian (~~((fishermen))~~) fishers by tribal or federal regulation;

31 (c) "To participate" and its derivatives mean an effort to operate  
32 a vessel or fishing equipment, provide immediate supervision in the  
33 operation of a vessel or fishing equipment, or otherwise assist in the  
34 fishing operation, to claim possession of a share of the catch, or to  
35 represent that the catch was lawfully taken in an Indian fishery.

36 (5) A violation of this section constitutes illegal fishing and is  
37 subject to the suspensions provided for commercial fishing violations.

1           **Sec. 243.** RCW 77.32.155 and 2009 c 269 s 1 are each amended to  
2 read as follows:

3           (1)(a) When purchasing any hunting license, persons under the age  
4 of eighteen shall present certification of completion of a course of  
5 instruction of at least ten hours in the safe handling of firearms,  
6 safety, conservation, and (~~(sportsmanship))~~ sporting/hunting behavior.  
7 All persons purchasing any hunting license for the first time, if born  
8 after January 1, 1972, shall present such certification.

9           (b)(i) The director may establish a program for training persons in  
10 the safe handling of firearms, conservation, and (~~(sportsmanship))~~  
11 sporting/hunting behavior and shall prescribe the type of instruction  
12 and the qualifications of the instructors. The director shall, as part  
13 of establishing the training program, exempt members of the United  
14 States military from the firearms skills portion of any instruction  
15 course completed over the internet.

16           (ii) The director may cooperate with the national rifle  
17 association, organized (~~(sportsmen's))~~ sports/outdoor enthusiasts'  
18 groups, or other public or private organizations when establishing the  
19 training program.

20           (c) Upon the successful completion of a course established under  
21 this section, the trainee shall receive a hunter education certificate  
22 signed by an authorized instructor. The certificate is evidence of  
23 compliance with this section.

24           (d) The director may accept certificates from other states that  
25 persons have successfully completed firearm safety, hunter education,  
26 or similar courses as evidence of compliance with this section.

27           (2)(a) The director may authorize a once in a lifetime, one license  
28 year deferral of hunter education training for individuals who are  
29 accompanied by a nondeferred Washington-licensed hunter who has held a  
30 Washington hunting license for the prior three years and is over  
31 eighteen years of age. The commission shall adopt rules for the  
32 administration of this subsection to avoid potential fraud and abuse.

33           (b) The director is authorized to collect an application fee, not  
34 to exceed twenty dollars, for obtaining the once in a lifetime, one  
35 license year deferral of hunter education training from the department.  
36 This fee must be deposited into the fish and wildlife enforcement  
37 reward account and must be used exclusively to administer the deferral  
38 program created in this subsection.

1 (c) For the purposes of this subsection, "accompanied" means to go  
2 along with another person while staying within a range of the other  
3 person that permits continual unaided visual and auditory  
4 communication.

5 (3) To encourage the participation of an adequate number of  
6 instructors for the training program, the commission shall develop  
7 nonmonetary incentives available to individuals who commit to serving  
8 as an instructor. The incentives may include additional hunting  
9 opportunities for instructors.

10 **Sec. 244.** RCW 77.65.280 and 2011 c 339 s 25 are each amended to  
11 read as follows:

12 A wholesale fish dealer's license is required for:

13 (1) A business in the state to engage in the commercial processing  
14 of food fish or shellfish, including custom canning or processing of  
15 personal use food fish or shellfish.

16 (2) A business in the state to engage in the wholesale selling,  
17 buying, or brokering of food fish or shellfish. A wholesale fish  
18 dealer's license is not required of those businesses which buy  
19 exclusively from Washington licensed wholesale dealers and sell solely  
20 at retail.

21 (3) (~~Fishermen~~) Fishers who land and sell their catch or harvest  
22 in the state to anyone other than a licensed wholesale dealer within or  
23 outside the state, unless the fisher has a direct retail endorsement.

24 (4) A business to engage in the commercial manufacture or  
25 preparation of fertilizer, oil, meal, caviar, fish bait, or other by-  
26 products from food fish or shellfish.

27 (5) A business employing a fish buyer as defined under RCW  
28 77.65.340.

29 The annual license fee for a wholesale dealer is two hundred fifty  
30 dollars. The application fee is one hundred five dollars. A wholesale  
31 fish dealer's license is not required for persons engaged in the  
32 processing, wholesale selling, buying, or brokering of private sector  
33 cultured aquatic products as defined in RCW 15.85.020. However, if a  
34 means of identifying such products is required by rules adopted under  
35 RCW 15.85.060, the exemption from licensing requirements established by  
36 this subsection applies only if the aquatic products are identified in  
37 conformance with those rules.

1       **Sec. 245.** RCW 77.65.340 and 2011 c 339 s 26 are each amended to  
2 read as follows:

3       (1) A fish buyer's license is required of and shall be carried by  
4 each individual engaged by a wholesale fish dealer to purchase food  
5 fish or shellfish from a licensed commercial (~~(fisherman)~~) fisher. A  
6 fish buyer may represent only one wholesale fish dealer.

7       (2) The annual fee for a fish buyer's license is ninety-five  
8 dollars. The application fee is one hundred five dollars.

9       **Sec. 246.** RCW 77.95.030 and 1995 1st sp.s. c 2 s 35 are each  
10 amended to read as follows:

11       (1) The commission shall develop a detailed salmon enhancement plan  
12 with proposed enhancement projects. The plan and the regional policy  
13 statements shall be submitted to the secretary of the senate and chief  
14 clerk of the house of representatives for legislative distribution by  
15 June 30, 1986. The enhancement plan and regional policy statements  
16 shall be provided by June 30, 1986, to the natural resources committees  
17 of the house of representatives and the senate. The commission shall  
18 provide a maximum opportunity for the public to participate in the  
19 development of the salmon enhancement plan. To insure full  
20 participation by all interested parties, the commission shall solicit  
21 and consider enhancement project proposals from Indian tribes, sports  
22 (~~(fishermen)~~) fishers, commercial (~~(fishermen)~~) fishers, private  
23 aquaculturists, and other interested groups or individuals for  
24 potential inclusion in the salmon enhancement plan. Joint or  
25 cooperative enhancement projects shall be considered for funding.

26       (2) The following criteria shall be used by the commission in  
27 formulating the project proposals:

- 28       (a) Compatibility with the long-term policy statement;  
29       (b) Benefit/cost analysis;  
30       (c) Needs of all fishing interests;  
31       (d) Compatibility with regional plans, including harvest management  
32 plans;  
33       (e) Likely increase in resource productivity;  
34       (f) Direct applicability of any research;  
35       (g) Salmon advisory council recommendations;  
36       (h) Compatibility with federal court orders;

1 (i) Coordination with the salmon and steelhead advisory commission  
2 program;

3 (j) Economic impact to the state;

4 (k) Technical feasibility; and

5 (l) Preservation of native salmon runs.

6 (3) The commission shall not approve projects that serve as  
7 replacement funding for projects that exist prior to May 21, 1985,  
8 unless no other sources of funds are available.

9 (4) The commission shall prioritize various projects and establish  
10 a recommended implementation time schedule.

11 **Sec. 247.** RCW 78.04.030 and Code 1881 s 2446 are each amended to  
12 read as follows:

13 In incorporations already formed, or which may hereafter be formed  
14 under this chapter, where the amount of the capital stock of such  
15 corporation consists of the aggregate valuation of the whole number of  
16 feet, shares, or interest in any mining claim in this state, for the  
17 working and development of which such corporation shall be or have been  
18 formed, no actual subscription to the capital stock of such corporation  
19 shall be necessary; but each owner in said mining claim shall be deemed  
20 to have subscribed such an amount to the capital stock of such  
21 corporation as under its bylaws will represent the value of so much of  
22 his or her interest in said mining claim, the legal title to which he  
23 or she may by deed, deed of trust, or other instrument vest, or have  
24 vested in such corporation for mining purposes; such subscription to be  
25 deemed to have been made on the execution and delivery to such  
26 corporation of such deed, deed of trust, or other instrument; nor shall  
27 the validity of any assessment levied by the board of trustees of such  
28 corporation be affected by the reason of the fact that the full amount  
29 of the capital stock of such corporation, as mentioned in its  
30 certificate of incorporation, shall not have been subscribed as  
31 provided in this section: PROVIDED, That the greater portion of said  
32 amount of capital stock shall have been so subscribed: AND, PROVIDED  
33 FURTHER, That this section shall not be so construed as to prohibit the  
34 stockholders of any corporation formed, or which may be formed, for  
35 mining purposes as provided in this section, from regulating the mode  
36 of making subscriptions to its capital stock and calling in the same by  
37 bylaws or express contract.



1           **Sec. 248.** RCW 78.08.080 and 1983 c 3 s 198 are each amended to  
2 read as follows:

3           If at any time the locator of any quartz or lode mining claim  
4 heretofore or hereafter located, or his or her assigns, shall learn  
5 that his or her original certificate was defective or that the  
6 requirements of the law had not been complied with before filing, or  
7 shall be desirous of changing his or her surface boundaries or of  
8 taking in any additional ground which is subject to location, or in any  
9 case the original certificate was made prior to the passage of this  
10 law, and he or she shall be desirous of securing the benefits of RCW  
11 78.08.050 through 78.08.115, such locator or his or her assigns may  
12 file an amended certificate of location, subject to the provisions of  
13 RCW 78.08.050 through 78.08.115, regarding the making of new locations.

14           **Sec. 249.** RCW 78.08.100 and 1901 c 137 s 1 are each amended to  
15 read as follows:

16           The discoverer of placers or other forms of deposits subject to  
17 location and appropriation under mining laws applicable to placers  
18 shall locate his or her claim in the following manner:

19           First. He or she must immediately post in a conspicuous place at  
20 the point of discovery thereon, a notice or certificate of location  
21 thereof, containing (1) the name of the claim; (2) the name of the  
22 locator or locators; (3) the date of discovery and posting of the  
23 notice hereinbefore provided for, which shall be considered as the date  
24 of the location; (4) a description of the claim by reference to legal  
25 subdivisions of sections, if the location is made in conformity with  
26 the public surveys, otherwise, a description with reference to some  
27 natural object or permanent monuments as will identify the claim; and  
28 where such claim is located by legal subdivisions of the public  
29 surveys, such location shall, notwithstanding that fact, be marked by  
30 the locator upon the ground the same as other locations.

31           Second. Within thirty days from the date of such discovery, he or  
32 she must record such notice or certificate of location in the office of  
33 the auditor of the county in which such discovery is made, and so  
34 distinctly mark his or her location on the ground that its boundaries  
35 may be readily traced.

36           Third. Within sixty days from the date of discovery, the  
37 discoverer shall perform labor upon such location or claim in

1 developing the same to an amount which shall be equivalent in the  
2 aggregate to at least ten dollars worth of such labor for each twenty  
3 acres, or fractional part thereof, contained in such location or claim:  
4 PROVIDED, HOWEVER, That nothing in this subdivision shall be held to  
5 apply to lands located under the laws of the United States as placer  
6 claims for the purpose of the development of petroleum and natural gas  
7 and other natural oil products.

8 Fourth. Such locator shall, upon the performance of such labor,  
9 file with the auditor of the county an affidavit showing such  
10 performance and generally the nature and kind of work so done.

11 **Sec. 250.** RCW 78.12.070 and 1890 p 123 s 9 are each amended to  
12 read as follows:

13 Nothing contained in this chapter shall be so construed as to  
14 prevent recovery being had in a suit for damages for injuries sustained  
15 by the party so injured, or his or her heirs or administrator or  
16 administratrix, or anyone else now competent to sue in an action of  
17 such character.

18 **Sec. 251.** RCW 78.16.030 and 1907 c 38 s 3 are each amended to read  
19 as follows:

20 Upon payment of the full purchase price, in cases where an option  
21 to purchase is given, a conveyance shall be executed to the purchaser  
22 by the ((~~chairman~~)) chair of the board of county commissioners. Such  
23 conveyance shall refer to the order of the board authorizing such  
24 leasing with the option to purchase, and shall be deemed to convey all  
25 the estate, right, title and interest of the county in and to the  
26 property sold; and such conveyance, when executed, shall be conclusive  
27 evidence of the regularity and validity of all proceedings hereunder.

28 **Sec. 252.** RCW 78.16.040 and 1945 c 93 s 2 are each amended to read  
29 as follows:

30 The lessee under any such petroleum lease shall have the option of  
31 surrendering any of the lands included in said lease at any time, and  
32 shall thereby be relieved of all liability with respect to such lands  
33 except the payment of accrued royalties as provided in said lease.  
34 Upon such surrender, the lessee shall have the right for a period of

1 one hundred twenty days following the date of such surrender, to remove  
2 all improvements placed by him or her on the lands which have been  
3 surrendered.

4 **Sec. 253.** RCW 78.52.550 and 1951 c 146 s 58 are each amended to  
5 read as follows:

6 Every person who shall violate or knowingly aid and abet the  
7 violation of this chapter or any valid orders, rules, and regulations  
8 issued thereunder, or who fails to perform any act which is herein made  
9 his or her duty to perform, shall be guilty of a gross misdemeanor.

10 **Sec. 254.** RCW 78.60.110 and 1974 ex.s. c 43 s 11 are each amended  
11 to read as follows:

12 (1) The department may authorize the operator to suspend drilling  
13 operations, shut-in a completed well, or remove equipment from a well  
14 for the period stated in the department's written authorization. The  
15 period of suspension may be extended by the department upon the  
16 operator showing good cause for the granting of such extension.

17 (2) If drilling operations are not resumed by the operator, or the  
18 well is not put into production, upon expiration of the suspension or  
19 shut-in permit, an intention to unlawfully abandon shall be presumed.

20 (3) A well shall also be deemed unlawfully abandoned if, without  
21 written approval from the department, drilling equipment is removed.

22 (4) An unlawful abandonment under this chapter shall be entered in  
23 the department records and written notice thereof shall be mailed by  
24 registered mail both to such operator at his or her last known address  
25 as disclosed by records of the department and to the operator's surety.  
26 The department may thereafter proceed against the operator and his or  
27 her surety.

28 **Sec. 255.** RCW 78.60.170 and 1974 ex.s. c 43 s 17 are each amended  
29 to read as follows:

30 Each owner or operator of a well shall designate a person who  
31 resides in this state as his or her agent upon whom may be served all  
32 legal processes, orders, notices, and directives of the department or  
33 any court.

1           **Sec. 256.** RCW 78.60.250 and 1974 ex.s. c 43 s 25 are each amended  
2 to read as follows:

3           Whenever it appears with probable cause to the department that:

4           (1) A violation of any provision of this chapter, regulation  
5 adopted pursuant thereto, or condition of a permit issued pursuant to  
6 this chapter has occurred or is about to occur, or

7           (2) That a modification of a permit is deemed necessary to carry  
8 out the purpose of this chapter,

9 the department shall issue a written order in person to the operator or  
10 his or her employees or agents, or by certified mail, concerning the  
11 drilling, testing, or other operation conducted with respect to any  
12 well drilled, in the process of being drilled, or in the process of  
13 being abandoned or in the process of reclamation or restoration, and  
14 the operator, owner, or designated agent of either shall comply with  
15 the terms of the order and may appeal from the order in the manner  
16 provided for in RCW (~~79.76.280~~) 78.60.280. When the department deems  
17 necessary, the order may include a shutdown order to remain in effect  
18 until the deficiency is corrected.

19           **Sec. 257.** RCW 79.02.150 and 1927 c 255 s 19 are each amended to  
20 read as follows:

21           So long as any grant of lands by the United States to the state of  
22 Washington, for any purpose, or as lieu or indemnity lands therefor,  
23 remains incomplete, the commissioner of public lands shall, from time  
24 to time, cause the records in his or her office and in the United  
25 States land offices, to be examined for the purpose of ascertaining  
26 what of the unappropriated lands of the United States are open to  
27 selection, and whether any thereof may be of sufficient value and so  
28 situated as to warrant their selection as state lands, and in that case  
29 may cause the same to be inspected and appraised by one or more state  
30 land inspectors, and a full report made thereon by the smallest legal  
31 subdivisions of forty acres each, classifying such lands into grazing,  
32 farming, and timbered lands, and estimating the value of each tract  
33 inspected and the quantity and value of all valuable material thereon,  
34 and in the case of timbered lands the amount and value of the standing  
35 timber thereon, and the estimated value of such lands after the timber  
36 is removed, which report shall be made as amply and expeditiously as  
37 possible on blanks to be furnished by the commissioner of public lands

1 for that purpose, under the oath of the inspector to the effect that he  
2 or she has personally examined the tracts mentioned in each forty acres  
3 thereof, and that said report and appraisal is made from such  
4 personal examination, and is, to the best of affiant's knowledge and  
5 belief, true and correct, and that the lands are not occupied by any  
6 bona fide settler.

7 The commissioner of public lands shall select such unappropriated  
8 lands as he or she shall deem advisable, and do all things necessary  
9 under the laws of the United States to vest title thereto in the state,  
10 and shall assign lands of equal value, as near as may be, to the  
11 various uncompleted grants.

12 **Sec. 258.** RCW 79.14.060 and 1955 c 131 s 6 are each amended to  
13 read as follows:

14 Every lessee shall have the option of surrendering his or her lease  
15 as to all or any portion or portions of the land covered thereby at any  
16 time and shall be relieved of all liability thereunder with respect to  
17 the land so surrendered except for monetary payments theretofore  
18 accrued and except for physical damage to the premises embraced by his  
19 or her lease which have been occasioned by his or her operations.

20 **Sec. 259.** RCW 79.22.120 and 1991 c 10 s 1 are each amended to read  
21 as follows:

22 If the board of natural resources determines that any forest lands  
23 deeded to the board or the state pursuant to this chapter, which are  
24 leased to any county for uses which have as one permitted use a  
25 sanitary landfill and/or transfer station, are no longer appropriate  
26 for management by the board, the board may reconvey all of the lands  
27 included within any such lease to that county. Reconveyance shall be  
28 by quitclaim deed executed by the (~~chairman~~) chair of the board.  
29 Upon execution of such deed, full legal and equitable title to such  
30 lands shall be vested in that county, and any leases on such lands  
31 shall terminate. A county that receives any such reconveyed lands  
32 shall indemnify and hold the state of Washington harmless from any  
33 liability or expense arising out of the reconveyed lands.

34 **Sec. 260.** RCW 79.24.030 and 1988 c 128 s 62 are each amended to  
35 read as follows:

1       The board of natural resources and the department of natural  
2 resources may employ such cruisers, (~~draughtsmen~~) drafters,  
3 engineers, architects, or other assistants as may be necessary for the  
4 best interests of the state in carrying out the provisions of RCW  
5 79.24.010 through 79.24.085, and all expenses incurred by the board and  
6 department, and all claims against the capitol building construction  
7 account shall be audited by the department and presented in vouchers to  
8 the state treasurer, who shall draw a warrant therefor against the  
9 capitol building construction account as herein provided or out of any  
10 appropriation made for such purpose.

11       **Sec. 261.** RCW 79.24.150 and 1947 c 186 s 6 are each amended to  
12 read as follows:

13       Bonds authorized by RCW 79.24.100 through 79.24.160 shall be  
14 accepted by the state, counties, cities, towns, school districts, and  
15 other political subdivisions as security for the deposit of any of  
16 their funds in any banking institution. Any officer of this state, or  
17 any county, city, town, school district, or other political subdivision  
18 may invest surplus funds, which he or she or it is authorized to invest  
19 in securities, and where such authorization is not limited or  
20 restricted as to the class of securities in which he or she or it may  
21 invest, in bonds issued under RCW 79.24.100 through 79.24.160.

22       **Sec. 262.** RCW 79.24.660 and 1969 ex.s. c 272 s 6 are each amended  
23 to read as follows:

24       Bonds authorized by RCW 79.24.650 through 79.24.668 shall be  
25 accepted by the state, counties, cities, towns, school districts, and  
26 other political subdivisions as security for the deposit of any of  
27 their funds in any banking institution. Any officer of this state, or  
28 any county, city, town, school district, or other political subdivision  
29 may invest surplus funds, which he or she or it is authorized to invest  
30 in securities, and where such authorization is not limited or  
31 restricted as to the class of securities in which he or she or it may  
32 invest, in bonds issued under RCW 79.24.650 through 79.24.668.

33       **Sec. 263.** RCW 79.44.050 and 2002 c 260 s 3 are each amended to  
34 read as follows:

35       Upon the approval and confirmation of the assessment roll ordered

1 by the proper authorities of any assessing district, the treasurer of  
2 such assessing district shall certify and forward to the chief  
3 administrative officer of the agency of state government occupying,  
4 using, or having jurisdiction over the lands, a statement of all the  
5 lots or parcels of land held or owned by the state and charged on such  
6 assessment roll, separately describing each such lot or parcel of the  
7 state's land, with the amount of the local assessment charged against  
8 it, or the proportionate amount assessed against the fee simple  
9 interest of the state, in case the land has been leased. The chief  
10 administrative officer upon receipt of such statement shall cause a  
11 proper record to be made in his or her office of the cost of such  
12 assessment upon the lands occupied, used, or under the jurisdiction of  
13 his or her agency.

14 No penalty shall be provided or enforced against the state, and the  
15 interest upon such assessments shall be computed and paid at the rate  
16 paid by other property situated in the same assessing district.

17 **Sec. 264.** RCW 79.44.100 and 1963 c 20 s 10 are each amended to  
18 read as follows:

19 Whenever any such tide, state, school, granted, or other lands  
20 situated within the limits of any assessing district, has been included  
21 within any local improvement district by such assessing district, and  
22 the contract, leasehold, or other interest of any individual has been  
23 sold to satisfy the lien of such assessment for local improvement, the  
24 purchaser of such interest at such sale shall be entitled to receive  
25 from the state of Washington, on demand, an assignment of the contract,  
26 leasehold, or other interest purchased by him or her, and shall assume,  
27 subject to the terms and conditions of the contract or lease, the  
28 payment to the state of the amount of the balance which his or her  
29 predecessor in interest was obligated to pay.

30 **Sec. 265.** RCW 79A.05.085 and 1974 ex.s. c 151 s 1 are each amended  
31 to read as follows:

32 The commission shall determine the fair market value for television  
33 station leases based upon independent appraisals and existing leases  
34 for television stations shall be extended at said fair market rental  
35 for at least one period of not more than twenty years: PROVIDED, That  
36 the rates in said leases shall be renegotiated at five year intervals:

1 PROVIDED FURTHER, That said stations shall permit the attachment of  
2 antennae of publicly operated broadcast and microwave stations where  
3 electronically practical to combine the towers: PROVIDED FURTHER, That  
4 notwithstanding any term to the contrary in any lease, this section  
5 shall not preclude the commission from prescribing new and reasonable  
6 lease terms relating to the modification, placement, or design of  
7 facilities operated by or for a station, and any extension of a lease  
8 granted under this section shall be subject to this proviso: PROVIDED  
9 FURTHER, That notwithstanding any other provision of law the director  
10 in his or her discretion may waive any requirement that any  
11 environmental impact statement or environmental assessment be submitted  
12 as to any lease negotiated and signed between January 1, 1974, and  
13 December 31, 1974.

14 **Sec. 266.** RCW 79A.05.105 and 1965 c 8 s 43.51.100 are each amended  
15 to read as follows:

16 Inasmuch as the value of land with standing timber is increasing  
17 and will continue to increase from year to year and no loss will be  
18 caused to the common school fund or other fund into which the proceeds  
19 of the sale of any land held by the state would be paid by postponing  
20 the sale thereof, the commissioner of public lands may, upon his or her  
21 own motion, and shall, when directed so to do by the state parks and  
22 recreation commission, withdraw from sale any land held by the state  
23 abutting on any public highway and certify to the commission that such  
24 land is withheld from sale pursuant to the terms of this section.

25 Such lands shall not be sold until directed by the legislature, and  
26 shall in the meantime be under the care, charge, control, and  
27 supervision of the commission.

28 **Sec. 267.** RCW 79A.05.700 and 1969 ex.s. c 162 s 1 are each amended  
29 to read as follows:

30 The Green River Gorge, between the town of Kanasket and the Kummer  
31 bridge in King county, is a twelve mile spectacularly winding gorge  
32 with steep to overhanging rock walls reaching heights of from one  
33 hundred fifty to three hundred feet. The beauty and natural features  
34 of the gorge are generally confined within the canyon rim. This twelve  
35 mile gorge area contains many examples of unique biological and  
36 geological features for educational and recreational interpretation,



1 almost two miles of Eocene sediment rocks and fossils are exposed  
2 revealing one of the most complete stratographic sections to be found  
3 in the region. The area, a unique recreational attraction with more  
4 than one million seven hundred thousand people living within an hour's  
5 driving time, is presently used by hikers, geologists, (~~fishermen~~)  
6 fishers, kayakers and canoeists, picnickers and swimmers, and those  
7 seeking the solitude offered by this unique area. Abutting and  
8 adjacent landowners generally have kept the gorge lands in their  
9 natural state; however, economic and urbanization pressures for  
10 development are rapidly increasing. Local and state outdoor recreation  
11 plans show a regional need for resources and facilities which could be  
12 developed in this area. A twelve-mile strip incorporating the visual  
13 basins of the Green river from the Kummer bridge to Palmer needs to be  
14 acquired and developed as a conservation area to preserve this unique  
15 area for the recreational needs of the region.

16 **Sec. 268.** RCW 80.01.020 and 1961 c 14 s 80.01.020 are each amended  
17 to read as follows:

18 Each commissioner shall, before entering upon the duties of his or  
19 her office, take and subscribe the constitutional oath of office, and  
20 furnish bond to the state in the sum of twenty thousand dollars  
21 conditioned for the faithful discharge of the duties of his or her  
22 office and for the proper accounting for all funds that may come into  
23 his or her possession by virtue of his or her office. Each  
24 commissioner shall be a qualified elector of this state and no person  
25 in the employ of or holding any official relation to any corporation or  
26 person, which corporation or person is subject in whole or in part to  
27 regulation by the commission, and no person owning stocks or bonds of  
28 any such corporation or who is in any manner pecuniarily interested  
29 therein shall be appointed or hold the office of commissioner or be  
30 appointed or employed by the commission: PROVIDED, That if any such  
31 person shall become the owner of such stocks or bonds or become  
32 pecuniarily interested in such corporation otherwise than voluntarily,  
33 he or she shall within a reasonable time divest himself or herself of  
34 such ownership or interest, and failing to do so his or her office or  
35 employment shall become vacant.

1           **Sec. 269.** RCW 80.01.100 and 1961 c 14 s 80.01.100 are each amended  
2 to read as follows:

3           It shall be the duty of the attorney general to represent and  
4 appear for the people of the state of Washington and the commission in  
5 all actions and proceedings involving any question under this title or  
6 Title 81 RCW, or under or in reference to any act or order of the  
7 commission; and it shall be the duty of the attorney general generally  
8 to see that all laws affecting any of the persons or corporations  
9 herein enumerated are complied with, and that all laws, the enforcement  
10 of which devolves upon the commission, are enforced, and to that end he  
11 or she is authorized to institute, prosecute, and defend all necessary  
12 actions and proceedings.

13           **Sec. 270.** RCW 80.04.020 and 1961 c 14 s 80.04.020 are each amended  
14 to read as follows:

15           Each commissioner shall have power to administer oaths, certify to  
16 all official acts, and to issue subpoenas for the attendance of  
17 witnesses and the production of papers, books, accounts, documents, and  
18 testimony in any inquiry, investigation, hearing, or proceeding in any  
19 part of the state.

20           The superior court of the county in which any such inquiry,  
21 investigation, hearing, or proceeding may be had, shall have power to  
22 compel the attendance of witnesses and the production of papers, books,  
23 accounts, documents, and testimony as required by such subpoena. The  
24 commission or the commissioner before which the testimony is to be  
25 given or produced, in case of the refusal of any witness to attend or  
26 testify or produce any papers required by the subpoena, shall report to  
27 the superior court in and for the county in which the proceeding is  
28 pending by petition, setting forth that due notice has been given of  
29 the time and place of attendance of said witnesses, or the production  
30 of said papers, and that the witness has been summoned in the manner  
31 prescribed in this chapter, and that the fees and mileage of the  
32 witness have been paid or tendered to the witness for his or her  
33 attendance and testimony, and that the witness has failed and refused  
34 to attend or produce the papers required by the subpoena, before the  
35 commission, in the cause or proceedings named in the notice and  
36 subpoena, or has refused to answer questions propounded to him or her  
37 in the course of such proceeding, and ask an order of said court,

1 compelling the witness to attend and testify before the commission.  
2 The court, upon the petition of the commission, shall enter an order  
3 directing the witness to appear before said court at a time and place  
4 to be fixed by the court in such order, and then and there show cause  
5 why he or she has not responded to said subpoena. A copy of said order  
6 shall be served upon said witness. If it shall appear to the court  
7 that said subpoena was regularly issued by the commission, the court  
8 shall thereupon enter an order that said witness appear before the  
9 commission at said time and place as fixed in said order, and testify  
10 or produce the required papers, and upon failing to obey said order,  
11 said witness shall be dealt with as for contempt of court.

12 **Sec. 271.** RCW 80.04.040 and 1961 c 14 s 80.04.040 are each amended  
13 to read as follows:

14 Each witness who shall appear under subpoena shall receive for his  
15 or her attendance four dollars per day and ten cents per mile traveled  
16 by the nearest practicable route in going to and returning from the  
17 place of hearing. No witness shall be entitled to fees or mileage from  
18 the state when summoned at the instance of the public service companies  
19 affected.

20 **Sec. 272.** RCW 80.04.050 and 1961 c 14 s 80.04.050 are each amended  
21 to read as follows:

22 The claim by any witness that any testimony sought to be elicited  
23 may tend to incriminate him or her shall not excuse such witness from  
24 testifying, but such evidence or testimony shall not be used against  
25 such person on the trial of any criminal proceeding, excepting in a  
26 prosecution for perjury. The commissioner shall have power to compel  
27 the attendance of witnesses at any place within the state.

28 **Sec. 273.** RCW 80.04.070 and 1961 c 14 s 80.04.070 are each amended  
29 to read as follows:

30 The commission and each commissioner, or any person employed by the  
31 commission, shall have the right, at any and all times, to inspect the  
32 accounts, books, papers, and documents of any public service company,  
33 and the commission, or any commissioner, may examine under oath any  
34 officer, agent, or employee of such public service company in relation  
35 thereto, and with reference to the affairs of such company: PROVIDED,

1 That any person other than a commissioner who shall make any such  
2 demand shall produce his or her authority from the commission to make  
3 such inspection.

4 **Sec. 274.** RCW 80.04.120 and 1961 c 14 s 80.04.120 are each amended  
5 to read as follows:

6 At the time fixed for the hearing mentioned in RCW 80.04.110, the  
7 complainant and the person or corporation complained of shall be  
8 entitled to be heard and introduce such evidence as he or she or it may  
9 desire. The commission shall issue process to enforce the attendance  
10 of all necessary witnesses. At the conclusion of such hearing, the  
11 commission shall make and render findings concerning the subject matter  
12 and facts inquired into and enter its order based thereon. A copy of  
13 such order, certified under the seal of the commission, shall be served  
14 upon the person or corporation complained of, or his or her or its  
15 attorney, which order shall, of its own force, take effect and become  
16 operative twenty days after the service thereof, except as otherwise  
17 provided. Where an order cannot, in the judgment of the commission, be  
18 complied with within twenty days, the commission may prescribe such  
19 additional time as in its judgment is reasonably necessary to comply  
20 with the order, and may, on application and for good cause shown,  
21 extend the time for compliance fixed in its order. A full and complete  
22 record of all proceedings had before the commission, or any member  
23 thereof, on any formal hearing had, and all testimony shall be taken  
24 down by a stenographer appointed by the commission, and the parties  
25 shall be entitled to be heard in person or by attorney. In case of an  
26 action to review any order of the commission, a transcript of such  
27 testimony, together with all exhibits introduced, and of the record and  
28 proceedings in the cause, shall constitute the record of the  
29 commission.

30 **Sec. 275.** RCW 80.04.170 and 1961 c 14 s 80.04.170 are each amended  
31 to read as follows:

32 Any complainant or any public service company affected by any  
33 findings or order of the commission, and deeming such findings or order  
34 to be contrary to law, may, within thirty days after the service of the  
35 findings or order upon him or her or it, apply to the superior court of  
36 Thurston county for a writ of review, for the purpose of having the

1 reasonably and lawfulness of such findings or order inquired into  
2 and determined. Such writ shall be made returnable not later than  
3 thirty days from and after the date of the issuance thereof, unless  
4 upon notice to all parties affected further time be allowed by the  
5 court, and shall direct the commission to certify its record in the  
6 case to the court. Such cause shall be heard by the court without the  
7 intervention of a jury on the evidence and exhibits introduced before  
8 the commission and certified to by it. Upon such hearing, the superior  
9 court shall enter judgment either affirming or setting aside or  
10 remanding for further action the findings or order of the commission  
11 under review. The reasonable cost of preparing the transcript of  
12 testimony taken before the commission shall be assessable as part of  
13 the statutory court costs, and the amount thereof, if collected by the  
14 commission, shall be deposited in the public service revolving fund.  
15 In case such findings or order be set aside, or reversed and remanded,  
16 the court shall make specific findings based upon evidence in the  
17 record indicating clearly all respects in which the commission's  
18 findings or order are erroneous.

19 **Sec. 276.** RCW 80.04.280 and 1961 c 14 s 80.04.280 are each amended  
20 to read as follows:

21 No public service company shall permit any employee to sell, offer  
22 for sale, or solicit the purchase of any security of any other person  
23 or corporation during such hours as such employee is engaged to perform  
24 any duty of such public service company; nor shall any public service  
25 company by any means or device require any employee to purchase or  
26 contract to purchase any of its securities or those of any other person  
27 or corporation; nor shall any public service company require any  
28 employee to permit the deduction from his or her wages or salary of any  
29 sum as a payment or to be applied as a payment of any purchase or  
30 contract to purchase any security of such public service company or of  
31 any other person or corporation.

32 **Sec. 277.** RCW 80.04.460 and 1961 c 14 s 80.04.460 are each amended  
33 to read as follows:

34 Every public service company shall give immediate notice to the  
35 commission of every accident resulting in death or injury to any person  
36 occurring in its plant or system, in such manner as the commission may

1 prescribe. Such notice shall not be admitted as evidence or used for  
2 any purpose against the company giving it in any action for damages  
3 growing out of any matter mentioned in the notice.

4 The commission may investigate any accident resulting in death or  
5 injury to any person occurring in connection with the plant or system  
6 of any public service company. Notice of the investigation shall be  
7 given in all cases for a sufficient length of time to enable the  
8 company affected to participate in the hearing and may be given orally  
9 or in writing, in such manner as the commission may prescribe.

10 Such witnesses may be examined as the commission deems necessary  
11 and proper to thoroughly ascertain the cause of the accident and fix  
12 the responsibility therefor. The examination and investigation may be  
13 conducted by an inspector or deputy inspector, and (~~they~~) he or she  
14 may administer oaths, issue subpoenas, and compel the attendance of  
15 witnesses, and when the examination is conducted by an inspector or  
16 deputy inspector, he or she shall make a full and complete report  
17 thereof to the commission.

18 **Sec. 278.** RCW 80.04.470 and 1961 c 173 s 1 are each amended to  
19 read as follows:

20 It shall be the duty of the commission to enforce the provisions of  
21 this title and all other acts of this state affecting public service  
22 companies, the enforcement of which is not specifically vested in some  
23 other officer or tribunal. Any employee of the commission may, without  
24 a warrant, arrest any person found violating in his or her presence any  
25 provision of this title, or any rule or regulation adopted by the  
26 commission: PROVIDED, That each such employee shall be first  
27 specifically designated in writing by the commission or a member  
28 thereof as having been found to be a fit and proper person to exercise  
29 such authority. Upon being so designated, such person shall be a peace  
30 officer and a police officer for the purposes herein mentioned.

31 **Sec. 279.** RCW 80.04.510 and 1961 c 14 s 80.04.510 are each amended  
32 to read as follows:

33 It shall be the duty of the attorney general to represent and  
34 appear for the people of the state of Washington and the commission in  
35 all actions and proceedings involving any question under this title, or  
36 under or in reference to any act or order of the commission; and it

1 shall be the duty of the attorney general generally to see that all  
2 laws affecting any of the persons or corporations herein enumerated are  
3 complied with, and that all laws, the enforcement of which devolves  
4 upon the commission, are enforced, and to that end he or she is  
5 authorized to institute, prosecute, and defend all necessary actions  
6 and proceedings.

7 **Sec. 280.** RCW 80.08.110 and 1994 c 251 s 3 are each amended to  
8 read as follows:

9 Every public service company which, directly or indirectly, issues  
10 or causes to be issued, any stock or stock certificate or other  
11 evidence of interest or ownership, or bond, note, or other evidence of  
12 indebtedness, in nonconformity with the provisions of this chapter, or  
13 which applies the proceeds from the sale thereof, or any part thereof,  
14 to any purpose other than the purpose or purposes allowed by this  
15 chapter, shall be subject to a penalty of not more than one thousand  
16 dollars for each offense. Every violation shall be a separate and  
17 distinct offense and in case of a continuing violation every day's  
18 continuance thereof shall be deemed to be a separate and distinct  
19 offense.

20 The act, omission, or failure of any officer, agent, or employee of  
21 any public service company acting within the scope of his or her  
22 official duties or employment, shall in every case be deemed to be the  
23 act, omission, or failure of such public service company.

24 **Sec. 281.** RCW 80.32.100 and 1961 c 14 s 80.32.100 are each amended  
25 to read as follows:

26 In the event of the violation of any of the requirements of RCW  
27 80.32.080 and 80.32.090 by any corporation availing itself of its  
28 provisions, an appropriate suit may be maintained in the name of the  
29 state upon the relation of the attorney general, or, if he or she shall  
30 refuse or neglect to act, upon the relation of any individual aggrieved  
31 by the violation, or violations, complained of, to compel such  
32 corporation to comply with the requirements of RCW 80.32.080 and  
33 80.32.090. A violation of RCW 80.32.080 and 80.32.090 shall cause the  
34 forfeiture of the corporate franchise if the corporation refuses or  
35 neglects to comply with the orders with respect thereto made in the  
36 suit herein provided for.

1       **Sec. 282.** RCW 80.50.080 and 1977 ex.s. c 371 s 6 are each amended  
2 to read as follows:

3       After the council has received a site application, the attorney  
4 general shall appoint an assistant attorney general as a counsel for  
5 the environment. The counsel for the environment shall represent the  
6 public and its interest in protecting the quality of the environment.  
7 Costs incurred by the counsel for the environment in the performance of  
8 these duties shall be charged to the office of the attorney general,  
9 and shall not be a charge against the appropriation to the energy  
10 facility site evaluation council. He or she shall be accorded all the  
11 rights, privileges, and responsibilities of an attorney representing a  
12 party in a formal action. This section shall not be construed to  
13 prevent any person from being heard or represented by counsel in  
14 accordance with the other provisions of this chapter.

15       **Sec. 283.** RCW 80.50.150 and 1979 ex.s. c 254 s 2 and 1979 c 41 s  
16 1 are each reenacted and amended to read as follows:

17       (1) The courts are authorized to grant such restraining orders, and  
18 such temporary and permanent injunctive relief as is necessary to  
19 secure compliance with this chapter and/or with a site certification  
20 agreement issued pursuant to this chapter or a national pollutant  
21 discharge elimination system (hereafter in this section, NPDES) permit  
22 issued by the council pursuant to chapter 90.48 RCW or any permit  
23 issued pursuant to RCW 80.50.040(14). The court may assess civil  
24 penalties in an amount not less than one thousand dollars per day nor  
25 more than twenty-five thousand dollars per day for each day of  
26 construction or operation in material violation of this chapter, or in  
27 material violation of any site certification agreement issued pursuant  
28 to this chapter, or in violation of any NPDES permit issued by the  
29 council pursuant to chapter 90.48 RCW, or in violation of any permit  
30 issued pursuant to RCW 80.50.040(14). The court may charge the  
31 expenses of an enforcement action relating to a site certification  
32 agreement under this section, including, but not limited to, expenses  
33 incurred for legal services and expert testimony, against any person  
34 found to be in material violation of the provisions of such  
35 certification: PROVIDED, That the expenses of a person found not to be  
36 in material violation of the provisions of such certification,



1 including, but not limited to, expenses incurred for legal services and  
2 expert testimony, may be charged against the person or persons bringing  
3 an enforcement action or other action under this section.

4 (2) Willful violation of any provision of this chapter shall be a  
5 gross misdemeanor.

6 (3) Willful or criminally negligent, as defined in RCW  
7 9A.08.010(~~(1)~~) (1)(d), violation of any provision of an NPDES  
8 permit issued by the council pursuant to chapter 90.48 RCW or any  
9 permit issued by the council pursuant to RCW 80.50.040(14) or any  
10 emission standards promulgated by the council in order to implement the  
11 federal clean air act and the state implementation plan with respect to  
12 energy facilities under the jurisdiction provisions of this chapter  
13 shall be deemed a crime, and upon conviction thereof shall be punished  
14 by a fine of up to twenty-five thousand dollars per day and costs of  
15 prosecution. Any violation of this subsection shall be a gross  
16 misdemeanor.

17 (4) Any person knowingly making any false statement,  
18 representation, or certification in any document in any NPDES form,  
19 notice, or report required by an NPDES permit or in any form, notice,  
20 or report required for or by any permit issued pursuant to RCW  
21 80.50.090(14) shall be deemed guilty of a crime, and upon conviction  
22 thereof shall be punished by a fine of up to ten thousand dollars and  
23 costs of prosecution.

24 (5) Every person who violates the provisions of certificates and  
25 permits issued or administered by the council shall incur, in addition  
26 to any other penalty as provided by law, a penalty in an amount of up  
27 to five thousand dollars a day for every such violation. Each and  
28 every such violation shall be a separate and distinct offense, and in  
29 case of a continuing violation, every day's continuance shall be and be  
30 deemed to be a separate and distinct violation. Every act of  
31 commission or omission which procures, aids, or abets in the violation  
32 shall be considered a violation under the provisions of this section  
33 and subject to the penalty provided in this section. The penalty  
34 provided in this section shall be imposed by a notice in writing,  
35 either by certified mail with return receipt requested or by personal  
36 service, to the person incurring the same from the council describing  
37 such violation with reasonable particularity. The council may, upon  
38 written application therefor received within fifteen days after notice

1 imposing any penalty is received by the person incurring the penalty,  
2 and when deemed in the best interest to carry out the purposes of this  
3 chapter, remit or mitigate any penalty provided in this section upon  
4 such terms as the council shall deem proper, and shall have authority  
5 to ascertain the facts upon all such applications in such manner and  
6 under such regulations as it may deem proper. Any person incurring any  
7 penalty under this section may appeal the same to the council. Such  
8 appeals shall be filed within thirty days of receipt of notice imposing  
9 any penalty unless an application for remission or mitigation is made  
10 to the council. When an application for remission or mitigation is  
11 made, such appeals shall be filed within thirty days of receipt of  
12 notice from the council setting forth the disposition of the  
13 application. Any penalty imposed under this section shall become due  
14 and payable thirty days after receipt of a notice imposing the same  
15 unless application for remission or mitigation is made or an appeal is  
16 filed. When an application for remission or mitigation is made, any  
17 penalty incurred hereunder shall become due and payable thirty days  
18 after receipt of notice setting forth the disposition of the  
19 application unless an appeal is filed from such disposition. Whenever  
20 an appeal of any penalty incurred hereunder is filed, the penalty shall  
21 become due and payable only upon completion of all review proceedings  
22 and the issuance of a final order confirming the penalty in whole or in  
23 part. If the amount of any penalty is not paid to the council within  
24 thirty days after it becomes due and payable, the attorney general,  
25 upon the request of the council, shall bring an action in the name of  
26 the state of Washington in the superior court of Thurston county or of  
27 any county in which such violator may do business, to recover such  
28 penalty. In all such actions, the procedure and rules of evidence  
29 shall be the same as an ordinary civil action except as otherwise  
30 provided in this chapter. All penalties recovered under this section  
31 shall be paid into the state treasury and credited to the general fund.

32 (6) Civil proceedings to enforce this chapter may be brought by the  
33 attorney general or the prosecuting attorney of any county affected by  
34 the violation on his or her own motion or at the request of the  
35 council. Criminal proceedings to enforce this chapter may be brought  
36 by the prosecuting attorney of any county affected by the violation on  
37 his or her own motion or at the request of the council.

1 (7) The remedies and penalties in this section, both civil and  
2 criminal, shall be cumulative and shall be in addition to any other  
3 penalties and remedies available at law, or in equity, to any person.

4 **Sec. 284.** RCW 81.04.020 and 1961 c 14 s 81.04.020 are each amended  
5 to read as follows:

6 Each commissioner shall have power to administer oaths, certify to  
7 all official acts, and to issue subpoenas for the attendance of  
8 witnesses and the production of papers, waybills, books, accounts,  
9 documents, and testimony in any inquiry, investigation, hearing, or  
10 proceeding in any part of the state.

11 The superior court of the county in which any such inquiry,  
12 investigation, hearing, or proceeding may be had, shall have power to  
13 compel the attendance of witnesses and the production of papers,  
14 waybills, books, accounts, documents, and testimony as required by such  
15 subpoena. The commission or the commissioner before which the  
16 testimony is to be given or produced, in case of the refusal of any  
17 witness to attend or testify or produce any papers required by the  
18 subpoena, shall report to the superior court in and for the county in  
19 which the proceeding is pending by petition, setting forth that due  
20 notice has been given of the time and place of attendance of said  
21 witnesses, or the production of said papers, and that the witness has  
22 been summoned in the manner prescribed in this chapter, and that the  
23 fees and mileage of the witness have been paid or tendered to the  
24 witness for his or her attendance and testimony, and that the witness  
25 has failed and refused to attend or produce the papers required by the  
26 subpoena, before the commission, in the cause or proceedings named in  
27 the notice and subpoena, or has refused to answer questions propounded  
28 to him or her in the course of such proceeding, and ask an order of  
29 said court, compelling the witness to attend and testify before the  
30 commission. The court, upon the petition of the commission, shall  
31 enter an order directing the witness to appear before said court at a  
32 time and place to be fixed by the court in such order, and then and  
33 there show cause why he or she has not responded to said subpoena. A  
34 copy of said order shall be served upon said witness. If it shall  
35 appear to the court that said subpoena was regularly issued by the  
36 commission, the court shall thereupon enter an order that said witness  
37 appear before the commission at said time and place as fixed in said

1 order, and testify or produce the required papers, and upon failing to  
2 obey said order, said witness shall be dealt with as for contempt of  
3 court.

4 **Sec. 285.** RCW 81.04.040 and 1961 c 14 s 81.04.040 are each amended  
5 to read as follows:

6 Each witness who appears under subpoena shall receive for his or  
7 her attendance four dollars per day and ten cents per mile traveled by  
8 the nearest practicable route in going to and returning from the place  
9 of hearing. No witness shall be entitled to fees or mileage from the  
10 state when summoned at the instance of the public service companies  
11 affected.

12 **Sec. 286.** RCW 81.04.050 and 1961 c 14 s 81.04.050 are each amended  
13 to read as follows:

14 The claim by any witness that any testimony sought to be elicited  
15 may tend to incriminate him or her shall not excuse such witness from  
16 testifying, but such evidence or testimony shall not be used against  
17 such person on the trial of any criminal proceeding, excepting in a  
18 prosecution for perjury. The commissioner shall have power to compel  
19 the attendance of witnesses at any place within the state.

20 **Sec. 287.** RCW 81.04.070 and 1961 c 14 s 81.04.070 are each amended  
21 to read as follows:

22 The commission and each commissioner, or any person employed by the  
23 commission, shall have the right, at any and all times, to inspect the  
24 accounts, books, papers, and documents of any public service company,  
25 and the commission, or any commissioner, may examine under oath any  
26 officer, agent, or employee of such public service company in relation  
27 thereto, and with reference to the affairs of such company: PROVIDED,  
28 That any person other than a commissioner who shall make any such  
29 demand shall produce his or her authority from the commission to make  
30 such inspection.

31 **Sec. 288.** RCW 81.04.120 and 1961 c 14 s 81.04.120 are each amended  
32 to read as follows:

33 At the time fixed for the hearing mentioned in RCW 81.04.110, the  
34 complainant and the person or corporation complained of shall be

1 entitled to be heard and introduce such evidence as he or she or it may  
2 desire. The commission shall issue process to enforce the attendance  
3 of all necessary witnesses. At the conclusion of such hearing, the  
4 commission shall make and render findings concerning the subject matter  
5 and facts inquired into and enter its order based thereon. A copy of  
6 such order, certified under the seal of the commission, shall be served  
7 upon the person or corporation complained of, or his or her or its  
8 attorney, which order shall, of its own force, take effect and become  
9 operative twenty days after the service thereof, except as otherwise  
10 provided. Where an order cannot, in the judgment of the commission, be  
11 complied with within twenty days, the commission may prescribe such  
12 additional time as in its judgment is reasonably necessary to comply  
13 with the order, and may, on application and for good cause shown,  
14 extend the time for compliance fixed in its order. A full and complete  
15 record of all proceedings had before the commission, or any member  
16 thereof, on any formal hearing had, and all testimony shall be taken  
17 down by a stenographer appointed by the commission, and the parties  
18 shall be entitled to be heard in person or by attorney. In case of an  
19 action to review any order of the commission, a transcript of such  
20 testimony, together with all exhibits introduced, and of the record and  
21 proceedings in the cause, shall constitute the record of the  
22 commission.

23 **Sec. 289.** RCW 81.04.280 and 2007 c 234 s 13 are each amended to  
24 read as follows:

25 A public service company subject to regulation by the commission as  
26 to rates and service shall not: (1) Permit any employee to sell, offer  
27 for sale, or solicit the purchase of any security of any other person  
28 or corporation during such hours as such employee is engaged to perform  
29 any duty of such public service company; (2) by any means or device,  
30 require any employee to purchase or contract to purchase any of its  
31 securities or those of any other person or corporation; or (3) require  
32 any employee to permit the deduction from his or her wages or salary of  
33 any sum as a payment or to be applied as a payment of any purchase or  
34 contract to purchase any security of such public service company or of  
35 any other person or corporation.

1           **Sec. 290.** RCW 81.04.460 and 1961 c 173 s 2 are each amended to  
2 read as follows:

3           It shall be the duty of the commission to enforce the provisions of  
4 this title and all other acts of this state affecting public service  
5 companies, the enforcement of which is not specifically vested in some  
6 other officer or tribunal. Any employee of the commission may, without  
7 a warrant, arrest any person found violating in his or her presence any  
8 provision of this title, or any rule or regulation adopted by the  
9 commission: PROVIDED, That each such employee shall be first  
10 specifically designated in writing by the commission or a member  
11 thereof as having been found to be a fit and proper person to exercise  
12 such authority. Upon being so designated, such person shall be a peace  
13 officer and a police officer for the purposes herein mentioned.

14           **Sec. 291.** RCW 81.04.500 and 1961 c 14 s 81.04.500 are each amended  
15 to read as follows:

16           It shall be the duty of the attorney general to represent and  
17 appear for the people of the state of Washington and the commission in  
18 all actions and proceedings involving any question under this title, or  
19 under or in reference to any act or order of the commission; and it  
20 shall be the duty of the attorney general generally to see that all  
21 laws affecting any of the persons or corporations herein enumerated are  
22 complied with, and that all laws, the enforcement of which devolves  
23 upon the commission, are enforced, and to that end he or she is  
24 authorized to institute, prosecute, and defend all necessary actions  
25 and proceedings.

26           **Sec. 292.** RCW 81.04.510 and 1973 c 115 s 15 are each amended to  
27 read as follows:

28           Whether or not any person or corporation is conducting business  
29 requiring operating authority, or has performed or is performing any  
30 act requiring approval of the commission without securing such  
31 approval, shall be a question of fact to be determined by the  
32 commission. Whenever the commission believes that any person or  
33 corporation is engaged in operations without the necessary approval or  
34 authority required by any provision of this title, it may institute a  
35 special proceeding requiring such person or corporation to appear  
36 before the commission at a location convenient for witnesses and the

1 production of evidence and bring with him or her or it books, records,  
2 accounts, and other memoranda, and give testimony under oath as to his  
3 or her or its operations or acts, and the burden shall rest upon such  
4 person or corporation of proving that his or her or its operations or  
5 acts are not subject to the provisions of this chapter. The commission  
6 may consider any and all facts that may indicate the true nature and  
7 extent of the operations or acts and may subpoena such witnesses and  
8 documents as it deems necessary.

9 After having made the investigation herein described, the  
10 commission is authorized and directed to issue the necessary order or  
11 orders declaring the operations or acts to be subject to, or not  
12 subject to, the provisions of this title. In the event the operations  
13 or acts are found to be subject to the provisions of this title, the  
14 commission is authorized and directed to issue cease and desist orders  
15 to all parties involved in the operations or acts.

16 In proceedings under this section, no person or corporation shall  
17 be excused from testifying or from producing any book, waybill,  
18 document, paper, or account before the commission when ordered to do  
19 so, on the ground that the testimony or evidence, book, waybill,  
20 document, paper, or account required of him or her or it may tend to  
21 incriminate him or her or it or subject him or her or it to penalty or  
22 forfeiture; but no person or corporation shall be prosecuted, punished,  
23 or subjected to any penalty or forfeiture for or on account of any  
24 account, transaction, matter, or thing concerning which he or she or it  
25 shall under oath have testified or produced documentary evidence in  
26 proceedings under this section: PROVIDED, That no person so testifying  
27 shall be exempt from prosecution or punishment for any perjury  
28 committed by him or her in his or her testimony.

29 **Sec. 293.** RCW 81.08.110 and 1994 c 251 s 10 are each amended to  
30 read as follows:

31 Every public service company which, directly or indirectly, issues  
32 or causes to be issued, any stock or stock certificate or other  
33 evidence of interest or ownership, or bond, note, or other evidence of  
34 indebtedness, in nonconformity with the provisions of this chapter, or  
35 which applies the proceeds from the sale thereof, or any part thereof,  
36 to any purpose other than the purpose or purposes allowed by this  
37 chapter shall be subject to a penalty of not more than one thousand

1 dollars for each offense. Every violation of any such order, rules,  
2 direction, demand, or requirement of the department, or of any  
3 provision of this chapter, shall be a separate and distinct offense and  
4 in case of a continuing violation every day's continuance thereof shall  
5 be deemed to be a separate and distinct offense.

6 The act, omission, or failure of any officer, agent, or employee of  
7 any public service company acting within the scope of his or her  
8 official duties or employment, shall in every case be deemed to be the  
9 act, omission, or failure of such public service company.

10 **Sec. 294.** RCW 81.24.070 and 1961 c 14 s 81.24.070 are each amended  
11 to read as follows:

12 All moneys collected under the provisions of this chapter shall  
13 within thirty days be paid to the state treasurer and by him or her  
14 deposited to the public service revolving fund.

15 **Sec. 295.** RCW 81.28.290 and 1961 c 14 s 81.28.290 are each amended  
16 to read as follows:

17 The commission shall investigate all accidents that may occur upon  
18 the lines of any common carrier resulting in loss of life, to any  
19 passenger or employee, and may investigate any and all accidents or  
20 wrecks occurring on the line of any common carrier. Notice of the  
21 investigation shall be given in all cases for a sufficient length of  
22 time to enable the company affected to participate in the hearing and  
23 may be given orally or in writing, in such manner as the commission may  
24 prescribe.

25 Such witnesses may be examined as the commission deems necessary  
26 and proper to thoroughly ascertain the cause of the accident or wreck  
27 and fix the responsibility therefor. The examination and investigation  
28 may be conducted by an inspector or deputy inspector, and (~~they~~) he  
29 or she may administer oaths, issue subpoenas, and compel the attendance  
30 of witnesses, and when the examination is conducted by an inspector or  
31 deputy inspector, he or she shall make a full and complete report  
32 thereof to the commission.

33 **Sec. 296.** RCW 81.40.060 and 2003 c 53 s 388 are each amended to  
34 read as follows:

35 (1) It shall be unlawful for any railroad or other transportation



1 company doing business in the state of Washington, or of any officer,  
2 agent, or servant of such railroad or other transportation company, to  
3 require any conductor, engineer, (~~brakeman~~) brake operator,  
4 (~~fireman~~) fire tender, purser, or other employee, as a condition of  
5 his or her continued employment, or otherwise to require or compel, or  
6 attempt to require or compel, any such employees to purchase of any  
7 such railroad or other transportation company or of any particular  
8 person, firm, or corporation or at any particular place or places, any  
9 uniform or other clothing or apparel, required by any such railroad or  
10 other transportation company to be used by any such employee in the  
11 performance of his or her duties as such; and any such railroad or  
12 transportation company or any officer, agent or servant thereof, who  
13 shall order or require any conductor, engineer, (~~brakeman~~) brake  
14 operator, (~~fireman~~) fire tender, purser, or other person in its  
15 employ, to purchase any uniform or other clothing or apparel as  
16 aforesaid, shall be deemed to have required such purchase as a  
17 condition of such employee's continued employment.

18 (2) Any railroad or other transportation company doing business in  
19 the state of Washington, or any officer, agent, or servant thereof,  
20 violating this section is guilty of a misdemeanor and upon conviction  
21 thereof shall be punished by a fine in any sum not less than one  
22 hundred dollars nor more than five hundred dollars, or by imprisonment  
23 in the county jail of the county where the misdemeanor is committed,  
24 not exceeding six months.

25 **Sec. 297.** RCW 81.40.110 and 1961 c 14 s 81.40.110 are each amended  
26 to read as follows:

27 Any railroad operating within this state, shall not employ or use  
28 as (~~flagman~~) flagger any person or persons who cannot read, write,  
29 and speak the English language.

30 **Sec. 298.** RCW 81.44.070 and 1961 c 14 s 81.44.070 are each amended  
31 to read as follows:

32 It shall be the duty of the inspector of tracks, bridges,  
33 structures, and equipment, and such deputies as may be appointed, to  
34 inspect all equipment, and appliances connected therewith, and all  
35 apparatus, tracks, bridges and structures, depots and facilities and  
36 accommodations connected therewith, and facilities and accommodations

1 furnished for the use of employees, and make such reports of his or her  
2 inspection to the commission as may be required. He or she shall, on  
3 discovering any defective equipment or appliances connected therewith,  
4 rendering the use of such equipment dangerous, immediately report the  
5 same to the superintendent of the road on which it is found, and to the  
6 proper official at the nearest point where such defect is discovered,  
7 describing the defect. Such inspector may, on the discovery of any  
8 defect rendering the use of any car, motor or locomotive dangerous,  
9 condemn such car, motor or locomotive, and order the same out of  
10 service until repaired and put in good working order. He or she shall,  
11 on discovering any track, bridge, or structure defective or unsafe in  
12 any particular, report such condition to the commission, and, in  
13 addition thereto, report the same to the official in charge of the  
14 division of such railroad upon which such defect is found. In case any  
15 track, bridge, or structure is found so defective as to be dangerous to  
16 the employees or public for a train or trains to be operated over the  
17 same, the inspector is hereby authorized to condemn such track, bridge,  
18 or structure and notify the commission and the office in charge of the  
19 division of such railroad where such defect is found of his or her  
20 action concerning the same, reporting in detail the defect complained  
21 of, and the work or improvements necessary to repair such defect. He  
22 or she shall also report to the commission the violation of any law  
23 governing, controlling, or affecting the conduct of public service  
24 companies in this state, as such companies are defined in this title or  
25 in Title 80 RCW.

26 The inspector, or such deputies as may be appointed, shall have the  
27 right and privilege of riding on any locomotive, either on freight or  
28 passenger trains, or on the caboose of any freight train, for the  
29 purpose of inspecting the track on any railroad in this state:  
30 PROVIDED, That the engineer or conductor in charge of any such  
31 locomotive or caboose may require such inspector to produce his or her  
32 authority, under the seal of the commission, showing that he or she is  
33 such inspector or deputy inspector.

34 The inspector, or such deputy inspector or inspectors as may be  
35 appointed, shall, when required by the commission, inspect any street  
36 railroad, gas plant, electrical plant, water system, telephone line, or  
37 telegraph line, and upon discovering any defective or dangerous track,  
38 bridge, structure, equipment, apparatus, machinery, appliance,

1 facility, instrumentality, or building, rendering the use of the same  
2 dangerous to the public or to the employees of the company owning or  
3 operating the same, report the same to the commission, and to the  
4 official in charge of such road, plant, system, or line.

5 **Sec. 299.** RCW 81.48.060 and 1961 c 14 s 81.48.060 are each amended  
6 to read as follows:

7 Every engineer, (~~motorman~~) motor operator, (~~gripman~~) grip  
8 operator, conductor, (~~brakeman~~) brake operator, switch tender, train  
9 dispatcher, or other officer, agent, or servant of any railway company,  
10 who shall be guilty of any willful violation or omission of his or her  
11 duty as such officer, agent, or servant, by which human life or safety  
12 shall be endangered, for which no punishment is specially prescribed,  
13 shall be guilty of a misdemeanor.

14 **Sec. 300.** RCW 81.48.070 and 1994 c 261 s 19 are each amended to  
15 read as follows:

16 Railroad companies in carrying or transporting animals shall not  
17 permit them to be confined in cars for a longer period than forty-eight  
18 consecutive hours without unloading them for rest, water, and feeding  
19 for a period of at least two consecutive hours, unless prevented from  
20 so unloading them by unavoidable accident. In estimating such  
21 confinement, the time during which the animals have been confined  
22 without such rest on connecting roads from which they are received  
23 shall be included. Animals so unloaded shall, during such rest, be  
24 properly fed, watered by the owner or person having the custody of  
25 them, or in case of his or her default in so doing, then by the  
26 railroad company transporting them, at the expense of said owner or  
27 person in custody thereof, and said company shall in such case have a  
28 lien upon such animals for food, care, and custody furnished, and shall  
29 not be liable for such detention of such animals. If animals are  
30 transported where they can and do have proper food, water, space, and  
31 opportunity for rest, the foregoing provision in regard to their being  
32 unloaded shall not apply. Violators of this section shall be punished  
33 by fine not exceeding one thousand dollars per animal.

34 **Sec. 301.** RCW 81.52.050 and 1961 c 14 s 81.52.050 are each amended  
35 to read as follows:

1 Every person, company, or corporation having the control or  
2 management of any railroad shall, outside of any corporate city or  
3 town, and outside the limits of any sidetrack or switch, cause to be  
4 constructed and maintained in good repair on each side of said  
5 railroad, along the line of said right-of-way of such person, company,  
6 or corporation operating the same, a substantial fence, and at every  
7 point where any roadway or other public highway shall cross said  
8 railroad, a safe and sufficient crossing must be built and maintained,  
9 and on each side of such crossing and at each end of such sidetrack or  
10 switch, outside of any incorporated city or town, a sufficient cattle  
11 guard: PROVIDED, That any person holding land on both sides of said  
12 right-of-way shall have the right to put in gates for his or her own  
13 use at such places as may be convenient.

14 **Sec. 302.** RCW 81.53.010 and 1961 c 14 s 81.53.010 are each amended  
15 to read as follows:

16 The term "commission," when used in this chapter, means the  
17 utilities and transportation commission of Washington.

18 The term "highway," when used in this chapter, includes all state  
19 and county roads, streets, alleys, avenues, boulevards, parkways, and  
20 other public places actually open and in use, or to be opened and used,  
21 for travel by the public.

22 The term "railroad," when used in this chapter, means every  
23 railroad, including interurban and suburban electric railroads, by  
24 whatsoever power operated, for the public use in the conveyance of  
25 persons or property for hire, with all bridges, ferries, tunnels,  
26 equipment, switches, spurs, sidings, tracks, stations, and terminal  
27 facilities of every kind, used, operated, controlled, managed, or owned  
28 by or in connection therewith. The said term shall also include every  
29 logging and other industrial railway owned or operated primarily for  
30 the purpose of carrying the property of its owners or operators or of  
31 a limited class of persons, with all tracks, spurs, and sidings used in  
32 connection therewith. The said term shall not include street railways  
33 operating within the limits of any incorporated city or town.

34 The term "railroad company," when used in this chapter, includes  
35 every corporation, company, association, joint stock association,  
36 partnership, or person, its, their, or his or her lessees, trustees, or

1 receivers appointed by any court whatsoever, owning, operating,  
2 controlling, or managing any railroad, as that term is defined in this  
3 section.

4 The term "over-crossing," when used in this chapter, means any  
5 point or place where a highway crosses a railroad by passing above the  
6 same.

7 The term "under-crossing," when used in this chapter, means any  
8 point or place where a highway crosses a railroad by passing under the  
9 same.

10 The term "over-crossing" or "under-crossing," shall also mean any  
11 point or place where one railroad crosses another railroad not at  
12 grade.

13 The term "grade crossing," when used in this chapter, means any  
14 point or place where a railroad crosses a highway or a highway crosses  
15 a railroad or one railroad crosses another, at a common grade.

16 **Sec. 303.** RCW 81.53.030 and 1984 c 7 s 373 are each amended to  
17 read as follows:

18 Whenever a railroad company desires to cross a highway or railroad  
19 at grade, it shall file a written petition with the commission setting  
20 forth the reasons why the crossing cannot be made either above or below  
21 grade. Whenever the legislative authority of a county, or the  
22 municipal authorities of a city, or the state officers authorized to  
23 lay out and construct state roads, or the state parks and recreation  
24 commission, desire to extend a highway across a railroad at grade, they  
25 shall file a written petition with the commission, setting forth the  
26 reasons why the crossing cannot be made either above or below grade.  
27 Upon receiving the petition, the commission shall immediately  
28 investigate it, giving at least ten days' notice to the railroad  
29 company and the county or city affected thereby, of the time and place  
30 of the investigation, to the end that all parties interested may be  
31 present and heard. If the highway involved is a state road or parkway,  
32 the secretary of transportation or the state parks and recreation  
33 commission shall be notified of the time and place of hearing. The  
34 evidence introduced shall be reduced to writing and be filed by the  
35 commission. If it finds that it is not practicable to cross the  
36 railroad or highway either above or below grade, the commission shall  
37 enter a written order in the cause, either granting or denying the

1 right to construct a grade crossing at the point in question. The  
2 commission may provide in the order authorizing a grade crossing, or at  
3 any subsequent time, that the railroad company shall install and  
4 maintain proper signals, warnings, (~~flagmen~~) flaggers, interlocking  
5 devices, or other devices or means to secure the safety of the public  
6 and its employees. In respect to existing railroad grade crossings  
7 over highways the construction of which grade crossings was  
8 accomplished other than under a commission order authorizing it, the  
9 commission may in any event require the railroad company to install and  
10 maintain, at or near each crossing, on both sides of it, a sign known  
11 as the sawbuck crossing sign with the lettering "Railroad Crossing"  
12 inscribed thereon with a suitable inscription indicating the number of  
13 tracks. The sign shall be of standard design conforming to  
14 specifications furnished by the Washington state department of  
15 transportation.

16 **Sec. 304.** RCW 81.53.120 and 1961 c 14 s 81.53.120 are each amended  
17 to read as follows:

18 Whenever two or more lines of railroad owned or operated by  
19 different companies cross a highway, or each other, by an over-  
20 crossing, under-crossing, or grade crossing required or permitted by  
21 this chapter or by an order of the commission, the portion of the  
22 expense of making such crossing not chargeable to any municipality,  
23 county, or to the state, and the expense of constructing and  
24 maintaining such signals, warnings, (~~flagmen~~) flaggers, interlocking  
25 devices, or other devices or means to secure the safety of the public  
26 and the employees of the railroad company, as the commission may  
27 require to be constructed and maintained, shall be apportioned between  
28 said railroad companies by the commission in such manner as justice may  
29 require, regard being had for all facts relating to the establishment,  
30 reason for, and construction of said improvement, unless said companies  
31 shall mutually agree upon an apportionment. If it becomes necessary  
32 for the commission to make an apportionment between the railroad  
33 companies, a hearing for that purpose shall be held, at least ten days'  
34 notice of which shall be given.

35 **Sec. 305.** RCW 81.53.261 and 2007 c 234 s 99 are each amended to  
36 read as follows:

1           Whenever the secretary of transportation or the governing body of  
2 any city, town, or county, or any railroad company whose road is  
3 crossed by any highway, shall deem that the public safety requires  
4 signals or other warning devices, other than sawbuck signs, at any  
5 crossing of a railroad at common grade by any state, city, town, or  
6 county highway, road, street, alley, avenue, boulevard, parkway, or  
7 other public place actually open and in use or to be opened and used  
8 for travel by the public, he or she or it shall file with the utilities  
9 and transportation commission a petition in writing, alleging that the  
10 public safety requires the installation of specified signals or other  
11 warning devices at such crossing or specified changes in the method and  
12 manner of existing crossing warning devices. Upon receiving such  
13 petition, the commission shall promptly set the matter for hearing,  
14 giving at least twenty days notice to the railroad company or companies  
15 and the county or municipality affected thereby, or the secretary of  
16 transportation in the case of a state highway, of the time and place of  
17 such hearing. At the time and place fixed in the notice, all persons  
18 and parties interested shall be entitled to be heard and introduce  
19 evidence, which shall be reduced to writing and filed by the  
20 commission. If the commission shall determine from the evidence that  
21 public safety does not require the installation of the signal, other  
22 warning device or change in the existing warning device specified in  
23 the petition, it shall make determinations to that effect and enter an  
24 order denying said petition in toto. If the commission shall determine  
25 from the evidence that public safety requires the installation of such  
26 signals or other warning devices at such crossing or such change in the  
27 existing warning devices at said crossing, it shall make determinations  
28 to that effect and enter an order directing the installation of such  
29 signals or other warning devices or directing that such changes shall  
30 be made in existing warning devices. The commission shall also at said  
31 hearing apportion the entire cost of installation and maintenance of  
32 such signals or other warning devices, other than sawbuck signs, as  
33 provided in RCW 81.53.271: PROVIDED, That upon agreement by all  
34 parties to waive hearing, the commission shall forthwith enter its  
35 order.

36           No railroad shall be required to install any such signal or other  
37 warning device until the public body involved has either paid or

1 executed its promise to pay to the railroad its portion of the  
2 estimated cost thereof.

3 Nothing in this section shall be deemed to foreclose the right of  
4 the interested parties to enter into an agreement, franchise, or permit  
5 arrangement providing for the installation of signals or other warning  
6 devices at any such crossing or for the apportionment of the cost of  
7 installation and maintenance thereof, or compliance with an existing  
8 agreement, franchise, or permit arrangement providing for the same.

9 The hearing and determinations authorized by this section may be  
10 instituted by the commission on its own motion, and the proceedings,  
11 hearing, and consequences thereof shall be the same as for the hearing  
12 and determination of any petition authorized by this section.

13 No part of the record, or a copy thereof, of the hearing and  
14 determination provided for in this section and no finding, conclusion,  
15 or order made pursuant thereto shall be used as evidence in any trial,  
16 civil or criminal, arising out of an accident at or in the vicinity of  
17 any crossing prior to installation of signals or other warning devices  
18 pursuant to an order of the commission as a result of any such  
19 investigation.

20 Any order entered by the utilities and transportation commission  
21 under this section shall be subject to review, supersedeas, and appeal  
22 as provided in chapter 34.05 RCW.

23 Nothing in this section shall be deemed to relieve any railroad  
24 from liability on account of failure to provide adequate protective  
25 devices at any such crossing.

26 **Sec. 306.** RCW 81.64.160 and 2003 c 53 s 397 are each amended to  
27 read as follows:

28 (1) No person, agent, officer, manager, or superintendent or  
29 receiver of any corporation or owner of streetcars shall require his,  
30 her, or its (~~gripmen~~) grip operators, (~~motormen~~) motor operators,  
31 drivers, or conductors to work more than ten hours in any twenty-four  
32 hours.

33 (2) Any person, agent, officer, manager, superintendent, or  
34 receiver of any corporation, or owner of streetcar or cars, violating  
35 this section is guilty of a misdemeanor, and shall be fined in any sum  
36 not less than twenty-five dollars nor more than one hundred dollars for  
37 each day in which such (~~gripman~~) grip operator, (~~motorman~~) motor



1 operator, driver, or conductor in the employ of such person, agent,  
2 officer, manager, superintendent, or receiver of such corporation or  
3 owner is required to work more than ten hours during each twenty-four  
4 hours, as provided in this section.

5 (3) It is the duty of the prosecuting attorney of each county of  
6 this state to institute the necessary proceedings to enforce the  
7 provisions of this section.

8 **Sec. 307.** RCW 81.77.020 and 1989 c 431 s 18 are each amended to  
9 read as follows:

10 No person, his or her lessees, receivers, or trustees, shall engage  
11 in the business of operating as a solid waste collection company in  
12 this state, except in accordance with the provisions of this chapter:  
13 PROVIDED, That the provisions of this chapter shall not apply to the  
14 operations of any solid waste collection company under a contract of  
15 solid waste disposal with any city or town, nor to any city or town  
16 which itself undertakes the disposal of solid waste.

17 **Sec. 308.** RCW 81.80.100 and 1961 c 14 s 81.80.100 are each amended  
18 to read as follows:

19 Permits granted by the commission shall be in such form as the  
20 commission shall prescribe and shall set forth the name and address of  
21 the person to whom the permit is granted, the nature of the  
22 transportation service to be engaged in and the principal place of  
23 operation, termini or route to be used or territory to be served by the  
24 operation. No permit holder shall operate except in accordance with  
25 the permit issued to him or her.

26 **Sec. 309.** RCW 81.80.355 and 1961 c 14 s 81.80.355 are each amended  
27 to read as follows:

28 Any person not holding a permit authorizing him or her to operate  
29 as a common carrier, contract carrier, or temporary carrier for the  
30 transportation of property for compensation in this state, or an exempt  
31 carrier, who displays on any building, vehicle, billboard, or in any  
32 manner, any advertisement of, or by circular, letter, newspaper,  
33 magazine, poster, card, or telephone directory, advertises the  
34 transportation of property for compensation shall be guilty of a  
35 misdemeanor and punishable as such.

1       **Sec. 310.** RCW 81.96.030 and 1984 c 7 s 376 are each amended to  
2 read as follows:

3       The secretary of transportation or his or her designee may serve as  
4 the Washington state member to the western regional short-haul air  
5 transportation compact and may execute the compact on behalf of this  
6 state with any other state or states legally joining therein.

7       **Sec. 311.** RCW 82.03.050 and 1975-'76 2nd ex.s. c 34 s 176 are each  
8 amended to read as follows:

9       The board shall operate on either a part\_time or a full\_time basis,  
10 as determined by the governor. If it is determined that the board  
11 shall operate on a full\_time basis, each member of the board shall  
12 receive an annual salary to be determined by the governor. If it is  
13 determined that the board shall operate on a part\_time basis, each  
14 member of the board shall receive compensation on the basis of seventy-  
15 five dollars for each day spent in performance of his or her duties,  
16 but such compensation shall not exceed ten thousand dollars in a fiscal  
17 year. Each board member shall receive reimbursement for travel  
18 expenses incurred in the discharge of his or her duties in accordance  
19 with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

20       **Sec. 312.** RCW 82.03.060 and 1967 ex.s. c 26 s 35 are each amended  
21 to read as follows:

- 22       Each member of the board of tax appeals:
- 23       (1) Shall not be a candidate for nor hold any other public office  
24 or trust, and shall not engage in any occupation or business  
25 interfering with or inconsistent with his or her duty as a member of  
26 the board, nor shall he or she serve on or under any committee of any  
27 political party; and
  - 28       (2) Shall not for a period of one year after the termination of his  
29 or her membership on the board, act in a representative capacity before  
30 the board on any matter.

31       **Sec. 313.** RCW 82.03.080 and 1967 ex.s. c 26 s 37 are each amended  
32 to read as follows:

33       The board shall as soon as practicable after the initial  
34 appointment of the members thereof, meet and elect from among its

1 members a ((~~chairman~~)) chair, and shall at least biennially thereafter  
2 meet and elect such a ((~~chairman~~)) chair.

3 **Sec. 314.** RCW 82.04.290 and 2011 c 174 s 101 are each amended to  
4 read as follows:

5 (1) Upon every person engaging within this state in the business of  
6 providing international investment management services, as to such  
7 persons, the amount of tax with respect to such business shall be equal  
8 to the gross income or gross proceeds of sales of the business  
9 multiplied by a rate of 0.275 percent.

10 (2)(a) Upon every person engaging within this state in any business  
11 activity other than or in addition to an activity taxed explicitly  
12 under another section in this chapter or subsection (1) or (3) of this  
13 section; as to such persons the amount of tax on account of such  
14 activities shall be equal to the gross income of the business  
15 multiplied by the rate of 1.5 percent.

16 (b) This subsection (2) includes, among others, and without  
17 limiting the scope hereof (whether or not title to materials used in  
18 the performance of such business passes to another by accession,  
19 confusion or other than by outright sale), persons engaged in the  
20 business of rendering any type of service which does not constitute a  
21 "sale at retail" or a "sale at wholesale." The value of advertising,  
22 demonstration, and promotional supplies and materials furnished to an  
23 agent by his or her principal or supplier to be used for informational,  
24 educational, and promotional purposes shall not be considered a part of  
25 the agent's remuneration or commission and shall not be subject to  
26 taxation under this section.

27 (3)(a) Until July 1, 2024, upon every person engaging within this  
28 state in the business of performing aerospace product development for  
29 others, as to such persons, the amount of tax with respect to such  
30 business shall be equal to the gross income of the business multiplied  
31 by a rate of 0.9 percent.

32 (b) "Aerospace product development" has the meaning as provided in  
33 RCW 82.04.4461.

34 **Sec. 315.** RCW 82.04.425 and 1980 c 37 s 78 are each amended to  
35 read as follows:

36 This chapter shall not apply to sales for resale by persons

1 regularly engaged in the business of making sales of the type of  
2 property so sold to other persons similarly engaged in the business of  
3 selling such property where (1) the amount paid by the buyer does not  
4 exceed the amount paid by the seller to his or her vendor in the  
5 acquisition of the article and (2) the sale is made as an accommodation  
6 to the buyer to enable him or her to fill a bona fide existing order of  
7 a customer or is made within fourteen days to reimburse in kind a  
8 previous accommodation sale by the buyer to the seller; nor to sales by  
9 a wholly owned subsidiary of a person making sales at retail which are  
10 exempt under RCW 82.08.0262 when the parent corporation shall have paid  
11 the tax imposed under this chapter.

12 **Sec. 316.** RCW 82.08.0266 and 1999 c 358 s 5 are each amended to  
13 read as follows:

14 The tax levied by RCW 82.08.020 shall not apply to sales to  
15 nonresidents of this state for use outside of this state of watercraft  
16 requiring coast guard registration or registration by the state of  
17 principal use according to the federal boating act of 1958, even though  
18 delivery be made within this state, but only when (1) the watercraft  
19 will not be used within this state for more than forty-five days and  
20 (2) an appropriate exemption certificate supported by identification  
21 ascertaining residence as required by the department of revenue and  
22 signed by the purchaser or his or her agent establishing the fact that  
23 the purchaser is a nonresident and that the watercraft is for use  
24 outside of this state, a copy of which shall be retained by the dealer.

25 **Sec. 317.** RCW 82.08.0269 and 1980 c 37 s 36 are each amended to  
26 read as follows:

27 The tax levied by RCW 82.08.020 shall not apply to sales for use in  
28 states, territories, and possessions of the United States which are not  
29 contiguous to any other state, but only when, as a necessary incident  
30 to the contract of sale, the seller delivers the subject matter of the  
31 sale to the purchaser or his or her designated agent at the usual  
32 receiving terminal of the carrier selected to transport the goods,  
33 under such circumstances that it is reasonably certain that the goods  
34 will be transported directly to a destination in such noncontiguous  
35 states, territories, and possessions.

1       **Sec. 318.** RCW 82.08.100 and 2004 c 153 s 303 are each amended to  
2 read as follows:

3       The department of revenue, by general regulation, shall provide  
4 that a taxpayer whose regular books of account are kept on a cash  
5 receipts basis may file returns based upon his or her cash receipts for  
6 each reporting period and pay the tax herein provided upon such basis  
7 in lieu of reporting and paying the tax on all sales made during such  
8 period. A taxpayer filing returns on a cash receipts basis is not  
9 required to pay such tax on debt subject to credit or refund under RCW  
10 82.08.037.

11       **Sec. 319.** RCW 82.12.070 and 2004 c 153 s 305 are each amended to  
12 read as follows:

13       The department of revenue, by general regulation, shall provide  
14 that a taxpayer whose regular books of account are kept on a cash  
15 receipts basis may file returns based upon his or her cash receipts for  
16 each reporting period and pay the tax herein provided upon such basis  
17 in lieu of reporting and paying the tax on all sales made during such  
18 period. A taxpayer filing returns on a cash receipts basis is not  
19 required to pay such tax on debt subject to credit or refund under RCW  
20 82.12.037.

21       **Sec. 320.** RCW 82.24.210 and 2003 c 25 s 11 are each amended to  
22 read as follows:

23       The department of revenue may promulgate rules and regulations  
24 providing for the refund to dealers for the cost of stamps affixed to  
25 articles taxed herein, which by reason of damage become unfit for sale  
26 and are destroyed by the dealer or returned to the manufacturer or  
27 jobber. In the case of any articles to which stamps have been affixed,  
28 and which articles have been sold and shipped to a regular dealer in  
29 such articles in another state, the seller in this state shall be  
30 entitled to a refund of the actual amount of the stamps so affixed,  
31 less the affixing discount, upon condition that the seller in this  
32 state makes affidavit that the articles were sold and shipped outside  
33 of the state and that he or she has received from the purchaser outside  
34 the state a written acknowledgment that he or she has received such  
35 articles with the amount of stamps affixed thereto, together with the  
36 name and address of such purchaser. The department of revenue may

1 redeem any unused stamps purchased from it at the face value thereof  
2 less the affixing discount. A distributor or wholesaler that has  
3 lawfully affixed stamps to cigarettes, and subsequently is unable to  
4 sell those cigarettes lawfully because the cigarettes are removed from  
5 the directory created pursuant to RCW 70.158.030(2), may apply to the  
6 department for a refund of the cost of the stamps.

7 **Sec. 321.** RCW 82.24.250 and 2008 c 226 s 5 are each amended to  
8 read as follows:

9 (1) No person other than: (a) A licensed wholesaler in the  
10 wholesaler's own vehicle; or (b) a person who has given notice to the  
11 board in advance of the commencement of transportation shall transport  
12 or cause to be transported in this state cigarettes not having the  
13 stamps affixed to the packages or containers.

14 (2) When transporting unstamped cigarettes, such persons shall have  
15 in their actual possession or cause to have in the actual possession of  
16 those persons transporting such cigarettes on their behalf invoices or  
17 delivery tickets for such cigarettes, which shall show the true name  
18 and address of the consignor or seller, the true name and address of  
19 the consignee or purchaser, and the quantity and brands of the  
20 cigarettes so transported.

21 (3) If unstamped cigarettes are consigned to or purchased by any  
22 person in this state, such purchaser or consignee must be a person who  
23 is authorized by this chapter to possess unstamped cigarettes in this  
24 state.

25 (4) In the absence of the notice of transportation required by this  
26 section or in the absence of such invoices or delivery tickets, or, if  
27 the name or address of the consignee or purchaser is falsified or if  
28 the purchaser or consignee is not a person authorized by this chapter  
29 to possess unstamped cigarettes, the cigarettes so transported shall be  
30 deemed contraband subject to seizure and sale under the provisions of  
31 RCW 82.24.130.

32 (5) Transportation of cigarettes from a point outside this state to  
33 a point in some other state will not be considered a violation of this  
34 section provided that the person so transporting such cigarettes has in  
35 his or her possession adequate invoices or delivery tickets which give  
36 the true name and address of such out-of-state seller or consignor and  
37 such out-of-state purchaser or consignee.

1 (6) In any case where the department or its duly authorized agent,  
2 or any peace officer of the state, has knowledge or reasonable grounds  
3 to believe that any vehicle is transporting cigarettes in violation of  
4 this section, the department, such agent, or such police officer, is  
5 authorized to stop such vehicle and to inspect the same for contraband  
6 cigarettes.

7 (7) For purposes of this section, the term "person authorized by  
8 this chapter to possess unstamped cigarettes in this state" means:

9 (a) A wholesaler, licensed under Washington state law;

10 (b) The United States or an agency thereof;

11 (c) Any person, including an Indian tribal organization, who, after  
12 notice has been given to the board as provided in this section, brings  
13 or causes to be brought into the state unstamped cigarettes, if within  
14 a period of time after receipt of the cigarettes as the department  
15 determines by rule to be reasonably necessary for the purpose the  
16 person has caused stamps to be affixed in accordance with RCW 82.24.030  
17 or otherwise made payment of the tax required by this chapter in the  
18 manner set forth in rules adopted by the department; and

19 (d) Any purchaser or consignee of unstamped cigarettes, including  
20 an Indian tribal organization, who has given notice to the board in  
21 advance of receiving unstamped cigarettes and who within a period of  
22 time after receipt of the cigarettes as the department determines by  
23 rule to be reasonably necessary for the purpose the person has caused  
24 stamps to be affixed in accordance with RCW 82.24.030 or otherwise made  
25 payment of the tax required by this chapter in the manner set forth in  
26 rules adopted by the department.

27 Nothing in this subsection (7) shall be construed as modifying RCW  
28 82.24.050 or 82.24.110.

29 (8) Nothing in this section shall be construed as limiting any  
30 otherwise lawful activity under a cigarette tax compact pursuant to  
31 chapter 43.06 RCW.

32 (9) Nothing in this section shall be construed as limiting the  
33 right to travel upon all public highways under Article III of the  
34 treaty with the Yakamas of 1855.

35 **Sec. 322.** RCW 82.32.070 and 1999 c 358 s 14 are each amended to  
36 read as follows:

37 (1) Every person liable for any fee or tax imposed by chapters

1 82.04 through 82.27 RCW shall keep and preserve, for a period of five  
2 years, suitable records as may be necessary to determine the amount of  
3 any tax for which he or she may be liable, which records shall include  
4 copies of all federal income tax and state tax returns and reports made  
5 by him or her. All his or her books, records, and invoices shall be  
6 open for examination at any time by the department of revenue. In the  
7 case of an out-of-state person or concern which does not keep the  
8 necessary books and records within this state, it shall be sufficient  
9 if it produces within the state such books and records as shall be  
10 required by the department of revenue, or permits the examination by an  
11 agent authorized or designated by the department of revenue at the  
12 place where such books and records are kept. Any person who fails to  
13 comply with the requirements of this section shall be forever barred  
14 from questioning, in any court action or proceedings, the correctness  
15 of any assessment of taxes made by the department of revenue based upon  
16 any period for which such books, records, and invoices have not been so  
17 kept and preserved.

18 (2) A person liable for any fee or tax imposed by chapters 82.04  
19 through 82.27 RCW who contracts with another person or entity for work  
20 subject to chapter 18.27 or 19.28 RCW shall obtain and preserve a  
21 record of the unified business identifier account number for the person  
22 or entity performing the work. Failure to obtain or maintain the  
23 record is subject to RCW 39.06.010 and to a penalty determined by the  
24 director, but not to exceed two hundred fifty dollars. The department  
25 shall notify the taxpayer and collect the penalty in the same manner as  
26 penalties under RCW 82.32.100.

27 **Sec. 323.** RCW 82.32.120 and 1975 1st ex.s. c 278 s 80 are each  
28 amended to read as follows:

29 All officers empowered by law to administer oaths, the director of  
30 the department of revenue, and such officers as he or she may designate  
31 shall have the power to administer an oath to any person or to take the  
32 acknowledgment of any person with respect to any return or report  
33 required by law or the rules and regulations of the department of  
34 revenue.

35 **Sec. 324.** RCW 82.32.170 and 2007 c 111 s 111 are each amended to  
36 read as follows:



1 Any person, having paid any tax, original assessment, additional  
2 assessment, or corrected assessment of any tax, may apply to the  
3 department within the time limitation for refund provided in this  
4 chapter, by petition in writing for a correction of the amount paid,  
5 and a conference for examination and review of the tax liability, in  
6 which petition he or she shall set forth the reasons why the conference  
7 should be granted, and the amount in which the tax, interest, or  
8 penalty, should be refunded. The department shall promptly consider  
9 the petition, and may grant or deny it. If denied, the petitioner  
10 shall be notified by mail, or electronically as provided in RCW  
11 82.32.135, thereof forthwith. If a conference is granted, the  
12 department shall notify the petitioner by mail, or electronically as  
13 provided in RCW 82.32.135, of the time and place fixed therefor. After  
14 the hearing, the department may make such determination as may appear  
15 to it just and lawful, and shall mail a copy of its determination to  
16 the petitioner, or provide a copy of its determination electronically  
17 as provided in RCW 82.32.135.

18 **Sec. 325.** RCW 82.32.260 and 1975 1st ex.s. c 278 s 87 are each  
19 amended to read as follows:

20 In the case of any corporation organized under the laws of this  
21 state, the courts shall not enter or sign any decree of dissolution,  
22 nor shall the secretary of state file in his or her office any  
23 certificate of dissolution, and in the case of any corporation  
24 organized under the laws of another jurisdiction and admitted to do  
25 business in this state, the secretary of state shall withhold the  
26 issuance of any certificate of withdrawal, until proof, in the form of  
27 a certificate from the department of revenue, has been furnished by the  
28 applicant for such dissolution or withdrawal, that every license fee,  
29 tax, increase, or penalty has been paid or provided for.

30 **Sec. 326.** RCW 82.32.270 and 1975 1st ex.s. c 278 s 88 are each  
31 amended to read as follows:

32 The taxes imposed hereunder, and the returns required therefor,  
33 shall be upon a calendar year basis; but, if any taxpayer in  
34 transacting his or her business, keeps books reflecting the same on a  
35 basis other than the calendar year, he or she may, with consent of the

1 department of revenue, make his or her returns, and pay taxes upon the  
2 basis of his or her accounting period as shown by the method of keeping  
3 the books of his or her business.

4 **Sec. 327.** RCW 82.32.310 and 1975 1st ex.s. c 278 s 91 are each  
5 amended to read as follows:

6 When recovery is had in any suit or proceeding against an officer,  
7 agent, or employee of the department of revenue for any act done by him  
8 or her or for the recovery of any money exacted by or paid to him or  
9 her and by him or her paid over to the department, in the performance  
10 of his or her official duty, and the court certifies that there was  
11 probable cause for the act done by such officer, agent, or employee, or  
12 that he or she acted under the direction of the department or an  
13 officer thereof, no execution shall issue against such officer, agent,  
14 or employee, but the amount so recovered shall, upon final judgment, be  
15 paid by the department as an expense of operation.

16 **Sec. 328.** RCW 82.36.110 and 1993 c 54 s 3 are each amended to read  
17 as follows:

18 If any person liable for the tax imposed by this chapter fails to  
19 pay the same, the amount thereof, including any interest, penalty, or  
20 addition to such tax, together with any costs that may accrue in  
21 addition thereto, shall be a lien in favor of the state upon all  
22 franchises, property, and rights to property, whether real or personal,  
23 then belonging to or thereafter acquired by such person, whether such  
24 property is employed by such person in the prosecution of business or  
25 is in the hands of a trustee, or receiver, or assignee for the benefit  
26 of creditors, from the date the taxes were due and payable, until the  
27 amount of the lien is paid or the property sold in payment thereof.

28 The lien shall have priority over any lien or encumbrance  
29 whatsoever, except the lien of other state taxes having priority by  
30 law, and except that such lien shall not be valid as against any bona  
31 fide mortgagee, pledgee, judgment creditor, or purchaser whose rights  
32 have attached prior to the time the department has filed notice of such  
33 lien in the office of the county auditor of the county in which the  
34 principal place of business of the taxpayer is located.

35 The auditor, upon presentation of a notice of lien, and without  
36 requiring the payment of any fee, shall file and index it in the manner

1 now provided for deeds and other conveyances except that he or she  
2 shall not be required to include, in the index, any description of the  
3 property affected by the lien. The lien shall continue until the  
4 amount of the tax, together with any penalties and interest  
5 subsequently accruing thereon, is paid. The department may issue a  
6 certificate of release of lien when the amount of the tax, together  
7 with any penalties and interest subsequently accruing thereon, has been  
8 satisfied, and such release may be recorded with the auditor of the  
9 county in which the notice of lien has been filed.

10 The department shall furnish to any person applying therefor a  
11 certificate showing the amount of all liens for motor vehicle fuel tax,  
12 penalties and interest that may be of record in the files of the  
13 department against any person under the provisions of this chapter.

14 **Sec. 329.** RCW 82.36.250 and 1961 c 15 s 82.36.250 are each amended  
15 to read as follows:

16 Any person who purchases or otherwise acquires motor vehicle fuel  
17 upon which the tax has not been paid, from the United States  
18 government, or any of its agents or officers, for use not specifically  
19 associated with any governmental function or operation or so acquires  
20 inflammable petroleum products other than motor vehicle fuel and uses  
21 the same in the propulsion of motor vehicles as herein defined, for a  
22 use not associated with any governmental function or operation, shall  
23 pay to the state the tax herein provided upon the motor vehicle fuel,  
24 or other inflammable petroleum products so acquired. It shall be  
25 unlawful for any person to use or to conspire with any governmental  
26 official, agent, or employee for the use of any requisition, purchase  
27 order, or any card or any authority to which he or she is not  
28 specifically entitled by government regulations, for the purpose of  
29 obtaining any motor vehicle fuel or other inflammable petroleum  
30 products upon which the state tax has not been paid.

31 **Sec. 330.** RCW 82.36.310 and 1998 c 176 s 38 and 1998 c 115 s 3 are  
32 each reenacted and amended to read as follows:

33 Any person claiming a refund for motor vehicle fuel used or  
34 exported as in this chapter provided shall not be entitled to receive  
35 such refund until he or she presents to the director a claim upon forms  
36 to be provided by the director with such information as the director

1 shall require, which claim to be valid shall in all cases be  
2 accompanied by invoices issued to the claimant at the time of the  
3 purchases of the motor vehicle fuel, approved as to invoice form by the  
4 director. The requirement to provide invoices may be waived for small  
5 refund amounts, as determined by the department. Claims for refund of  
6 motor vehicle fuel tax must be at least twenty dollars.

7 Any person claiming refund by reason of exportation of motor  
8 vehicle fuel shall in addition to the invoices required furnish to the  
9 director the export certificate therefor, and the signature on the  
10 exportation certificate shall be certified by a notary public. In all  
11 cases, the claim shall be signed by the person claiming the refund, if  
12 it is a corporation, by some proper officer of the corporation, or if  
13 it is a limited liability company, by some proper manager or member of  
14 the limited liability company.

15 **Sec. 331.** RCW 82.36.410 and 1973 c 95 s 5 are each amended to read  
16 as follows:

17 All moneys collected by the director shall be transmitted forthwith  
18 to the state treasurer, together with a statement showing whence the  
19 moneys were derived, and shall be by him or her credited to the motor  
20 vehicle fund.

21 **Sec. 332.** RCW 82.38.060 and 1996 c 90 s 1 are each amended to read  
22 as follows:

23 In the event the tax on special fuel imported into this state in  
24 the fuel supply tanks of motor vehicles for taxable use on Washington  
25 highways can be more accurately determined on a mileage basis, the  
26 department is authorized to approve and adopt such basis. When a  
27 special fuel user imports special fuel into or exports special fuel  
28 from the state of Washington in the fuel supply tanks of motor  
29 vehicles, the amount of special fuel consumed in such vehicles on  
30 Washington highways shall be deemed to be such proportion of the total  
31 amount of such special fuel consumed in his or her entire operations  
32 within and without this state as the total number of miles traveled on  
33 the public highways within this state bears to the total number of  
34 miles traveled within and without the state. The department may also  
35 adopt such mileage basis for determining the taxable use of special  
36 fuel used in motor vehicles which travel regularly over prescribed

1 courses on and off the highways within the state of Washington. In the  
2 absence of records showing the number of miles actually operated per  
3 gallon of special fuel consumed, fuel consumption shall be calculated  
4 at the rate of one gallon for every: (1) Four miles traveled by  
5 vehicles over forty thousand pounds gross vehicle weight; (2) seven  
6 miles traveled by vehicles twelve thousand one to forty thousand pounds  
7 gross vehicle weight; (3) ten miles traveled by vehicles six thousand  
8 one to twelve thousand pounds gross vehicle weight; and (4) sixteen  
9 miles traveled by vehicles six thousand pounds or less gross vehicle  
10 weight.

11 **Sec. 333.** RCW 82.38.275 and 1979 c 40 s 20 are each amended to  
12 read as follows:

13 The department may initiate and conduct investigations as may be  
14 reasonably necessary to establish the existence of any alleged  
15 violations of or noncompliance with the provisions of this chapter or  
16 any rules or regulations issued hereunder.

17 For the purpose of any investigation or proceeding under this  
18 chapter, the director or any officer designated by him or her may  
19 administer oaths and affirmations, subpoena witnesses, compel their  
20 attendance, take evidence, and require the production of any books,  
21 papers, correspondence, memoranda, agreements, or other documents or  
22 records which the director deems relevant or material to the inquiry.

23 In case of contumacy by or refusal to obey a subpoena issued to,  
24 any person, any court of competent jurisdiction upon application by the  
25 director, may issue to that person an order requiring him or her to  
26 appear before the director, or the officer designated by him or her to  
27 produce testimony or other evidence touching the matter under  
28 investigation or in question. The failure to obey an order of the  
29 court may be punishable by contempt.

30 **Sec. 334.** RCW 82.41.080 and 1982 c 161 s 8 are each amended to  
31 read as follows:

32 The department may initiate and conduct investigations as may be  
33 reasonably necessary to establish the existence of any alleged  
34 violations of or noncompliance with this chapter or any rules issued  
35 hereunder.

1 For the purpose of any investigation or proceeding under this  
2 chapter, the director or any officer designated by the director may  
3 administer oaths and affirmations, subpoena witnesses, compel their  
4 attendance, take evidence, and require the production of any books,  
5 papers, correspondence, memoranda, agreements, or other documents or  
6 records which the director deems relevant or material to the inquiry.

7 In case of contumacy by or refusal to obey a subpoena issued to any  
8 person, any court of competent jurisdiction, upon application by the  
9 director, may issue to that person an order requiring him or her to  
10 appear before the director, or the officer designated by the director,  
11 to produce testimony or other evidence touching the matter under  
12 investigation or in question. The failure to obey an order of the  
13 court may be punishable by contempt.

14 **Sec. 335.** RCW 82.42.040 and 2008 c 181 s 507 are each amended to  
15 read as follows:

16 The director shall by rule and regulation adopted as provided in  
17 chapter 34.05 RCW (Administrative Procedure Act) set up the necessary  
18 administrative procedure for collection by the department of the  
19 aircraft fuel excise tax as provided for in RCW 82.42.020, placing the  
20 responsibility of collection of said tax upon every distributor of  
21 aircraft fuel within the state; he or she may require the licensing of  
22 every distributor of aircraft fuel and shall require such a corporate  
23 surety bond or security of any distributor or person not otherwise  
24 bonded under provisions of chapter 82.36 RCW as is provided for  
25 distributors of motor vehicle fuel under RCW 82.36.060; he or she shall  
26 provide such forms and may require such reports or statements as in his  
27 or her determination shall be necessary for the proper administration  
28 of this chapter. The director may require such records to be kept, and  
29 for such periods of time, as deemed necessary for the administration of  
30 this chapter, which records shall be available at all times for the  
31 director or his or her representative who may require a statement under  
32 oath as to the contents thereof. During a state of emergency declared  
33 under RCW 43.06.010(12), the director, on his or her own motion or at  
34 the request of any taxpayer affected by the emergency, may extend the  
35 time for filing any report or the due date for tax remittances as the  
36 director deems proper.

1 Every application for a distributor's license must contain the  
2 following information to the extent it applies to the applicant:

3 (1) Proof as the department may require concerning the applicant's  
4 identity, including but not limited to his or her fingerprints or those  
5 of the officers of a corporation making the application;

6 (2) The applicant's form and place of organization including proof  
7 that the individual, partnership, or corporation is licensed to do  
8 business in this state;

9 (3) The qualification and business history of the applicant and any  
10 partner, officer, or director;

11 (4) The applicant's financial condition or history including a bank  
12 reference and whether the applicant or any partner, officer, or  
13 director has ever been adjudged bankrupt or has an unsatisfied judgment  
14 in a federal or state court;

15 (5) Whether the applicant has been adjudged guilty of a crime that  
16 directly relates to the business for which the license is sought and  
17 the time elapsed since the conviction is less than ten years, or has  
18 suffered a judgment within the preceding five years in a civil action  
19 involving fraud, misrepresentation, or conversion and in the case of a  
20 corporation or partnership, all directors, officers, or partners.

21 After receipt of an application for a license, the director may  
22 conduct an investigation to determine whether the facts set forth are  
23 true. The director may require a fingerprint record check of the  
24 applicant through the Washington state patrol criminal identification  
25 system and the federal bureau of investigation before issuance of a  
26 license. The results of the background investigation including  
27 criminal history information may be released to authorized department  
28 personnel as the director deems necessary. The department shall charge  
29 a license holder or license applicant a fee of fifty dollars for each  
30 background investigation conducted.

31 An applicant who makes a false statement of a material fact on the  
32 application may be prosecuted for false swearing as defined by RCW  
33 9A.72.040.

34 **Sec. 336.** RCW 82.42.100 and 1967 ex.s. c 10 s 10 are each amended  
35 to read as follows:

36 The director is charged with the enforcement of the provisions of  
37 this chapter and rules and regulations promulgated hereunder. The

1 director may, in his or her discretion, call on the state patrol or any  
2 peace officer in the state, who shall then aid in the enforcement of  
3 this chapter or any rules or regulations promulgated hereunder.

4 **Sec. 337.** RCW 82.44.140 and 1979 c 158 s 237 are each amended to  
5 read as follows:

6 Any duties required by this chapter to be performed by the county  
7 auditor may be performed by any other person designated by the director  
8 of licensing and authorized by him or her to receive motor vehicle  
9 license fees and issue receipt therefor.

10 **Sec. 338.** RCW 82.50.520 and 1983 c 26 s 4 are each amended to read  
11 as follows:

12 The following travel trailers or campers are specifically exempted  
13 from the operation of this chapter:

14 (1) Any unoccupied travel trailer or camper when it is part of an  
15 inventory of travel trailers or campers held for sale by a manufacturer  
16 or dealer in the course of his or her business.

17 (2) A travel trailer or camper owned by any government or political  
18 subdivision thereof.

19 (3) A travel trailer or camper owned by a nonresident and currently  
20 licensed in another state, unless such travel trailer or camper is  
21 required by law to be licensed in this state.

22 For the purposes of this subsection only, a camper owned by a  
23 nonresident shall be considered licensed in another state if the  
24 vehicle to which such camper is attached is currently licensed in  
25 another state.

26 (4) Travel trailers eligible to be used under a dealer's license  
27 plate, and taxed under RCW 82.44.030 while so eligible.

28 **Sec. 339.** RCW 82.56.030 and 1967 c 125 s 3 are each amended to  
29 read as follows:

30 The member representing this state on the multistate tax commission  
31 may be represented thereon by an alternate designated by him or her.  
32 Any such alternate shall be a principal deputy or assistant of the  
33 member of the commission in the agency which the member heads.



1       **Sec. 340.** RCW 82.56.040 and 1967 c 125 s 4 are each amended to  
2 read as follows:

3       The governor, after consultation with representatives of local  
4 governments, shall appoint three persons who are representative of  
5 subdivisions affected or likely to be affected by the multistate tax  
6 compact. The member of the commission representing this state, and any  
7 alternate designated by him or her, shall consult regularly with these  
8 appointees, in accordance with Article VI 1(b) of the compact.

9       **Sec. 341.** RCW 83.100.020 and 2005 c 516 s 2 are each amended to  
10 read as follows:

11       As used in this chapter:

12       (1) "Decedent" means a deceased individual;

13       (2) "Department" means the department of revenue, the director of  
14 that department, or any employee of the department exercising authority  
15 lawfully delegated to him or her by the director;

16       (3) "Federal return" means any tax return required by chapter 11 of  
17 the internal revenue code;

18       (4) "Federal tax" means a tax under chapter 11 of the internal  
19 revenue code;

20       (5) "Gross estate" means "gross estate" as defined and used in  
21 section 2031 of the internal revenue code;

22       (6) "Person" means any individual, estate, trust, receiver,  
23 cooperative association, club, corporation, company, firm, partnership,  
24 joint venture, syndicate, or other entity and, to the extent permitted  
25 by law, any federal, state, or other governmental unit or subdivision  
26 or agency, department, or instrumentality thereof;

27       (7) "Person required to file the federal return" means any person  
28 required to file a return required by chapter 11 of the internal  
29 revenue code, such as the personal representative of an estate;

30       (8) "Property" means property included in the gross estate;

31       (9) "Resident" means a decedent who was domiciled in Washington at  
32 time of death;

33       (10) "Taxpayer" means a person upon whom tax is imposed under this  
34 chapter, including an estate or a person liable for tax under RCW  
35 83.100.120;

36       (11) "Transfer" means "transfer" as used in section 2001 of the  
37 internal revenue code. However, "transfer" does not include a

1 qualified heir disposing of an interest in property qualifying for a  
2 deduction under RCW 83.100.046 or ceasing to use the property for  
3 farming purposes;

4 (12) "Internal revenue code" means, for the purposes of this  
5 chapter and RCW 83.110.010, the United States internal revenue code of  
6 1986, as amended or renumbered as of January 1, 2005;

7 (13) "Washington taxable estate" means the federal taxable estate,  
8 less: (a) One million five hundred thousand dollars for decedents  
9 dying before January 1, 2006; and (b) two million dollars for decedents  
10 dying on or after January 1, 2006; and (c) the amount of any deduction  
11 allowed under RCW 83.100.046; and

12 (14) "Federal taxable estate" means the taxable estate as  
13 determined under chapter 11 of the internal revenue code without regard  
14 to: (a) The termination of the federal estate tax under section 2210  
15 of the internal revenue code or any other provision of law, and (b) the  
16 deduction for state estate, inheritance, legacy, or succession taxes  
17 allowable under section 2058 of the internal revenue code.

18 **Sec. 342.** RCW 84.08.120 and 1975 1st ex.s. c 278 s 155 are each  
19 amended to read as follows:

20 It shall be the duty of every public officer to comply with any  
21 lawful order, rule, or regulation of the department of revenue made  
22 under the provisions of this title, and whenever it shall appear to the  
23 department of revenue that any public officer or employee whose duties  
24 relate to the assessment or equalization of assessments of property for  
25 taxation or to the levy or collection of taxes has failed to comply  
26 with the provisions of this title or with any other law relating to  
27 such duties or the rules of the department made in pursuance thereof,  
28 the department after a hearing on the facts may issue its order  
29 directing such public officer or employee to comply with such  
30 provisions of law or of its rules, and if such public officer or  
31 employee for a period of ten days after service on him or her of the  
32 department's order shall neglect or refuse to comply therewith, the  
33 department of revenue may apply to a judge of the superior court or  
34 court commissioner of the county in which said public officer or  
35 employee holds office for an order returnable within five days from the  
36 date thereof to compel such public officer or employee to comply with  
37 such provisions of law or of the department's order, or to show cause

1 why he or she should not be compelled so to do, and any order issued by  
2 the judge pursuant thereto shall be final. The remedy herein provided  
3 shall be cumulative and shall not exclude the department of revenue  
4 from exercising any power or rights otherwise granted.

5 **Sec. 343.** RCW 84.08.140 and 1994 c 301 s 19 are each amended to  
6 read as follows:

7 Any taxpayer feeling aggrieved by the levy or levies of any taxing  
8 district except levies authorized by a vote of the voters of the  
9 district may appeal therefrom to the department of revenue as  
10 hereinafter provided. Such taxpayer, upon the execution of a bond,  
11 with two or more sufficient sureties to be approved by the county  
12 auditor, payable to the state of Washington, in the penal sum of two  
13 hundred dollars and conditioned that if the petitioner shall fail in  
14 his or her appeal for a reduction of said levy or levies the taxpayer  
15 will pay the taxable costs of the hearings hereinafter provided, not  
16 exceeding the amount of such bond, may file a written complaint with  
17 the county auditor wherein such taxing district is located not later  
18 than ten days after the making and entering of such levy or levies,  
19 setting forth in such form and detail as the department of revenue  
20 shall by general rule prescribe, the taxpayer's objections to such levy  
21 or levies. Upon the filing of such complaint, the county auditor shall  
22 immediately transmit a certified copy thereof, together with a copy of  
23 the budget or estimates of such taxing district as finally adopted,  
24 including estimated revenues and such other information as the  
25 department of revenue shall by rule require, to the department of  
26 revenue. The department of revenue shall fix a date for a hearing on  
27 said complaint at the earliest convenient time after receipt of said  
28 record, which hearing shall be held in the county in which said taxing  
29 district is located, and notice of such hearing shall be given to the  
30 officials of such taxing district, charged with determining the amount  
31 of its levies, and to the taxpayer on said complaint by registered mail  
32 at least five days prior to the date of said hearing. At such hearings  
33 all interested parties may be heard and the department of revenue shall  
34 receive all competent evidence. After such hearing, the department of  
35 revenue shall either affirm or decrease the levy or levies complained  
36 of, in accordance with the evidence, and shall thereupon certify its  
37 action with respect thereto to the county auditor, who, in turn, shall

1 certify it to the taxing district or districts affected, and the action  
2 of the department of revenue with respect to such levy or levies shall  
3 be final and conclusive.

4 **Sec. 344.** RCW 84.08.190 and 1975 1st ex.s. c 278 s 158 are each  
5 amended to read as follows:

6 For the purpose of instruction on the subject of taxation, the  
7 county assessors of the state shall meet with the department of revenue  
8 at the capital of the state, or at such place within the state as they  
9 may determine at their previous meeting, on the second Monday of  
10 October of each year or on such other date as may be fixed by the  
11 department of revenue. Each assessor shall be paid by the county of  
12 his or her residence his or her actual expenses in attending such  
13 meeting, upon presentation to the county auditor of proper vouchers.

14 **Sec. 345.** RCW 84.09.040 and 1961 c 15 s 84.09.040 are each amended  
15 to read as follows:

16 Every county auditor, county assessor, and county treasurer who in  
17 any case refuses or knowingly neglects to perform any duty enjoined on  
18 him or her by this title, or who consents to or connives at any evasion  
19 of its provisions whereby any proceeding herein provided for is  
20 prevented or hindered, or whereby any property required to be listed  
21 for taxation is unlawfully exempted, or the valuation thereof is  
22 entered on the tax roll at less than its true taxable value, shall, for  
23 every such neglect, refusal, consent, or connivance, forfeit and pay to  
24 the state not less than two hundred nor more than one thousand dollars,  
25 at the discretion of the court, to be recovered before any court of  
26 competent jurisdiction upon the complaint of any citizen who is a  
27 taxpayer; and the prosecuting attorney shall prosecute such suit to  
28 judgment and execution.

29 **Sec. 346.** RCW 84.12.240 and 1975 1st ex.s. c 278 s 162 are each  
30 amended to read as follows:

31 The department of revenue shall have access to all books, papers,  
32 documents, statements, and accounts on file or of record in any of the  
33 departments of the state; and it shall have the power to issue  
34 subpoenas, signed by the director of the department or any duly  
35 authorized employee and served in a like manner as a subpoena issued

1 from courts of record, to compel witnesses to appear and give evidence  
2 and to produce books and papers. The director of the department or any  
3 employee officially designated by the department is authorized to  
4 administer oaths to witnesses. The attendance of any witness may be  
5 compelled by attachment issued out of any superior court upon  
6 application to said court by the director or any duly authorized  
7 employee of the department, upon a proper showing that such witness has  
8 been duly served with a subpoena and has refused to appear before the  
9 said department. In case of the refusal of a witness to produce books,  
10 papers, documents, or accounts, or to give evidence on matters material  
11 to the hearing, the department may institute proceedings in the proper  
12 superior court to compel such witness to testify or to produce such  
13 books or papers, and to punish him or her for such failure or refusal.  
14 All process issued by the department shall be served by the sheriff of  
15 the proper county or by a duly authorized agent of the department and  
16 such service, if made by the sheriff, shall be certified by him or her  
17 to the department of revenue without any compensation therefor.  
18 Persons appearing before the department in obedience to a subpoena  
19 shall receive the same compensation as witnesses in the superior court.  
20 The records, books, accounts, and papers of each company shall be  
21 subject to visitation, investigation, or examination by the department,  
22 or any employee thereof officially designated by the department. All  
23 real and/or personal property of any company shall be subject to  
24 visitation, investigation, examination, and/or listing at any and all  
25 times by the department, or any person officially designated by the  
26 director.

27 **Sec. 347.** RCW 84.16.032 and 1975 1st ex.s. c 278 s 176 are each  
28 amended to read as follows:

29 The department of revenue shall have access to all books, papers,  
30 documents, statements, and accounts on file or of record in any of the  
31 departments of the state; and shall have the power, by summons signed  
32 by director and served in a like manner as a subpoena issued from  
33 courts of record, to compel witnesses to appear and give evidence and  
34 to produce books and papers. The director or any employee officially  
35 designated by the director is authorized to administer oaths to  
36 witnesses. The attendance of any witness may be compelled by  
37 attachment issued out of any superior court upon application to said

1 court by the department, upon a proper showing that such witness has  
2 been duly served with a summons and has refused to appear before the  
3 said department. In case of the refusal of a witness to produce books,  
4 papers, documents, or accounts or to give evidence on matters material  
5 to the hearing, the department may institute proceedings in the proper  
6 superior court to compel such witness to testify, or to produce such  
7 books or papers and to punish him or her for the refusal. All summons  
8 and process issued by the department shall be served by the sheriff of  
9 the proper county and such service certified by him or her to the  
10 department of revenue without any compensation therefor. Persons  
11 appearing before the department in obedience to a summons, shall, in  
12 the discretion of the department, receive the same compensation as  
13 witnesses in the superior court. The records, books, accounts, and  
14 papers of each company shall be subject to visitation, investigation,  
15 or examination by the department, or any employee thereof officially  
16 designated by the director. All real and/or personal property of any  
17 company shall be subject to visitation, investigation, examination,  
18 and/or listing at any and all times by the department, or any person  
19 employed by the department.

20 **Sec. 348.** RCW 84.36.300 and 1973 c 149 s 2 are each amended to  
21 read as follows:

22 There shall be exempt from taxation a portion of each separately  
23 assessed stock of merchandise, as that word is defined in this section,  
24 owned or held by any taxpayer on the first day of January of any year  
25 computed by first multiplying the total amount of that stock of such  
26 merchandise, as determined in accordance with RCW 84.40.020, by a  
27 percentage determined by dividing the amount of such merchandise  
28 brought into this state by the taxpayer during the preceding year for  
29 that stock by the total additions to that stock by the taxpayer during  
30 that year, and then multiplying the result of the latter computation by  
31 a percentage determined by dividing the total out-of-state shipments of  
32 such merchandise by the taxpayer during the preceding year from that  
33 stock (and regardless of whether or not any such shipments involved a  
34 sale of, or a transfer of title to, the merchandise within this state)  
35 by the total shipments of such merchandise by the taxpayer during the  
36 preceding year from that stock. As used in this section, the word  
37 "merchandise" means goods, wares, merchandise, or material which were

1 not manufactured in this state by the taxpayer and which were acquired  
2 by him or her (in any other manner whatsoever, including manufacture by  
3 him or her outside of this state) for the purpose of sale or shipment  
4 in substantially the same form in which they were acquired by him or  
5 her within this state or were brought into this state by him or her.  
6 Breaking of packages or of bulk shipments, packaging, repackaging,  
7 labeling, or relabeling shall not be considered as a change in form  
8 within the meaning of this section. A taxpayer who has made no  
9 shipments of merchandise, either out-of-state or in-state, during the  
10 preceding year, may compute the percentage to be applied to the stock  
11 of merchandise on the basis of his or her experience from March 1<sup>st</sup> of  
12 the preceding year to the last day of February of the current year, in  
13 lieu of computing the percentage on the basis of his or her experience  
14 during the preceding year. The rule of strict construction shall not  
15 apply to this section.

16 All rights, title, or interest in or to any aircraft parts,  
17 equipment, furnishings, or accessories (but not engines or major  
18 structural components) which are manufactured outside of the state of  
19 Washington and are owned by purchasers of the aircraft constructed,  
20 under construction or to be constructed in the state of Washington, and  
21 are shipped into the state of Washington for installation in or use in  
22 connection with the operation of such aircraft shall be exempt from  
23 taxation prior to and during construction of such aircraft and while  
24 held in this state for periods preliminary to and during the  
25 transportation of such aircraft from the state of Washington.

26 **Sec. 349.** RCW 84.36.320 and 1969 ex.s. c 124 s 3 are each amended  
27 to read as follows:

28 An owner or agent filing a claim under RCW 84.36.310 shall consent  
29 to the inspection of the books and records upon which the claim has  
30 been based, such inspection to be similar in manner to that provided by  
31 RCW 84.40.340, or if the owner or agent does not maintain records  
32 within this state, the consent shall apply to the records of a  
33 warehouse, person, or agent having custody of the inventory to which  
34 the claim applies. Consent to the inspection of the records shall be  
35 executed as a part of the claim. The owner, his or her agent, or other  
36 person having custody of the inventory referred to herein shall retain  
37 within this state, for a period of at least two years from the date of

1 the claim, the records referred to above. If adequate records are not  
2 made available to the assessor within the county where the claim is  
3 made, then the exemption shall be denied.

4 **Sec. 350.** RCW 84.36.400 and 1972 ex.s. c 125 s 3 are each amended  
5 to read as follows:

6 Any physical improvement to single-family dwellings upon real  
7 property shall be exempt from taxation for the three assessment years  
8 subsequent to the completion of the improvement to the extent that the  
9 improvement represents thirty percent or less of the value of the  
10 original structure. A taxpayer desiring to obtain the exemption  
11 granted by this section must file notice of his or her intention to  
12 construct the improvement prior to the improvement being made on forms  
13 prescribed by the department of revenue and furnished to the taxpayer  
14 by the county assessor: PROVIDED, That this exemption cannot be  
15 claimed more than once in a five-year period.

16 The department of revenue shall promulgate such rules and  
17 regulations as are necessary and convenient to properly administer the  
18 provisions of this section.

19 **Sec. 351.** RCW 84.36.813 and 1977 ex.s. c 209 s 3 are each amended  
20 to read as follows:

21 An exempt property owner shall notify the department of revenue of  
22 any change of use prior to each assessment year. Any other person  
23 believing that a change in the use of exempt property has occurred  
24 shall report same to the county assessor, who shall examine the  
25 property and if the use is not in compliance with chapter 84.36 RCW he  
26 or she shall report the information to the department with a  
27 recommendation that the exempt status be canceled. The final  
28 determination shall be made by the department.

29 **Sec. 352.** RCW 84.36.850 and 1989 c 378 s 13 are each amended to  
30 read as follows:

31 Any applicant aggrieved by the department of revenue's denial of an  
32 exemption application may petition the state board of tax appeals to  
33 review an application for either real or personal property tax  
34 exemption and the board shall consider any appeals to determine (1) if



1 the property is entitled to an exemption, and (2) the amount or portion  
2 thereof.

3 A county assessor of the county in which the exempted property is  
4 located shall be empowered to appeal to the state board of tax appeals  
5 to review any real or personal property tax exemption approved by the  
6 department of revenue which he or she feels is not warranted.

7 Appeals from a department of revenue decision must be made within  
8 thirty days after the mailing of the approval or denial.

9 **Sec. 353.** RCW 84.38.040 and 2001 c 185 s 10 are each amended to  
10 read as follows:

11 (1) Each claimant electing to defer payment of special assessments  
12 and/or real property tax obligations under this chapter shall file with  
13 the county assessor, on forms prescribed by the department and supplied  
14 by the assessor, a written declaration thereof. The declaration to  
15 defer special assessments and/or real property taxes for any year shall  
16 be filed no later than thirty days before the tax or assessment is due  
17 or thirty days after receiving notice under RCW 84.64.050, whichever is  
18 later: PROVIDED, That for good cause shown, the department may waive  
19 this requirement.

20 (2) The declaration shall designate the property to which the  
21 deferral applies, and shall include a statement setting forth (a) a  
22 list of all members of the claimant's household, (b) the claimant's  
23 equity value in his or her residence, (c) facts establishing the  
24 eligibility for the deferral under the provisions of this chapter, and  
25 (d) any other relevant information required by the rules of the  
26 department. Each copy shall be signed by the claimant subject to the  
27 penalties as provided in chapter 9A.72 RCW for false swearing. The  
28 first declaration to defer filed in a county shall include proof of the  
29 claimant's age acceptable to the assessor.

30 (3) The county assessor shall determine if each claimant shall be  
31 granted a deferral for each year but the claimant shall have the right  
32 to appeal this determination to the county board of equalization, in  
33 accordance with the provisions of RCW 84.40.038, whose decision shall  
34 be final as to the deferral of that year.

35 **Sec. 354.** RCW 84.38.060 and 1975 1st ex.s. c 291 s 31 are each  
36 amended to read as follows:

1        If the claimant is unable to make his or her own declaration of  
2 deferral, it may be made by a duly authorized agent or by a guardian or  
3 other person charged with care of the person or property of such  
4 claimant.

5        **Sec. 355.** RCW 84.38.080 and 1975 1st ex.s. c 291 s 33 are each  
6 amended to read as follows:

7        A person's right to defer special assessments and/or property tax  
8 obligations on his or her residence shall not be reduced by contract or  
9 agreement, from January 1, 1976 onward.

10       **Sec. 356.** RCW 84.38.090 and 1975 1st ex.s. c 291 s 34 are each  
11 amended to read as follows:

12       If any residence is under mortgage or purchase contract requiring  
13 accumulation of reserves out of which the holder of the mortgage or  
14 contract is required to pay real estate taxes, said holder shall cosign  
15 the declaration of deferral either before a notary public or the county  
16 assessor or his or her deputy in the county where the real property is  
17 located.

18       **Sec. 357.** RCW 84.40.070 and 2003 c 302 s 3 are each amended to  
19 read as follows:

20       The president, secretary, or principal accounting officer or agent  
21 of any company or association, whether incorporated or unincorporated,  
22 except as otherwise provided for in this title, shall make out and  
23 deliver to the assessor a statement of its property, setting forth  
24 particularly (1) the name and location of the company or association;  
25 (2) the real property of the company or association, and where  
26 situated; and (3) the nature and value of its personal property. The  
27 real and personal property of such company or association shall be  
28 assessed the same as other real and personal property. In all cases of  
29 failure or refusal of any person, officer, company, or association to  
30 make such return or statement, it shall be the duty of the assessor to  
31 make such return or statement from the best information he or she can  
32 obtain.

33       **Sec. 358.** RCW 84.40.110 and 1961 c 15 s 84.40.110 are each amended  
34 to read as follows:

1 When the assessor shall be of opinion that the person listing  
2 property for himself or herself or for any other person, company, or  
3 corporation, has not made a full, fair, and complete list of such  
4 property, he or she may examine such person under oath in regard to the  
5 amount of the property he or she is required to list, and if such  
6 person shall refuse to answer under oath, and a full discovery make,  
7 the assessor may list the property of such person, or his or her  
8 principal, according to his or her best judgment and information.

9 **Sec. 359.** RCW 84.40.160 and 1997 c 135 s 1 are each amended to  
10 read as follows:

11 The assessor shall list all real property according to the largest  
12 legal subdivision as near as practicable. The assessor shall make out  
13 in the plat and description book in numerical order a complete list of  
14 all lands or lots subject to taxation, showing the names and owners, if  
15 to him or her known and if unknown, so stated; the number of acres and  
16 lots or parts of lots included in each description of property and the  
17 value per acre or lot: PROVIDED, That the assessor shall give to each  
18 tract of land where described by metes and bounds a number, to be  
19 designated as Tax No. . . . ., which said number shall be placed on the  
20 tax rolls to indicate that certain piece of real property bearing such  
21 number, and described by metes and bounds in the plat and description  
22 book herein mentioned, and it shall not be necessary to enter a  
23 description by metes and bounds on the tax roll of the county, and the  
24 assessor's plat and description book shall be kept as a part of the tax  
25 collector's records: AND PROVIDED, FURTHER, That the board of county  
26 commissioners of any county may by order direct that the property be  
27 listed numerically according to lots and blocks or section, township  
28 and range, in the smallest platted or government subdivision, and when  
29 so listed the value of each block, lot or tract, the value of the  
30 improvements thereon and the total value thereof, including  
31 improvements thereon, shall be extended after the description of each  
32 lot, block or tract, which last extension shall be in the column headed  
33 "Total value of each tract, lot or block of land assessed with  
34 improvements as returned by the assessor." In carrying the values of  
35 said property into the column representing the equalized value thereof,  
36 the county assessor shall include and carry over in one item the  
37 equalized valuation of all lots in one block, or land in one section,

1 listed consecutively, which belong to any one person, firm, or  
2 corporation, and are situated within the same taxing district, and in  
3 the assessed value of which the county board of equalization has made  
4 no change. Where assessed valuations are changed, the equalized  
5 valuation must be extended and shown by item.

6 The assessor shall prepare and possess a complete set of maps drawn  
7 to indicate parcel configuration for lands in the county. The assessor  
8 shall continually update the maps to reflect transfers, conveyances,  
9 acquisitions, or any other transaction or event that changes the  
10 boundaries of any parcel and shall renumber the parcels or prepare new  
11 map pages for any portion of the maps to show combinations or divisions  
12 of parcels.

13 **Sec. 360.** RCW 84.40.185 and 1995 c 318 s 5 are each amended to  
14 read as follows:

15 Every individual, corporation, limited liability company,  
16 association, partnership, trust, or estate shall list all personal  
17 property in his or her or its ownership, possession, or control which  
18 is subject to taxation pursuant to the provisions of this title. Such  
19 listing shall be made and delivered in accordance with the provisions  
20 of this chapter.

21 **Sec. 361.** RCW 84.40.210 and 1961 c 168 s 1 are each amended to  
22 read as follows:

23 Every person who purchases, receives, or holds personal property of  
24 any description for the purpose of adding to the value thereof by any  
25 process of manufacturing, refining, rectifying, or by the combination  
26 of different materials with the view of making gain or profit by so  
27 doing shall be held to be a manufacturer, and he or she shall, when  
28 required to, make and deliver to the assessor a statement of the amount  
29 of his or her other personal property subject to taxes, also include in  
30 his or her statement the value of all articles purchased, received, or  
31 otherwise held for the purpose of being used in whole or in part in any  
32 process or processes of manufacturing, combining, rectifying, or  
33 refining. Every person owning a manufacturing establishment of any  
34 kind and every manufacturer shall list as part of his or her  
35 manufacturer's stock the value of all engines and machinery of every  
36 description used or designed to be used in any process of refining or

1 manufacturing except such fixtures as have been considered as part of  
2 any parcel of real property, including all tools and implements of  
3 every kind, used or designed to be used for the first aforesaid  
4 purpose.

5 **Sec. 362.** RCW 84.40.220 and 1974 ex.s. c 83 s 1 are each amended  
6 to read as follows:

7 Whoever owns, or has in his or her possession or subject to his or  
8 her control, any goods, merchandise, grain, or produce of any kind, or  
9 other personal property within this state, with authority to sell the  
10 same, which has been purchased either in or out of this state, with a  
11 view to being sold at an advanced price or profit, or which has been  
12 consigned to him or her from any place out of this state for the  
13 purpose of being sold at any place within the state, shall be held to  
14 be a merchant, and when he or she is by this title required to make out  
15 and to deliver to the assessor a statement of his or her other personal  
16 property, he or she shall state the value of such property pertaining  
17 to his or her business as a merchant. No consignee shall be required  
18 to list for taxation the value of any property the product of this  
19 state, nor the value of any property consigned to him or her from any  
20 other place for the sole purpose of being stored or forwarded, if he or  
21 she has no interest in such property nor any profit to be derived from  
22 its sale. The growing stock of ((~~nurserymen~~)) nursery dealers, which  
23 is owned by the original producer thereof or which has been held or  
24 possessed by the ((~~nurserymen~~)) nursery dealers for one hundred eighty  
25 days or more, shall, whether personal or real property, be considered  
26 the same as growing crops on cultivated lands: PROVIDED, That the  
27 ((~~nurserymen~~)) nursery dealers be licensed by the department of  
28 agriculture: PROVIDED FURTHER, That an original producer, within the  
29 meaning of this section, shall include a person who, beginning with  
30 seeds, cuttings, bulbs, corms, or any form of immature plants, grows  
31 such plants in the course of their development into either a marketable  
32 partially grown product or a marketable consumer product.

33 **Sec. 363.** RCW 84.40.240 and 1961 c 15 s 84.40.240 are each amended  
34 to read as follows:

35 The assessor of each county shall, on or before the first day of  
36 January of each year, obtain from the department of natural resources,

1 and from the local land offices of the state, lists of public lands  
2 sold or contracted to be sold during the previous year in his or her  
3 county, and certify them for taxation, together with the various  
4 classes of state lands sold during the same year, and it shall be the  
5 duty of the department of natural resources to certify a list or lists  
6 of all public lands sold or contracted to be sold during the previous  
7 year, on application of the assessor of any county applying therefor.

8 **Sec. 364.** RCW 84.40.370 and 1984 c 220 s 15 are each amended to  
9 read as follows:

10 The assessor shall list the property and assess it with reference  
11 to its value on the date the property lost its exempt status unless  
12 such property has been previously listed and assessed. He or she shall  
13 extend the taxes on the tax roll using the rate of percent applicable  
14 as if the property had been assessed in the previous year.

15 **Sec. 365.** RCW 84.41.080 and 1975 1st ex.s. c 278 s 199 are each  
16 amended to read as follows:

17 Upon receiving a request from the county assessor, either upon his  
18 or her initiation or at the direction of the board of county  
19 commissioners, for special assistance in the county's revaluation  
20 program, the department of revenue may, before undertaking to render  
21 such special assistance, negotiate a contract with the board of county  
22 commissioners of the county concerned. Such contracts as are  
23 negotiated shall provide that the county will reimburse the state for  
24 fifty percent of the costs of such special assistance within three  
25 years of the date of expenditure of such costs. All such  
26 reimbursements shall be paid to the department of revenue for deposit  
27 to the state general fund. The department of revenue shall keep  
28 complete records of such contracts, including costs incurred, payments  
29 received, and services performed thereunder.

30 **Sec. 366.** RCW 84.41.120 and 1975 1st ex.s. c 278 s 202 are each  
31 amended to read as follows:

32 Each county assessor shall keep such books and records as are  
33 required by the rules and regulations of the department of revenue and  
34 shall comply with any lawful order, rule, or regulation of the  
35 department of revenue.

1           Whenever it appears to the department of revenue that any assessor  
2 has failed to comply with any of the provisions of this chapter  
3 relating to his or her duties or the rules of the department of revenue  
4 made in pursuance thereof, the department of revenue, after a hearing  
5 on the facts, may issue an order directing such assessor to comply with  
6 such provisions of this chapter or rules of the department of revenue.  
7 Such order shall be mailed by registered mail to the assessor at the  
8 county court house. If, upon the expiration of fifteen days from the  
9 date such order is mailed, the assessor has not complied therewith or  
10 has not taken measures that will insure compliance within a reasonable  
11 time, the department of revenue may apply to a judge of the superior  
12 court or court commissioner of the county in which such assessor holds  
13 office, for an order returnable within five days from the date thereof  
14 to compel him or her to comply with such provisions of law or of the  
15 order of the department of revenue or to show cause why he or she  
16 should not be compelled so to do. Any order issued by the judge  
17 pursuant to such order to show cause shall be final. The remedy herein  
18 provided shall be cumulative and shall not exclude the department of  
19 revenue from exercising any powers or rights otherwise granted.

20           **Sec. 367.** RCW 84.44.080 and 1961 c 15 s 84.44.080 are each amended  
21 to read as follows:

22           The owner of personal property removing from one county to another  
23 between the first day of January and the first day of July shall be  
24 assessed in either in which he or she is first called upon by the  
25 assessor. The owner of personal property moving into this state from  
26 another state between the first day of January and the first day of  
27 July shall list the property owned by him or her on the first day of  
28 January of such year in the county in which he or she resides:  
29 PROVIDED, That if such person has been assessed and can make it appear  
30 to the assessor that he or she is held for the tax of the current year  
31 on the property in another state or county, he or she shall not be  
32 again assessed for such year.

33           **Sec. 368.** RCW 84.48.018 and 1970 ex.s. c 55 s 4 are each amended  
34 to read as follows:

35           The members of each board of equalization shall meet and choose a  
36 (~~chairman~~) chair. A majority of the board shall constitute a quorum.

1           **Sec. 369.** RCW 84.56.090 and 2007 c 295 s 6 are each amended to  
2 read as follows:

3           Whenever in the judgment of the assessor or the county treasurer  
4 personal property is being removed or is about to be removed without  
5 the limits of the state, or is being dissipated or about to be  
6 dissipated, or is being or about to be sold, disposed of, or removed  
7 from the county so as to jeopardize collection of taxes, the treasurer  
8 shall immediately prepare papers in distraint, which shall contain a  
9 description of the personal property, including mobile homes,  
10 manufactured homes, or park model trailers, being or about to be  
11 removed, dissipated, sold, disposed of, or removed from the county so  
12 as to jeopardize collection of taxes, the amount of the tax, the amount  
13 of accrued interest at the rate provided by law from the date of  
14 delinquency, and the name of the owner or reputed owner, and he or she  
15 shall without demand or notice distraint sufficient goods and chattels  
16 belonging to the person charged with such taxes to pay the same with  
17 interest at the rate provided by law from the date of delinquency,  
18 together with all accruing costs, and shall advertise and sell said  
19 property as provided in RCW 84.56.070.

20           If said personal property is being removed or is about to be  
21 removed from the limits of the state, is being dissipated or about to  
22 be dissipated, or is being or about to be sold, disposed of, or removed  
23 from the county so as to jeopardize collection of taxes, at any time  
24 subsequent to the first day of January in any year, and prior to the  
25 levy of taxes thereon, the taxes upon such property so distrained shall  
26 be computed upon the rate of levy for state, county, and local purposes  
27 for the preceding year; and all taxes collected in advance of levy  
28 under this section and RCW 84.56.120, together with the name of the  
29 owner and a brief description of the property assessed shall be entered  
30 forthwith by the county treasurer upon the personal property tax rolls  
31 of such preceding year, and all collections thereon shall be considered  
32 and treated in all respects, and without recourse by either the owner  
33 or any taxing unit, as collections for such preceding year. Property  
34 on which taxes are thus collected shall thereupon become discharged  
35 from the lien of any taxes that may thereafter be levied in the year in  
36 which payment or collection is made.

37           Whenever property has been removed from the county wherein it has  
38 been assessed, on which the taxes have not been paid, then the county



1 treasurer, or his or her deputy, shall have the same power to distrain  
2 and sell said property for the satisfaction of said taxes as he or she  
3 would have if said property were situated in the county in which the  
4 property was taxed, and in addition thereto said treasurer, or his or  
5 her deputy, in the distraint and sale of property for the payment of  
6 taxes, shall have the same powers as are now by law given to the  
7 sheriff in making levy and sale of property on execution.

8 **Sec. 370.** RCW 84.56.210 and 1961 c 15 s 84.56.210 are each amended  
9 to read as follows:

10 Whenever standing timber which has been assessed as real estate is  
11 severed from the land as part of which it was so assessed, it may be  
12 considered by the county assessor as personal property, and the county  
13 treasurer shall thereafter be entitled to pursue all of the rights and  
14 remedies provided by law for the collection of personal property taxes  
15 in the collection of taxes levied against such timber: PROVIDED, That  
16 whenever the county assessor elects to treat severed timber as  
17 personalty under the provisions of this section, he or she shall  
18 immediately give notice by mail to the person or persons charged with  
19 the tax of the fact of his or her election, and the amount of tax  
20 standing against the timber.

21 **Sec. 371.** RCW 84.56.210 and 1961 c 15 s 84.56.210 are each amended  
22 to read as follows:

23 Whenever standing timber which has been assessed as real estate is  
24 severed from the land as part of which it was so assessed, it may be  
25 considered by the county assessor as personal property, and the county  
26 treasurer shall thereafter be entitled to pursue all of the rights and  
27 remedies provided by law for the collection of personal property taxes  
28 in the collection of taxes levied against such timber: PROVIDED, That  
29 whenever the county assessor elects to treat severed timber as  
30 personalty under the provisions of this section, he or she shall  
31 immediately give notice by mail to the person or persons charged with  
32 the tax of the fact of his or her election, and the amount of tax  
33 standing against the timber.

34 **Sec. 372.** RCW 84.56.270 and 1984 c 132 s 5 are each amended to  
35 read as follows:

1       The county treasurer of any county of the state of Washington,  
2 after he or she has first received the approval of the board of county  
3 commissioners of such county, through a resolution duly adopted, is  
4 hereby empowered to petition the superior court in or for his or her  
5 county to finally cancel and completely extinguish the lien of any  
6 delinquent personal property tax which appears on the tax rolls of his  
7 or her county, which is more than four years delinquent, which he or  
8 she attests to be beyond hope of collection, and the cancellation of  
9 which will not impair the obligation of any bond issue nor be precluded  
10 by any other legal impediment that might invalidate such cancellation.  
11 The superior court shall have jurisdiction to hear any such petition  
12 and to enter such order as it shall deem proper in the premises.

13       **Sec. 373.** RCW 84.56.320 and 1961 c 15 s 84.56.320 are each amended  
14 to read as follows:

15       When any tax on real property is paid by or collected of any  
16 occupant or tenant, or any other person, which, by agreement or  
17 otherwise, ought to have been paid by the owner, lessor, or other party  
18 in interest, such occupant, tenant, or other person may recover by  
19 action the amount which such owner, lessor, or party in interest ought  
20 to have paid, with interest thereon at the rate of ten percent per  
21 annum, or he or she may retain the same from any rent due or accruing  
22 from him or her to such owner or lessor for real property on which such  
23 tax is so paid; and the same shall, until paid, constitute a lien upon  
24 such real property.

25       **Sec. 374.** RCW 84.60.040 and 1961 c 15 s 84.60.040 are each amended  
26 to read as follows:

27       When it becomes necessary, in the opinion of the county treasurer,  
28 to charge the tax on personal property against real property, in order  
29 that such personal property tax may be collected, such county treasurer  
30 shall select for that purpose some particular tract or lots of real  
31 property owned by the person owing such personal property tax, and in  
32 his or her tax roll and certificate of delinquency shall designate the  
33 particular tract or lots of real property against which such personal  
34 property tax is charged, and such real property shall be chargeable  
35 therewith.

1           **Sec. 375.** RCW 84.64.040 and 1961 c 15 s 84.64.040 are each amended  
2 to read as follows:

3           The county prosecuting attorney shall furnish to holders of  
4 certificates of delinquency, at the expense of the county, forms of  
5 applications for judgment and forms of notice and summons when the same  
6 are required, and shall prosecute to final judgment all actions brought  
7 by holders of certificates under the provisions of this chapter for the  
8 foreclosure of tax liens, when requested so to do by the holder of any  
9 certificate of delinquency: PROVIDED, Said holder has duly paid to the  
10 clerk of the court the sum of two dollars for each action brought as  
11 per RCW 84.64.120: PROVIDED, FURTHER, That nothing herein shall be  
12 construed to prevent said holder from employing other and additional  
13 counsel, or prosecuting said action independent of and without  
14 assistance from the prosecuting attorney, if he or she so desires, but  
15 in such cases, no other and further costs or charge whatever shall be  
16 allowed than the costs provided in this section and RCW 84.64.120: AND  
17 PROVIDED, ALSO, That in no event shall the county prosecuting attorney  
18 collect any fee for the services herein enumerated.

19           **Sec. 376.** RCW 84.64.130 and 1961 c 15 s 84.64.130 are each amended  
20 to read as follows:

21           The books and records belonging to the office of county treasurer,  
22 certified by said treasurer, shall be deemed prima facie evidence to  
23 prove the issuance of any certificate, the sale of any land or lot for  
24 taxes, the redemption of the same or payment of taxes thereon. The  
25 county treasurer shall, at the expiration of his or her term of office,  
26 pay over to his or her successor in office all moneys in his or her  
27 hands received for redemption from sale for taxes on real property.

28           **Sec. 377.** RCW 84.64.180 and 1961 c 15 s 84.64.180 are each amended  
29 to read as follows:

30           Deeds executed by the county treasurer, as aforesaid, shall be  
31 prima facie evidence in all controversies and suits in relation to the  
32 right of the purchaser, his or her heirs and assigns, to the real  
33 property thereby conveyed of the following facts: First, that the real  
34 property conveyed was subject to taxation at the time the same was  
35 assessed, and had been listed and assessed in the time and manner  
36 required by law; second, that the taxes were not paid at any time

1 before the issuance of deed; third, that the real property conveyed had  
2 not been redeemed from the sale at the date of the deed; fourth, that  
3 the real property was sold for taxes, interest, and costs, as stated in  
4 the deed; fifth, that the grantee in the deed was the purchaser, or  
5 assignee of the purchaser; sixth, that the sale was conducted in the  
6 manner required by law. And any judgment for the deed to real property  
7 sold for delinquent taxes rendered after January 9, 1926, except as  
8 otherwise provided in this section, shall estop all parties from  
9 raising any objections thereto, or to a tax title based thereon, which  
10 existed at or before the rendition of such judgment, and could have  
11 been presented as a defense to the application for such judgment in the  
12 court wherein the same was rendered, and as to all such questions the  
13 judgment itself shall be conclusive evidence of its regularity and  
14 validity in all collateral proceedings, except in cases where the tax  
15 has been paid, or the real property was not liable to the tax.

16 **Sec. 378.** RCW 84.68.110 and 1961 c 15 s 84.68.110 are each amended  
17 to read as follows:

18 Whenever a taxpayer believes or has reason to believe that, through  
19 error in description, double assessments, or manifest errors in  
20 assessment which do not involve a revaluation of the property, he or  
21 she has been erroneously assessed or that a tax has been incorrectly  
22 extended against him or her upon the tax rolls, and the tax based upon  
23 such erroneous assessment or incorrect extension has been paid, such  
24 taxpayer may initiate a proceeding for the cancellation or reduction of  
25 the assessment of his or her property and the tax based thereon or for  
26 correction of the error in extending the tax on the tax rolls, and for  
27 the refund of the claimed erroneous tax or excessive portion thereof,  
28 by filing a petition therefor with the county assessor of the county in  
29 which the property is or was located or taxed, which petition shall  
30 legally describe the property, show the assessed valuation and tax  
31 placed against the property for the year or years in question and the  
32 taxpayer's reasons for believing that there was an error in the  
33 assessment within the meaning of RCW 84.68.110 through 84.68.150, or in  
34 extending the tax upon the tax rolls and set forth the sum to which the  
35 taxpayer desires to have the assessment reduced or the extended tax  
36 corrected.

1       **Sec. 379.** RCW 84.68.120 and 1975 1st ex.s. c 278 s 208 are each  
2 amended to read as follows:

3       Upon the filing of the petition with the county assessor that  
4 officer shall proceed forthwith to conduct such investigation as may be  
5 necessary to ascertain and determine whether or not the assessment in  
6 question was erroneous or whether or not the tax was incorrectly  
7 extended upon the tax rolls and if he or she finds there is probable  
8 cause to believe that the property was erroneously assessed, and that  
9 such erroneous assessment was due to an error in description, double  
10 assessment, or manifest error in assessment which does not involve a  
11 revaluation of the property, or that the tax was incorrectly extended  
12 upon the tax rolls, he or she shall endorse his or her findings upon  
13 the petition, and thereupon within ten days after the filing of the  
14 petition by the taxpayer forward the same to the county treasurer. If  
15 the assessor's findings be in favor of cancellation or reduction or  
16 correction he or she shall include therein a statement of the amount to  
17 which he or she recommends that the assessment and tax be reduced. It  
18 shall be the duty of the county treasurer, upon whom a petition with  
19 endorsed findings is served, as in RCW 84.68.110 through 84.68.150  
20 provided, to endorse thereon a statement whether or not the tax against  
21 which complaint is made has in fact been paid and, if paid, the amount  
22 thereof, whereupon the county treasurer shall immediately transmit the  
23 petition to the prosecuting attorney and the prosecuting attorney shall  
24 make such investigation as he or she deems necessary and, within ten  
25 days after receipt of the petition and findings by him or her, transmit  
26 the same to the state department of revenue with his or her  
27 recommendation in respect to the granting or denial of the petition.

28       **Sec. 380.** RCW 84.68.150 and 1961 c 15 s 84.68.150 are each amended  
29 to read as follows:

30       No petition for cancellation or reduction of assessment or  
31 correction of tax rolls and the refund of taxes based thereon under RCW  
32 84.68.110 through 84.68.150 shall be considered unless filed within  
33 three years after the year in which the tax became payable or purported  
34 to become payable. The maximum refund under the authority of RCW  
35 84.68.110 through 84.68.150 for each year involved in the taxpayer's  
36 petition shall be two hundred dollars. Should the amount of excess tax  
37 for any such year be in excess of two hundred dollars, a refund of two

1 hundred dollars shall be allowed under RCW 84.68.110 through 84.68.150,  
2 without prejudice to the right of the taxpayer to proceed as may be  
3 otherwise provided by law to recover the balance of the excess tax paid  
4 by him or her.

5 **Sec. 381.** RCW 84.69.090 and 1961 c 15 s 84.69.090 are each amended  
6 to read as follows:

7 The payment of refunds shall be made payable, at the election of  
8 the appropriate treasurer, to the taxpayer, his or her guardian,  
9 executor, or administrator or the owner of record of the property  
10 taxed, his or her guardian, executor, or administrator.

11 **Sec. 382.** RCW 85.05.076 and 1915 c 153 s 7 are each amended to  
12 read as follows:

13 Any person deeming himself or herself aggrieved by the assessment  
14 for benefits made against any lot or parcel of land owned by him or  
15 her, may appeal therefrom to the superior court for the county in which  
16 the diking district is situated; such appeal shall be taken within the  
17 time and substantially in the manner prescribed by the laws of this  
18 state for appeals from justices' courts and all notices of appeal shall  
19 be filed with the said board, and the board of diking commissioners  
20 shall at the appellant's expense certify to the superior court so much  
21 of the record as appellant may request, and the hearing in said  
22 superior court shall be de novo, and the superior court shall have  
23 power and authority to reverse or modify the determination of the  
24 commissioners and to certify the result of its determination to the  
25 county auditor and shall have full power and authority to do anything  
26 in the premises necessary to adjust the assessment upon the lots or  
27 parcels of land involved in the appeal in accordance with the benefits.

28 **Sec. 383.** RCW 85.05.100 and 1895 c 117 s 10 are each amended to  
29 read as follows:

30 In the preparation of the facts and data to be inserted in said  
31 petition and filed therewith for the purpose of presenting the matter  
32 to the said superior court, the board of commissioners of said diking  
33 district may employ one or more good and competent surveyors and  
34 (~~draughtsmen~~) drafters to assist them in compiling data required to  
35 be presented to the court with said petition as hereinbefore provided,

1 and such legal assistance as may be necessary, with full power to bind  
2 said district for the compensation of such assistants or employees  
3 employed by them, and such services shall be taxed as costs in the  
4 suit.

5 **Sec. 384.** RCW 85.05.120 and 1895 c 117 s 12 are each amended to  
6 read as follows:

7 Any or all of said defendants may appear jointly or separately, and  
8 admit or deny the allegations of said petition, and plead any  
9 affirmative matter in defense thereof, at the time and place appointed  
10 for hearing said petition, or to which the same may have been  
11 adjourned. If the court or judge thereof shall have satisfactory proof  
12 that all of the defendants in said action have been duly served with  
13 said summons, as above provided, and shall be further satisfied by  
14 competent proof that said improvement is practicable, and conducive to  
15 the public health, welfare, and convenience, and will increase the  
16 value of said lands for the purpose of public revenue, and that the  
17 contemplated use for which the land, real estate, premises, or other  
18 property sought to be appropriated is really a public use, and that the  
19 land, real estate, premises, or other property sought to be  
20 appropriated are required and necessary for the establishment of said  
21 improvement, the court or judge thereof shall cause a jury of twelve  
22 qualified persons to be impaneled to assess the damages and benefits as  
23 herein provided, if in attendance upon his or her court; and if not, he  
24 or she may, if satisfied that the public interests require the  
25 immediate construction of said improvement, direct the sheriff of his  
26 or her county to summon from the citizens of the county in which said  
27 petition is filed as many qualified persons as may be necessary in  
28 order to form a jury of twelve persons, unless the parties to the  
29 proceedings consent to a less number, such number to be not less than  
30 three, and such consent shall be entered by the clerk in the minutes of  
31 the trial. If necessary to complete the jury in any case, the sheriff,  
32 under direction of the court or judge thereof, shall summon as many  
33 qualified persons as may be required to complete the jury from the  
34 citizens of the county in which the petition is filed. In case a  
35 special jury is summoned, the cost thereof shall be taxed as part of  
36 the costs in the proceeding, and paid by the district seeking to  
37 appropriate said land, the same as other costs in the case; and no

1 person shall be competent as a juror who is a resident of, or landowner  
2 in, the district seeking to appropriate said land. The jurors at such  
3 trial shall make in each case a separate assessment of damages which  
4 shall result to any person, corporation or company, or to the state, by  
5 reason of the appropriation and use of such land, real estate,  
6 premises, or other property for said improvement, and shall ascertain,  
7 determine, and award the amount of damages to be paid to said owner or  
8 owners, respectively, and to all tenants, incumbrancers, and others  
9 interested, for the taking or injuriously affecting such land, real  
10 estate, premises, or other property for the establishment of said  
11 improvement; and shall further find the maximum amount of benefits, per  
12 acre, to be derived by each of the landowners from the construction of  
13 said improvement. And upon a return of the verdict into court, the  
14 same shall be recorded as in other cases; whereupon a decree shall be  
15 entered in accordance with the verdict so rendered, setting forth all  
16 the facts found by the jury, and decreeing that said right-of-way be  
17 appropriated, and directing the commissioners of said diking district  
18 to draw their warrant on the county treasurer for the amount awarded by  
19 the jury to each person, for damages sustained by reason of the  
20 establishment of said improvement, payable out of the funds of said  
21 diking district.

22 **Sec. 385.** RCW 85.05.130 and 1971 c 81 s 157 are each amended to  
23 read as follows:

24 If at any time it shall appear to the board of diking commissioners  
25 that any lands within or without said district as originally  
26 established are being benefited by the diking system of said district  
27 and that said lands are not being assessed for the benefits received,  
28 or that any lands within said district are being assessed out of or not  
29 in proportion to the benefits which said lands are receiving from the  
30 maintenance of the diking system of said district, and said board of  
31 diking commissioners shall determine that certain lands, either within  
32 or without the boundaries of the district as originally established,  
33 should be assessed for the purpose of raising funds for the future  
34 maintenance of the diking system of the district, or that the  
35 assessments on land already assessed should be equalized by diminishing  
36 or increasing the same so that said lands shall be assessed in  
37 proportion to the benefits received, said commissioners shall file a



1 petition in the superior court in the original cause, setting forth the  
2 facts, describing the lands not previously assessed and the lands the  
3 assessments on which should be equalized, stating the estimated amount  
4 of benefits per acre being received by each tract of land respectively,  
5 giving the name of the owner or reputed owner of each such tract of  
6 land, and praying that such original cause be opened for further  
7 proceedings for the purpose of subjecting new lands to assessment or  
8 equalizing the assessments upon lands already assessed, or both.

9       Upon the filing of such petition, summons shall issue thereon and  
10 be served on the owners of all lands affected, in the same manner as  
11 summons is issued and served in original proceedings, as near as may  
12 be, and if such new lands lie within the boundaries of any other diking  
13 district, said summons shall also be served upon the commissioners of  
14 such other diking district.

15       In case any of the new lands sought to be assessed in said  
16 proceeding lie within the boundaries of any other diking district, and  
17 the diking commissioners of such other district believe that the  
18 maintenance of the dike or dikes of such other district is benefiting  
19 lands within the district instituting the proceedings, said diking  
20 commissioners of such other districts shall intervene in such  
21 proceedings by petition, setting forth the facts, describing the lands  
22 in the district instituting the proceeding which they believe are being  
23 benefited by the maintenance of the diking system of their district,  
24 and praying that the benefits to such lands may be determined and such  
25 lands subjected to assessment for the further maintenance of the diking  
26 system of their district, to the end that all questions of benefits to  
27 lands in the respective districts may be settled and determined in one  
28 proceeding, and such petitioners in intervention shall cause summons to  
29 be issued upon such petition in intervention and served upon the  
30 commissioners of the diking district instituting the proceeding and  
31 upon the owners of all lands sought to be affected by such petition in  
32 intervention.

33       In case the owner of any such new lands sought to be assessed in  
34 said proceedings shall be maintaining a private dike against salt or  
35 freshwater for the benefit of said lands, and shall believe that the  
36 maintenance of such private dike is benefiting any lands within or  
37 without the district instituting the proceedings, or in case any such  
38 new lands sought to be assessed are included within the boundaries of

1 some other diking district and are being assessed for the maintenance  
2 of the dikes of such other district, and the owner of such lands  
3 believes that the maintenance of the dike or dikes of such other  
4 district is benefiting lands included within the district instituting  
5 said proceedings, such owner or owners may by answer and cross-petition  
6 set forth the facts and pray that at the hearing upon said petition and  
7 cross-petition the benefits accruing from the maintenance of the  
8 respective dikes may be considered, to the end that a fair and  
9 equitable adjustment of the benefits being received by any lands from  
10 the maintenance of the various dikes benefiting the same, may be  
11 determined for the purpose of fixing the assessments for the future  
12 maintenance of such dikes, and may interplead in said proceeding such  
13 other diking district in which his or her lands sought to be assessed  
14 in said proceeding are being assessed for the maintenance of the dike  
15 or dikes of such other district.

16 No answer to any petition or petition in intervention shall be  
17 required, unless the party served with summons desires to offset  
18 benefits or to ask other affirmative relief, and no default judgment  
19 shall be taken for failure to answer any petition or petition in  
20 intervention, but the petitioners or petitioners in intervention shall  
21 be required to establish the facts alleged by competent evidence.

22 Upon the issues being made up, or upon the lapse of time within  
23 which the parties served are required to appear by any summons, the  
24 court shall impanel a jury to hear and determine the matters in issue,  
25 and the jury shall determine and assess the benefits, if any, which the  
26 respective tracts of land are receiving or will receive from the  
27 maintenance of the dike or dikes to be maintained, taking into  
28 consideration any and all matters relating to the benefits, if any,  
29 received or to be received from any dike, structure, or improvement,  
30 and to credit, or charge, as the case may be, to each tract so situated  
31 as to affect any other tract or tracts, or having improvements or  
32 structures thereon or easements granted in connection therewith  
33 affecting any other tract or tracts included in such proceedings and  
34 shall specify in their verdict the respective amount of benefits per  
35 acre, if any, assessed to each particular tract of land, by legal  
36 subdivisions. Upon the return of the verdict of the jury, the court  
37 shall enter its judgment in accordance therewith, as supplemental to  
38 the original decree, or in case a petition in intervention be filed by

1 the diking commissioners of some other district than that instituting  
2 the proceeding, such judgment to be supplemental to all such original  
3 decrees, and thereafter, all assessments and levies for the future  
4 maintenance of any dike or dikes described in said judgment shall be  
5 based upon the respective benefits determined and assessed against the  
6 respective tracts of land as specified in said judgment. Every person  
7 or corporation feeling himself or herself or itself aggrieved by any  
8 such judgment may appeal to the supreme court or the court of appeals  
9 within thirty days after the entry thereof, and such appeal shall bring  
10 before the supreme court or the court of appeals the propriety and  
11 justness of the verdicts of the jury in respect to the parties to the  
12 appeal. No bonds shall be allowed on such appeals. Nothing in this  
13 section contained shall be construed as affecting the right of diking  
14 districts to consolidation in any manner provided by law.

15 **Sec. 386.** RCW 85.05.150 and 1895 c 117 s 15 are each amended to  
16 read as follows:

17 Any person or corporation claiming to be entitled to any money  
18 ordered paid by the court, as provided in this act, may apply to the  
19 court therefor, and upon furnishing evidence satisfactory to the court  
20 that he or she is entitled to the same, the court shall make an order  
21 directing the payment to such claimant of the portion of such money as  
22 he or she or it may be found entitled to; but if, upon application, the  
23 court or judge thereof shall decide that the title to the land, real  
24 estate, or premises specified in the application of such claimant is in  
25 such condition as to require that an action be commenced to determine  
26 the title of claimants thereto, it shall refuse such order until such  
27 action is commenced and the conflicting claims to such land, real  
28 estate, or premises be determined according to law.

29 **Sec. 387.** RCW 85.05.160 and 1895 c 117 s 16 are each amended to  
30 read as follows:

31 Upon the entry of the judgment upon the verdict of the jury, the  
32 clerk of said court shall immediately prepare a transcript, which shall  
33 contain a list of the names of all the persons and corporations  
34 benefited by said improvement and the amount of benefit derived by  
35 each, respectively, and shall duly certify the same, together with a  
36 list of the lands benefited by said improvement belonging to each

1 person or corporation, and shall file the same with the auditor of the  
2 county, who shall immediately enter the same upon the tax rolls of his  
3 or her office, as provided by law for the entry of other taxes, against  
4 the land of each of the said persons named in said list, together with  
5 the amounts thereof, and the same shall be subject to the same interest  
6 and penalties in case of delinquency as in case of general taxes, and  
7 shall be collected in the same manner as other taxes and subject to the  
8 same right of redemption and the lands sold for the collection of said  
9 taxes shall be subject to the same right of redemption as in the sale  
10 of lands for general taxes: PROVIDED, That said assessment shall not  
11 become due and payable except at such time or times and in such amount  
12 as may be designated by the board of commissioners of said dike  
13 district, which designation shall be made to the county auditor by said  
14 board of commissioners of said diking district, by serving a written  
15 notice upon the county auditor designating the time and the amount of  
16 the assessment, said assessment to be in proportion to benefits, to  
17 become due and payable, which amount shall fall due at the time of the  
18 falling due of general taxes, and the amount so designated shall be  
19 added by the auditor to the general taxes of said person, persons, or  
20 corporations, according to said notice, upon the assessment rolls in  
21 his or her said office, and collected therewith: AND PROVIDED FURTHER,  
22 That no one call for assessments by said commissioners shall be in an  
23 amount to exceed twenty-five percent of the actual amount necessary to  
24 pay the costs of the proceedings, and the establishment of said  
25 district and system of dikes and the cost of construction of said work.

26 **Sec. 388.** RCW 85.05.180 and 1895 c 117 s 18 are each amended to  
27 read as follows:

28 After the filing of said certificate said commissioners of such  
29 diking district shall proceed at once in the construction of said  
30 improvements, and in carrying on said construction or any extension  
31 thereof they shall have full charge and management thereof, and shall  
32 have the power to employ such assistance as they may deem necessary,  
33 and purchase all material that may be necessary in the construction and  
34 carrying on of the work of said improvement, and shall have power to  
35 let the whole or any portion of said work to any responsible  
36 contractor, and shall in such case enter into all necessary agreements  
37 with such contractor that may be necessary in the premises: PROVIDED,

1 That in case the whole or any portion of said improvement is let to any  
2 contractor, said commissioners shall require such contractor to give a  
3 bond in double the amount of the contract price of the whole or of such  
4 portion of said work covered by such contract, with two or more good  
5 and sufficient sureties to be approved by the board of commissioners of  
6 said diking district and running to said district as obligee therein,  
7 conditioned for the faithful and accurate performance of said contract  
8 by said contractor, his or her executors, administrators, or assigns,  
9 according to the terms and conditions of said agreement, and shall  
10 cause said contractor to enter into a further and additional bond in  
11 the same amount, with two or more good and sufficient sureties to be  
12 approved by said board of commissioners of said diking district in the  
13 name of said district as obligee therein, conditioned that said  
14 contractor, his or her executors, administrators, or assigns, or  
15 subcontractor, his or her executors, administrators, or assigns, shall  
16 perform the whole or any portion of said work under contract of said  
17 original contractor; shall pay or cause to be paid all just claims of  
18 all persons performing labor or rendering services in the construction  
19 of said work, or furnishing materials, merchandise, or provisions of  
20 any kind or character used by said contractor or subcontractor, or any  
21 employee thereof in the construction of said improvement: PROVIDED  
22 FURTHER, That no sureties on said last mentioned bond shall be liable  
23 thereon unless the persons or corporations performing said labor and  
24 furnishing said materials, goods, wares, merchandise, and provisions,  
25 shall, within ninety days after the completion of such improvement,  
26 file their claim, duly verified, that the amount is just and due and  
27 remains unpaid, with the commissioners of said diking district.

28 **Sec. 389.** RCW 85.06.100 and 1895 c 115 s 10 are each amended to  
29 read as follows:

30 In the preparation of the facts and data to be inserted in said  
31 petition and filed therewith for the purpose of presenting the matter  
32 to the superior court, the board of commissioners of said drainage  
33 district may employ one or more good and competent surveyors and  
34 (~~draughtsmen~~) drafters to assist them in compiling data required to  
35 be presented to the court with said petition, as hereinbefore provided,  
36 and such legal assistance as may be necessary, with full power to bind

1 said district for the compensation of such assistants or employees  
2 employed by them, and such services shall be taxed as costs in the  
3 suit.

4 **Sec. 390.** RCW 85.06.120 and 1909 c 143 s 2 are each amended to  
5 read as follows:

6 Any or all of said defendants may appear jointly or separately and  
7 admit or deny the allegations of said petition and plead any  
8 affirmative matter in defense thereof at the time and place appointed  
9 for hearing said petition, or to which the same may have been  
10 adjourned. If the court or judge thereof shall have satisfactory proof  
11 that all of the defendants in said action have been duly served with  
12 said summons, as above provided, and shall be further satisfied by  
13 competent proof that said improvement is practicable and conducive to  
14 the public health, welfare, and convenience, and will increase the  
15 value of said lands for the purpose of public revenue, and that the  
16 contemplated use for which the land, real estate, premises, or other  
17 property sought to be appropriated is really a public use, and that the  
18 land, real estate, premises, or other property sought to be  
19 appropriated are required and necessary for the establishment of said  
20 improvement, and that said improvement has a good and sufficient  
21 outlet, the court or judge thereof shall cause a jury of twelve  
22 qualified persons to be impaneled to assess the damages and benefits,  
23 as herein provided, if in attendance upon his or her court; and if not  
24 he or she may, if satisfied that the public interests require the  
25 immediate construction of said improvement, direct the sheriff of his  
26 or her county to summons from the citizens of the county in which  
27 petition is filed as many qualified persons as may be necessary in  
28 order to form a jury of twelve persons, unless the parties to the  
29 proceedings consent to a less number, such number to be not less than  
30 three, and such consent shall be entered by the clerk in the minutes of  
31 the trial. If necessary, to complete the jury in any case, the  
32 sheriff, under the directions of the court or the judge thereof shall  
33 summon as many qualified persons as may be required to complete the  
34 jury from the citizens of the county in which the petition is filed.  
35 In case a special jury is summoned the cost thereof shall be taxed as  
36 part of the cost in the proceedings and paid by the district seeking to  
37 appropriate said land, the same as other costs in the case; and no

1 person shall be competent as a juror who is a resident of, or landowner  
2 in, the district seeking to appropriate said land. The jurors at such  
3 trial shall make in each case a separate assessment of damages which  
4 shall result to any person, corporation, or company, or to the state,  
5 by reason of the appropriation and use of such land, real estate,  
6 premises, or other property for said improvements and shall ascertain,  
7 determine and award the amount of damages to be paid to said owner or  
8 owners, respectively, and to all tenants, incumbrancers, and others  
9 interested, for the taking or injuriously affecting such land, real  
10 estate, premises, or other property for the establishment of said  
11 improvement; and shall further find a maximum amount of benefits per  
12 acre to be derived by each of the landowners, and also the maximum  
13 amount of benefits resulting to any municipality, public highway,  
14 corporate road, or district from construction of said improvement. And  
15 upon a return of the verdict into court the same shall be reported as  
16 in other cases; whereupon, a decree shall be entered in accordance with  
17 the verdict so rendered setting forth all the facts found by the jury,  
18 and decreeing that said right-of-way be appropriated, and directing the  
19 commissioners of said drainage district to draw their warrant on the  
20 county treasurer for the amount awarded by the jury to each person for  
21 damages sustained by reason of the establishment of said improvement,  
22 payable out of the funds of said drainage district.

23 **Sec. 391.** RCW 85.06.130 and 1971 c 81 s 159 are each amended to  
24 read as follows:

25 If at any time it shall appear to the board of drainage  
26 commissioners that any lands within or without said district as  
27 originally established are being benefited by the drainage system of  
28 said district and that said lands are not being assessed for the  
29 benefits received, or if after the construction of any drainage system,  
30 it appears that lands embraced therein have in fact received or are  
31 receiving benefits different from those found in the original  
32 proceedings, and which could not reasonably have been foreseen before  
33 the final completion of the improvement, or that any lands within said  
34 district are being assessed out of or not in proportion to the benefits  
35 which said lands are receiving from the maintenance of the drainage  
36 system of said district, and said board of drainage commissioners shall  
37 determine that certain lands, either within or without the boundaries

1 of the district as originally established, should be assessed for the  
2 purpose of raising funds for the future maintenance of the drainage  
3 system of the district, or that the assessments on land already  
4 assessed should be equalized by diminishing or increasing the same so  
5 that said lands shall be assessed in proportion to the benefits  
6 received, said commissioners shall file a petition in the superior  
7 court in the original cause, setting forth the facts, describing the  
8 lands not previously assessed and the lands the assessment on which  
9 should be equalized, stating the estimated amount of benefits per acre  
10 being received by each tract of land respectively, giving the name of  
11 the owner or reputed owner of each such tract of land and praying that  
12 such original cause be opened for further proceedings for the purpose  
13 of subjecting new lands to assessments or equalizing the assessments  
14 upon lands already assessed, or both. Upon the filing of such  
15 petition, summons shall issue thereon and be served on the owners of  
16 all lands affected, in the same manner as summons is issued and served  
17 in original proceedings, as near as may be, and if such new lands lie  
18 within the boundaries of any other drainage district, said summons  
19 shall also be served upon the commissioners of such other drainage  
20 district. In case any of the new lands sought to be assessed in said  
21 proceeding lie within the boundaries of any other drainage district,  
22 and the drainage commissioners of such other district believe that the  
23 maintenance of the drain or drains of such other district is benefiting  
24 lands within the district instituting the proceeding, said drainage  
25 commissioners of such other districts shall intervene in such  
26 proceedings by petition, setting forth the facts, describing the lands  
27 in the district instituting the proceeding which they believe are being  
28 benefited by the maintenance of the drainage system of their district,  
29 and praying that the benefits to such lands may be determined and such  
30 lands subjected to assessment for the further maintenance of the  
31 drainage system of their district, to the end that all questions of  
32 benefits to lands in the respective districts may be settled and  
33 determined in one proceeding, and such petitioners in intervention  
34 shall cause summons to be issued upon such petition in intervention and  
35 served upon the commissioners of the drainage district instituting the  
36 proceeding and upon the owners of all lands sought to be affected by  
37 such petition in intervention. In case the owner of any such new lands  
38 sought to be assessed in said proceedings shall be maintaining a



1 private drain against salt or freshwater for the benefit of said lands,  
2 and shall believe that the maintenance of such private drain is  
3 benefiting any lands within or without the district instituting the  
4 proceedings, or in case any such new lands sought to be assessed are  
5 included within the boundaries of some other drainage district and are  
6 being assessed for the maintenance of the drains of such other  
7 district, and the owner of such lands believes that the maintenance of  
8 the drain or drains of such other district is benefiting lands included  
9 within the district instituting said proceedings, such owner or owners  
10 may by answer and cross-petition set forth the facts and pray that at  
11 the hearing upon said petition and cross-petition the benefits accruing  
12 from the maintenance of the respective drains may be considered, to the  
13 end that a fair and equitable adjustment of the benefits being received  
14 by any lands from the maintenance of the various drains benefiting the  
15 same, may be determined for the purpose of fixing the assessments for  
16 the future maintenance of such drains, and may interplead in said  
17 proceeding such other drainage district in which his or her lands  
18 sought to be assessed in said proceeding are being assessed for the  
19 maintenance of the drain or drains of such other district. No answer  
20 to any petition or petition in intervention shall be required, unless  
21 the party served with summons desires to offset benefits or to ask  
22 other affirmative relief, and no default judgment shall be taken for  
23 failure to answer any petition or petition in intervention, but the  
24 petitioners or petitioners in intervention shall be required to  
25 establish the facts alleged by competent evidence. Upon the issues  
26 being made up, or upon the lapse of time within which the parties  
27 served are required to appear by any summons, the court shall impanel  
28 a jury to hear and determine the matters in issue, and the jury shall  
29 determine and assess the benefits, if any, which the respective tracts  
30 of land are receiving or will receive from the maintenance of the drain  
31 or drains to be maintained, taking into consideration any and all  
32 matters relating to the benefits, if any, received or to be received  
33 from any drain, structure or improvement, and to credit or charge, as  
34 the case may be, to each tract so situated as to affect any other tract  
35 or tracts, or having improvement or structures thereon or easements  
36 granted in connection therewith, affecting any other tract or tracts  
37 included in such proceedings, and shall specify in their verdict the  
38 respective amount of benefits per acre, if any, assessed to each

1 particular tract of land, by legal subdivisions. Upon the return of  
2 the verdict of the jury, the court shall enter its judgment in  
3 accordance therewith, as supplemental to the original decree, or in  
4 case a petition in intervention be filed by the drainage commissioners  
5 of some other district than that instituting the proceeding, such  
6 judgment to be supplemental to all such original decrees, and  
7 thereafter, all assessments and levies for the cost of construction or  
8 future maintenance of any drain or drains described in said judgment  
9 shall be based upon the respective benefits determined and assessed  
10 against the respective tracts of land as specified in said judgment.  
11 Every person or corporation feeling himself or herself or itself  
12 aggrieved by any such judgment may appeal to the supreme court or the  
13 court of appeals within thirty days after the entry thereof, and such  
14 appeal shall bring before the supreme court or the court of appeals the  
15 propriety and justness of the verdicts of the jury in respect to the  
16 parties to the appeal. No bonds shall be required on such appeals.  
17 Nothing in this section contained shall be construed as affecting the  
18 right of drainage districts to consolidation in any manner provided by  
19 law.

20 **Sec. 392.** RCW 85.06.150 and 1895 c 115 s 15 are each amended to  
21 read as follows:

22 Any person or corporation claiming to be entitled to any money  
23 ordered paid by the court, as provided in this chapter, may apply to  
24 the court therefor, and upon furnishing evidence satisfactory to the  
25 court that he or she is entitled to the same, the court shall make an  
26 order directing the payment to such claimant of the portion of such  
27 money as he or she or it may be found entitled to; but if, upon  
28 application, the court or judge thereof shall decide that the title to  
29 the land, real estate, or premises specified in the application of such  
30 claimant is in such condition as to require that an action be commenced  
31 to determine the title of claimants thereto, it shall refuse such order  
32 until such action is commenced and the conflicting claims to such land,  
33 real estate, or premises be determined according to law.

34 **Sec. 393.** RCW 85.06.160 and 1907 c 242 s 1 are each amended to  
35 read as follows:

36 Upon the entry of the judgment upon the verdict of the jury, the

1 clerk of said court shall immediately prepare a transcript, which shall  
2 contain a list of the names of all the persons and corporations  
3 benefited by said improvement and the amount of benefit derived by  
4 each, respectively, and shall duly certify the same, together with a  
5 list of the lands benefited by said improvement belonging to each  
6 person and corporation, and shall file the same with the auditor of the  
7 county, who shall immediately enter the same upon the tax rolls of his  
8 or her office, as provided by law for the entry of other taxes, against  
9 the land of each of the said persons named in said list, together with  
10 the amounts thereof, and the same shall be subject to the same interest  
11 and penalties in case of delinquency as in case of general taxes, and  
12 shall be collected in the same manner as other taxes and subject to the  
13 same right of redemption, and the lands sold for the collection of said  
14 taxes shall be subject to the same right of redemption as the sale of  
15 lands for general taxes: PROVIDED, That said assessments shall not  
16 become due and payable except at such time or times and in such amounts  
17 as may be designated by the board of commissioners of said drainage  
18 district, which designation shall be made to the county auditor by said  
19 board of commissioners of said drainage district, by serving written  
20 notice upon the county auditor designating the time and the amount of  
21 the assessment, said assessment to be in proportion to benefits to  
22 become due and payable, which amount shall fall due at the time of the  
23 falling due of general taxes, and the amount so designated shall be  
24 added by the auditor to the general taxes of said person, persons, or  
25 corporation, according to said notice, upon the assessment rolls in his  
26 or her said office, and collected therewith; PROVIDED FURTHER, That no  
27 one call for assessments by said commissioners shall be in an amount to  
28 exceed twenty-five percent of the amount estimated by the board of  
29 commissioners to be necessary to pay the costs of the proceedings, and  
30 the establishment of said district and drainage system and the cost of  
31 construction of said work; PROVIDED FURTHER, That where the amount  
32 realized from the original assessment and tax shall not prove  
33 sufficient to complete the original plans and specifications of any  
34 drainage system, alterations, extensions, or changes therein, for which  
35 the said original assessment was made, the board of commissioners of  
36 said district shall make such further assessment as may be necessary to  
37 complete said system according to the original plans and

1 specifications, which assessment shall be made and collected in the  
2 manner provided in this section for the original assessment.

3 **Sec. 394.** RCW 85.06.180 and 1895 c 115 s 18 are each amended to  
4 read as follows:

5 After the filing of said certificate said commissioners of such  
6 drainage district shall proceed at once in the construction of said  
7 improvement, and in carrying on said construction or any extensions  
8 thereof they shall have full charge and management thereof, and shall  
9 have the power to employ such assistance as they may deem necessary and  
10 purchase all material that may be necessary in the construction and  
11 carrying on of the work of said improvement, and shall have power to  
12 let the whole or any portion of said work to any responsible  
13 contractor, and shall in such case enter into all necessary agreements  
14 with such contractor that may be necessary in the premises: PROVIDED,  
15 That in case the whole or any portion of said improvement is let to any  
16 contractor said commissioners shall require said contractor to give a  
17 bond in double the amount of the contract price of the whole or of such  
18 portion of said work covered by said contract, with two or more  
19 sureties to be approved by the board of commissioners of said drainage  
20 district and running to said district as obligee therein, conditioned  
21 for the faithful and accurate performance of said contract by said  
22 contractor, his or her executors, administrators, or assigns, according  
23 to the terms and conditions of said agreement, and shall cause said  
24 contractor to enter into a further or additional bond in the same  
25 amount, with two or more good and sufficient sureties to be approved by  
26 said board of commissioners of said drainage district in the name of  
27 said district as obligee therein, conditioned that said contractor, his  
28 or her executors, administrators, or assigns, or subcontractor, his or  
29 her executors, administrators, or assigns, performing the whole or any  
30 portion of said work under contract of said original contractor, shall  
31 pay or cause to be paid all just claims for all persons performing  
32 labor or rendering services in the construction of said work, or  
33 furnishing materials, merchandise, or provisions of any kind or  
34 character used by said contractor or subcontractor, or any employee  
35 thereof in the construction of said improvement: PROVIDED FURTHER,  
36 That no sureties on said last mentioned bond shall be liable thereon  
37 unless the persons or corporation performing said labor and furnishing

1 said materials, goods, wares, merchandise, and provisions, shall,  
2 within ninety days after the completion of said improvement, file their  
3 claim, duly verified; that the amount is just and due and remains  
4 unpaid, with the board of commissioners of said drainage district.

5 **Sec. 395.** RCW 85.06.210 and 1895 c 115 s 21 are each amended to  
6 read as follows:

7 Any person or corporation owning land within said district shall  
8 have a right to connect any private drains or ditches for the proper  
9 drainage of such land with said system, and in case any persons or  
10 corporations shall desire to drain such lands into said system and  
11 shall find it necessary, in order to do so, to procure the right-of-way  
12 over the land of another, or others, and if consent thereto cannot be  
13 procured from such person or persons, then such landowner may present  
14 in writing a request to the board of commissioners of said district,  
15 setting forth therein the necessity of being able to connect his or her  
16 private drainage with said system, and pray therein that said system be  
17 extended to such point as he or she may designate in said writing, and  
18 immediately thereon said board of commissioners shall cause a petition  
19 to be filed in the superior court, for and in the name of said drainage  
20 district, requesting in said petition that said system be extended as  
21 requested, setting forth therein the necessity thereof and praying that  
22 leave be granted by the board to extend the system in accordance with  
23 the prayer of said petition, and the proceedings in such case, upon the  
24 presentation of such petition and the hearing thereof, shall be, in all  
25 matters, the same as in the hearing and presentation of the original  
26 petition for the establishment of the original system of drainage in  
27 said district, as far as applicable. That the costs in such  
28 proceedings shall be paid from the assessment of benefits to be made on  
29 the lands of the person or persons benefited by such extension, and the  
30 assessment and compensation for the right-of-way, damages and benefits,  
31 and payment of damages and compensation, and the collection of the  
32 assessments for benefits, shall be the same as in the proceedings under  
33 the original petition, and the construction of the said extension shall  
34 be made under the same provisions as the construction of the original  
35 improvement; and all things that may be done or performed in connection  
36 therewith shall be, as near as may be applicable, in accordance with  
37 the provisions already set forth herein for the establishment and

1 construction of said original improvement: PROVIDED, That such  
2 petitioner or petitioners shall, at the time of filing such petition by  
3 said drainage commissioners, enter into a good and sufficient bond to  
4 said drainage district in the full penal sum of five hundred dollars,  
5 with two or more sureties, to be approved by the court, conditioned for  
6 the payment of all costs in case the prayer of said petition should not  
7 be granted, which bond shall be filed in said cause.

8 **Sec. 396.** RCW 85.06.250 and 1985 c 396 s 42 are each amended to  
9 read as follows:

10 The board of commissioners of such district shall elect one of  
11 their number (~~(chairman)~~) chair and shall either elect one of their  
12 number, or appoint a voter of the district, as secretary, who shall  
13 keep minutes of all the district's proceedings. The board of  
14 commissioners may issue warrants of such district in payment of all  
15 claims of indebtedness against such district, which shall be in form  
16 and substance the same as county warrants, or as near the same as may  
17 be practicable, and shall draw the legal rate of interest from the date  
18 of their presentation to the treasurer for payment, as hereinafter  
19 provided, and shall be signed by the (~~(chairman)~~) chair and attested by  
20 the secretary of said board: PROVIDED, That no warrants shall be  
21 issued by said board of commissioners in payment of any indebtedness of  
22 such district for less than the face or par value.

23 **Sec. 397.** RCW 85.06.330 and 1986 c 278 s 30 are each amended to  
24 read as follows:

25 All warrants issued under the provisions of this chapter shall be  
26 presented by the owners thereof to the county treasurer, who shall  
27 indorse thereon the day of presentation for payment, with the  
28 additional indorsement thereon, in case of nonpayment, that they are  
29 not paid for want of funds; and no warrant shall draw interest under  
30 the provisions of this chapter until it is so presented and indorsed by  
31 the county treasurer. And it shall be the duty of such treasurer, from  
32 time to time, when he or she has sufficient funds in his or her hands  
33 for that purpose, to advertise in the newspaper doing the county  
34 printing for the presentation to him or her for payment of as many of  
35 the outstanding warrants as he or she may be able to pay: PROVIDED,  
36 That thirty days after the first publication of said notice of the

1 treasurer calling in any of said outstanding warrants said warrants  
2 shall cease to bear interest, which shall be stated in the notice.  
3 Said notice shall be published two weeks consecutively, and said  
4 warrants shall be called in and paid in the order of their indorsement.

5 **Sec. 398.** RCW 85.06.550 and 1903 c 67 s 1 are each amended to read  
6 as follows:

7 When any drainage district has been or shall be established and  
8 created under the provisions of an act of the legislature of the state  
9 of Washington, entitled "An act to provide for the establishment and  
10 creation of drainage districts, and the construction and maintenance of  
11 a system of drainage, and to provide for the means of payment thereof,  
12 and declaring an emergency", approved March 20, 1895, and when the  
13 drainage commissioners of such district have employed surveyors or  
14 (~~draughtsmen~~) drafters, or legal assistance as provided in RCW  
15 85.06.100, and have incurred expenses for the compensation of such  
16 surveyors, (~~draughtsmen~~) drafters, and legal assistance, and have  
17 issued to such surveyors, (~~draughtsmen~~) drafters, or persons  
18 rendering said legal assistance any warrants, orders, vouchers, or  
19 other evidence of indebtedness for said expenses so incurred, and when  
20 such warrants, orders, vouchers, or other evidences of indebtedness  
21 remain outstanding and unpaid, and when from any cause no further  
22 proceedings are had as provided for in said act approved March 20,  
23 1895, within a reasonable time, it shall be the duty of the county  
24 commissioners of the county in which such drainage district is located  
25 to assess in accordance with the provisions of RCW 85.06.550 through  
26 85.06.630, the lands constituting and embraced within such drainage  
27 district for the purpose of paying such outstanding warrants, orders,  
28 vouchers, or other evidences of indebtedness, together with interest  
29 thereon.

30 **Sec. 399.** RCW 85.06.560 and 1903 c 67 s 2 are each amended to read  
31 as follows:

32 The county auditor of any county in which such drainage district is  
33 located upon the written request of any holder or owner of any such  
34 warrant, order, voucher, or other evidence of indebtedness, mentioned  
35 in the preceding section, shall forthwith cause to be published in the  
36 newspaper doing the county printing, if any such there be, and if not,

1 then in some newspaper of general circulation in the county, a notice  
2 directing any and all holders or owners of any such warrants, orders,  
3 vouchers, or other evidences of indebtedness, to present the same to  
4 him or her, at his or her office, for registration within ninety days  
5 from the date of the first publication of such notice; and such notice  
6 shall be published once a week for six consecutive weeks. Said notice  
7 shall be directed to all holders and owners of warrants, orders,  
8 vouchers, or other evidences of indebtedness issued by the drainage  
9 commissioners of the particular district giving its name and number,  
10 and shall designate the character of the warrants, orders, vouchers, or  
11 other evidences of indebtedness, the registration of which is called  
12 for by said notice. Upon the presentation to him or her of such  
13 warrants, orders, vouchers, or other evidences of indebtedness, the  
14 county auditor shall register the same in a separate book to be kept  
15 for that purpose, showing the date of registration, the date of issue,  
16 the purpose of issue when the same is shown upon the face, the name of  
17 the person by whom presented, and the face value thereof. Any such  
18 warrants, orders, vouchers, or other evidences of indebtedness, not  
19 presented within the time prescribed in such notice, shall not share in  
20 the benefits of RCW 85.06.550 through 85.06.630, and no assessment or  
21 reassessment shall thereafter be made for the purpose of paying the  
22 same.

23 **Sec. 400.** RCW 85.06.570 and 1903 c 67 s 3 are each amended to read  
24 as follows:

25 At any time after the expiration of the time within which warrants,  
26 orders, vouchers, or other evidences of indebtedness, may be registered  
27 as provided in the preceding section, the holder or owner of any such  
28 registered warrant, order, voucher, or other evidence of indebtedness,  
29 may for himself or herself and in behalf of all other holders or owners  
30 of such registered warrants, orders, vouchers, or other evidences of  
31 indebtedness, file a petition in the superior court of the county in  
32 which such drainage district is located praying for an order directing  
33 the publication and posting of the notice hereinafter provided for, and  
34 for a hearing upon said petition, and for an order directing the board  
35 of county commissioners to assess the lands embraced within said  
36 drainage district for the purpose of paying such registered warrants,



1 orders, vouchers, or other evidences of indebtedness and the costs of  
2 the proceedings provided for in RCW 85.06.550 through 85.06.630. Said  
3 petition shall set forth:

4 (1) That said drainage district was duly established and created,  
5 giving the time.

6 (2) The facts in connection with the expenses incurred by the  
7 drainage commissioners in the employment of surveyors, (~~draughtsmen~~)  
8 drafters, or legal assistance and the issuance of such registered  
9 warrants, orders, vouchers, or other evidences of indebtedness.

10 (3) The facts in connection with the compliance with the provisions  
11 of RCW 85.06.550 through 85.06.630.

12 (4) A list of such registered warrants, orders, vouchers, or other  
13 evidences of indebtedness showing the names of owners or holders, the  
14 amounts, the date of issuance, the purpose for which issued, when shown  
15 upon the face thereof, and the date of presentation for payment,  
16 respectively.

17 **Sec. 401.** RCW 85.06.600 and 1903 c 67 s 6 are each amended to read  
18 as follows:

19 At the time and place fixed in said order for the hearing of said  
20 petition, or at such time to which the court may continue said hearing,  
21 the court shall proceed to a hearing upon said petition and upon any  
22 objections or exceptions which have been filed thereto. And upon it  
23 appearing to the satisfaction of the court from the proofs offered in  
24 support thereof that the allegations of said petition are true, the  
25 said court shall ascertain the total amount of said registered  
26 warrants, orders, vouchers, or other evidences of indebtedness with the  
27 accrued interest and the costs of said proceedings, and thereupon the  
28 said court shall enter an order directing the board of county  
29 commissioners to levy a tax upon all the real estate within said  
30 drainage district exclusive of improvements, taking as a basis the last  
31 equalized assessment of said real estate for state and county purposes,  
32 sufficient to pay said outstanding registered warrants, orders,  
33 vouchers, or other evidences of indebtedness with interest as aforesaid  
34 and the costs of said proceeding, and the cost of levying said tax, and  
35 further directing the county auditor to issue a warrant on the county  
36 treasurer to the petitioner for the costs advanced by him or her in

1 such proceeding, which shall be paid in the same manner as the said  
2 registered warrants, orders, vouchers, or other evidences of  
3 indebtedness.

4 **Sec. 402.** RCW 85.06.630 and 1988 c 202 s 74 are each amended to  
5 read as follows:

6 From any final order entered by the said superior court as above  
7 provided for, any party to said proceeding feeling himself or herself  
8 aggrieved thereby may seek appellate review, as provided by the general  
9 appeal law of this state.

10 **Sec. 403.** RCW 85.06.750 and 1988 c 202 s 76 are each amended to  
11 read as follows:

12 Upon the return of the verdict of the jury as provided in the  
13 preceding section, if it shall appear to the court that the total  
14 benefits found by the jury to have accrued to the lands of the district  
15 is equal to or exceeds the actual cost of the improvement including the  
16 increased cost of completing the same, the court shall enter its  
17 judgment in accordance therewith, as supplemental to and in lieu of the  
18 original decree fixing the benefits to the respective tracts of land,  
19 and thereafter the assessment and levy for the original cost of the  
20 construction of the improvement, including the indebtedness incurred  
21 for completing the improvement together with interest at the legal rate  
22 on the warrants issued therefor, and all assessments and levies if any,  
23 for the future maintenance of the drainage system described in the  
24 judgment shall be based upon the respective benefits determined and  
25 assessed against the respective tracts of land as specified in the  
26 judgment. Every person or corporation feeling himself or herself or  
27 itself aggrieved by any such judgment may seek appellate review within  
28 thirty days after the entry thereof, and such review shall bring before  
29 the appellate court the propriety and justness of the verdict of the  
30 jury in respect to the parties to the proceeding.

31 **Sec. 404.** RCW 85.07.070 and 1983 c 167 s 190 are each amended to  
32 read as follows:

33 (1) Said bonds shall be numbered consecutively from one upwards and  
34 shall be in denominations of not less than one hundred dollars nor more  
35 than one thousand dollars each. They shall bear the date of issue,

1 shall be made payable in not more than ten years from the date of their  
2 issue, and shall bear interest at a rate or rates as authorized by the  
3 board of commissioners, payable annually. The bonds may be in any  
4 form, including bearer bonds or registered bonds as provided in RCW  
5 39.46.030. The bonds and any coupon shall be signed by the  
6 (~~chairman~~) chair of the board of commissioners of each district and  
7 shall be attested by the secretary of said board. The seal, if any, of  
8 such district shall be affixed to each bond, but it need not be affixed  
9 to any coupon.

10 (2) Notwithstanding subsection (1) of this section, such bonds may  
11 be issued and sold in accordance with chapter 39.46 RCW.

12 **Sec. 405.** RCW 85.07.090 and 1935 c 103 s 4 are each amended to  
13 read as follows:

14 All outstanding warrants of such district so sought to be redeemed  
15 shall become due and payable immediately upon receipt by the county  
16 treasurer of the money from the sale of said bonds; and upon a call of  
17 such outstanding warrants or obligations issued by him or her, the same  
18 shall cease to draw interest at the end of thirty days after the date  
19 of the first publication of such call. The call shall be made by the  
20 treasurer by publishing notice thereof for two consecutive weeks in the  
21 county paper authorized to do the county printing. The notice shall  
22 designate the number of each warrant sought to be redeemed.

23 **Sec. 406.** RCW 85.07.120 and 1935 c 103 s 7 are each amended to  
24 read as follows:

25 It shall be the duty of the county treasurer of each county in  
26 which there may be a district issuing bonds under the provisions of RCW  
27 85.07.060 through 85.07.120, whenever he or she has on hand one  
28 thousand dollars over and above interest requirements in the special  
29 fund for the payment of said bonds and interest, to advertise in the  
30 newspaper doing the county printing, for the presentation to him or her  
31 for payment of as many of the bonds issued under the provisions of RCW  
32 85.07.060 through 85.07.120 as he or she may be able to pay with the  
33 funds in his or her hands. The bonds shall be redeemed and paid in  
34 their numerical order, beginning with bond No. 1 and continuing until  
35 all of said bonds are paid. The treasurer's call for presentation and  
36 redemption of such bonds shall state the number of the bond or bonds so

1 called. Thirty days after the first publication of said notice of the  
2 treasurer calling any of said bonds by their numbers, such bonds shall  
3 cease to bear interest, and the notice of call shall so state. If any  
4 bond so called is not presented, the treasurer shall hold in said fund  
5 until presentation of such bond is made, the amount of money sufficient  
6 to redeem the same with interest thereon to the date interest was  
7 terminated by such call.

8 **Sec. 407.** RCW 85.07.140 and 1935 c 102 s 2 are each amended to  
9 read as follows:

10 If the court is satisfied that the status of said property has  
11 changed so that it is no longer susceptible to benefit from the  
12 improvement of such district and should be removed from the assessment  
13 roll thereof, and it be established that all benefits assessed against  
14 said lands up to the date of trial have been paid, such court may enter  
15 a decree striking such land from the assessment roll of said district,  
16 and it shall not be subject to future assessment for benefits or  
17 maintenance by such district, unless, thereafter, it is again brought  
18 into such districts by the proceedings provided by law to extend the  
19 district or include benefited property which is not assessed. Nothing  
20 herein shall prevent such property from being again brought into said  
21 district in the manner provided by law generally for the inclusion of  
22 benefited property, if it appear at a future date that said property  
23 will receive benefits from the improvement in such district. Upon  
24 entry of such decree of the court a certified copy thereof shall be  
25 filed in the office of the auditor of such county wherein the property  
26 is situated, and upon receipt thereof, he or she shall correct the  
27 assessment roll of said district accordingly and strike the property  
28 therefrom.

29 **Sec. 408.** RCW 85.08.340 and 1917 c 130 s 29 are each amended to  
30 read as follows:

31 Whenever in the progress of the construction of the system of  
32 improvement it shall become necessary to construct a portion of such  
33 system across any public or other road or public utility, the board of  
34 supervisors, or in case the work is being done by contract the board of  
35 county commissioners, shall serve notice in writing upon the public  
36 officers, corporation, or person having charge of, or controlling or

1 owning such road or public utility, as the case may be, of the present  
2 necessity of such crossing, giving the location, kind, dimensions, and  
3 requirement thereof, for the purpose of the system of improvement, and  
4 stating a reasonable time, to be fixed by the county engineer, within  
5 which plans for such crossing must be filed for approval in case the  
6 public officers, corporation, or person controlling or owning such road  
7 or public utility desire to construct such crossing. As soon as  
8 convenient, within the time fixed in the notice, the public officers,  
9 corporation, or person shall, if they desire to construct such  
10 crossing, prepare and submit to the county engineer for approval  
11 duplicate detailed plans and specifications for such crossing. Upon  
12 submission of such plans, the county engineer shall examine and may  
13 modify the same to meet the requirements of the system of improvement,  
14 and when such plans or modified plans are satisfactory to the county  
15 engineer, he or she shall approve the same and return one thereof to  
16 the public officers, corporation, or person submitting the same, and  
17 file the duplicate in his or her office, and shall notify such public  
18 officers, corporation, or person of the time within which said crossing  
19 must be constructed. Upon the return of such approved plans, the  
20 public officers, corporation, or person controlling such road or public  
21 utility shall, within the time fixed by the county engineer, construct  
22 such crossing in accordance with the approved plans, and shall  
23 thereafter maintain the same. In case such public officers,  
24 corporation, or person controlling or owning such road or public  
25 utility shall fail to file plans for such crossing within the time  
26 prescribed in the notice, the board of supervisors or of county  
27 commissioners, as the case may be, shall proceed with the construction  
28 of such crossing in such manner as will cause no unnecessary injury to  
29 or interference with such road or public utility. The cost of  
30 construction and maintenance of only such crossings or such portion of  
31 such cost as would not have been necessary but for the construction of  
32 the system of improvement shall be a proper charge against the  
33 improvement district, and only so much of such cost as the board of  
34 county commissioners shall deem reasonable shall be allowed as a charge  
35 against the district in the case of crossings constructed by others  
36 than the district. The amount of costs of construction allowed as a  
37 charge against the district by the board of county commissioners shall

1 be credited on the assessments against the property on which the  
2 crossing is constructed, and any excess over such assessment shall be  
3 paid out of the funds of the district.

4 **Sec. 409.** RCW 85.08.360 and 1917 c 130 s 30 are each amended to  
5 read as follows:

6 When the improvement is fully completed and accepted by the county  
7 engineer, the clerk of the board shall compile and file with the board  
8 of county commissioners an itemized statement of the total cost of  
9 construction, including engineering and election expenses, the cost of  
10 publishing and posting notices, damages, and costs allowed or awarded  
11 for property taken or damaged, including compensation of attorneys,  
12 including the costs of crossings constructed by the district and the  
13 cost of crossings constructed by others and allowed by the board of  
14 county commissioners, and including the sum paid or to be paid to the  
15 United States, and the discount, if any, on the bonds and warrants sold  
16 and including all other costs and expenses, including fees, per diem,  
17 and necessary expenses of nonsalaried officers incurred in connection  
18 with the improvement, together with interest on such costs and expenses  
19 from the time when incurred at the rate of interest borne by the  
20 warrants issued for the cost of construction. There shall also be  
21 included in said statement, in case the county engineer is a salaried  
22 officer, a statement of the services performed by him or her in  
23 connection with said improvement at a per diem of five dollars per day  
24 and his or her necessary expenses, and a reasonable sum to be fixed by  
25 the board of county commissioners on account of the services rendered  
26 by the prosecuting attorney. Upon the filing of such statement of  
27 costs and expenses the board of county commissioners shall revise and  
28 correct the same if necessary and add thereto a reasonable sum which  
29 shall be not less than five percent nor more than ten percent of the  
30 total thereof in drainage improvement districts, and not less than ten  
31 percent nor more than fifteen percent of the total thereof in diking  
32 improvement districts, to cover possible errors in the statement or the  
33 apportionment hereinafter provided for, and the cost of such  
34 apportionment and other subsequent expenses, and interest on the costs  
35 of construction from the date of the statement until fifty days after  
36 the filing of the assessment roll with the treasurer; and unless the  
37 same have been previously appointed, shall appoint a board of

1 appraisers consisting of the county engineer and two other competent  
2 persons, to apportion the grand total as contained in said statement as  
3 hereinafter provided. Each member of said board of appraisers shall  
4 take, subscribe, and file with the board of county commissioners an  
5 oath to faithfully and impartially perform his or her duties to the  
6 best of his or her ability in making said apportionment, and said board  
7 of appraisers shall proceed to carefully examine the system and the  
8 public and private property within the district and fairly, justly, and  
9 equitably apportion the grand total cost of the improvement against the  
10 property and the county or counties, cities, and towns within the  
11 district, in proportion to the benefits accruing thereto.

12 **Sec. 410.** RCW 85.08.400 and 1984 c 7 s 377 are each amended to  
13 read as follows:

14 Upon the filing of the schedule of apportionment, the county  
15 legislative authority shall fix the time and place for a hearing  
16 thereon, which time shall be not more than sixty days from the date of  
17 the filing of the schedule. Notice of the hearing shall be given in  
18 the manner provided for giving notice of a hearing in RCW 85.08.150.  
19 The notice shall fix the time and place of the hearing on the roll, and  
20 shall state that the schedule of apportionment showing the amount of  
21 the cost of the improvement apportioned to each county, city, town, and  
22 piece of property benefited by the improvement is on file in the office  
23 of the county legislative authority and is open to public inspection,  
24 and shall notify all persons who may desire to object thereto that they  
25 may make their objections in writing and file them with the clerk of  
26 the county legislative authority at or before the date fixed for the  
27 hearing. The notice shall also state that at the time and place fixed  
28 and at such other times and places as the hearing may be continued to,  
29 the county legislative authority will sit as a board of equalization  
30 for the purpose of considering the schedule and at the hearing or  
31 hearings will also consider any objections made thereto, or any part  
32 thereof, and will correct, revise, raise, lower, change, or modify the  
33 schedule or any part thereof, or set aside the schedule and order that  
34 the apportionment be made de novo as to such body shall appear just and  
35 equitable, and that at the hearing the board will confirm the schedule  
36 as finally approved by them and will levy an assessment against the  
37 property described thereon for the amounts as fixed by them. The

1 county legislative authority shall serve by mail, at least ten days  
2 before the hearing, upon the commissioner of public lands of the state  
3 of Washington a like notice, in duplicate, showing the amount of the  
4 cost of the improvements apportioned against all state, school,  
5 granted, or other lands owned by the state of Washington in the  
6 district. The county legislative authority shall serve a like notice  
7 upon the state secretary of transportation showing the amount  
8 apportioned against any state primary or secondary highways. Upon  
9 receipt of the notice the commissioner of public lands or the secretary  
10 of transportation, as the case may be, shall endorse thereon a  
11 statement either that he or she elects to accept or that he or she  
12 elects to contest the apportionment, and shall return the notice, so  
13 endorsed, to the county legislative authority. At or before the  
14 hearing any person interested may file with the clerk of the county  
15 legislative authority written objections to any item or items of the  
16 apportionment.

17 **Sec. 411.** RCW 85.08.410 and 1983 c 3 s 230 are each amended to  
18 read as follows:

19 At such hearing, which may be adjourned from time to time and from  
20 place to place, until finally completed, the board of county  
21 commissioners shall carefully examine and consider said schedule and  
22 any objections filed or made thereto and shall correct, revise, raise,  
23 lower, change, or modify such schedule or any part thereof, or strike  
24 therefrom any property not benefited, or set aside such schedule and  
25 order that such apportionment be made de novo, as to such body shall  
26 appear equitable and just. The board shall cause the clerk of the  
27 board to enter on such schedule all such additions, cancellations,  
28 changes, modifications, and reapportionments, all credits for damages  
29 allowed or awarded to the owner of any piece of property benefited, but  
30 not paid, as provided in RCW 85.08.200; also a credit in favor of the  
31 county on any apportionment against the county, of all sums paid on  
32 account of said improvement, as provided in RCW 85.08.210; and all sums  
33 allowed the county on account of services rendered by the county  
34 engineer or prosecuting attorney, as provided in RCW 85.08.360; and all  
35 credits allowed to property owners constructing crossings as provided  
36 in RCW 85.08.340. When the board of county commissioners shall have  
37 finally determined that the apportionment as filed or as changed and



1 modified by the board is a fair, just and equitable apportionment, and  
2 that the proper credits have been entered thereon, the members of the  
3 board approving the same shall sign the schedule and cause the clerk of  
4 the board to attest their signature under his or her seal, and shall  
5 enter an order on the journal approving the final apportionment and all  
6 proceedings leading thereto and in connection therewith, and shall levy  
7 the amounts so apportioned against the property benefited, and the  
8 determination by the board of county commissioners in fixing and  
9 approving such apportionment and making such levy shall be final and  
10 conclusive.

11 The board of county commissioners shall also at said hearing, levy,  
12 in the manner hereinafter provided for the levy of maintenance  
13 assessments, such assessment as they shall deem necessary to provide  
14 funds for the maintenance of the system of improvement until the first  
15 annual assessment for maintenance shall fall due.

16 **Sec. 412.** RCW 85.08.420 and 1923 c 46 s 9 are each amended to read  
17 as follows:

18 Upon the approval of said roll the county auditor shall immediately  
19 prepare a completed assessment roll which shall contain, first, a map  
20 of the district showing each separate description of property assessed;  
21 second, an index of the schedule of apportionments; third, an index of  
22 the record of the proceedings had in connection with the improvement;  
23 fourth, a copy of the resolution of the board of county commissioners  
24 fixing the method of payment of assessments; fifth, the warrant of the  
25 auditor authorizing the county treasurer to collect assessments; and  
26 sixth, the approved schedule of apportionments of assessments; and  
27 shall charge the county treasurer with the total amount of assessment  
28 and turn the roll over to the treasurer, for collection in accordance  
29 with the resolution of the board of county commissioners fixing the  
30 method of payment of assessments. As soon as the assessment roll has  
31 been turned over to the treasurer for collection, he or she shall  
32 publish a notice in the official newspaper of the county for once a  
33 week for at least two consecutive weeks, that the said roll is in his  
34 or her hands for collection and that any assessment thereon or any  
35 portion of any such assessment may be paid at any time on or before a  
36 date stated in such notice, which date shall be thirty days after the  
37 date of the first publication, without interest, and the treasurer

1 shall accept such payment as in said notice provided. Upon the  
2 expiration of such thirty-day period the county treasurer shall certify  
3 to the county auditor the total amount of assessments so collected by  
4 him or her and the total amount of assessments remaining unpaid upon  
5 said roll.

6 **Sec. 413.** RCW 85.08.440 and 1988 c 202 s 77 are each amended to  
7 read as follows:

8 The decision of the board of county commissioners upon any  
9 objections made within the time and in the manner prescribed in RCW  
10 85.08.400 through 85.08.430, may be reviewed by the superior court upon  
11 an appeal thereto taken in the following manner. Such appeal shall be  
12 made by filing written notice of appeal with the clerk of such board  
13 and with the clerk of the superior court of the county in which such  
14 drainage or diking improvement district is situated, or in case of  
15 joint drainage or diking improvement districts with the clerk of the  
16 court of the county in which the greater length of such drainage or  
17 diking improvement system lies, within ten days after the order  
18 confirming such assessment roll shall have become effective, and such  
19 notice shall describe the property and set forth the objections of such  
20 appellant to such assessment; and, within ten days from the filing of  
21 such notice of appeal with the clerk of the superior court, the  
22 appellant shall file with the clerk of said court a transcript  
23 consisting of the assessment roll and his or her objections thereto,  
24 together with the order confirming such assessment roll, and the record  
25 of the board of county commissioners with reference to said assessment,  
26 which transcript, upon payment of the necessary fees therefor, shall be  
27 furnished by such clerk of the board of county commissioners, and by  
28 him or her certified to contain full, true, and correct copies of all  
29 matters and proceedings required to be included in such transcript.  
30 Such fees shall be the same as the fees payable to the county clerk for  
31 the preparation and certification of transcripts on appeal to the  
32 supreme court or the court of appeals in civil actions. At the time of  
33 the filing of the notice of appeal with the clerk of the superior  
34 court, the appellant shall execute and file with the clerk of the  
35 superior court a sufficient bond in the penal sum of two hundred  
36 dollars, with good and sufficient surety, to be approved by the judge  
37 of said court, conditioned to prosecute such appeal without delay, and

1 if unsuccessful, to pay all costs to which the county or the drainage  
2 or diking improvement district is put by reason of such appeal. The  
3 court may order the appellant upon application therefor, to execute and  
4 file such additional bond or bonds as the necessity of the case may  
5 require; within three days after such transcript is filed in the  
6 superior court as aforesaid, the appellant shall give written notice to  
7 the prosecuting attorney of the county, and to the clerk of the board  
8 of county commissioners that such transcript is filed. Said notice  
9 shall state a time (not less than three days from the service thereof)  
10 when the appellant will call up the said cause for hearing; and the  
11 superior court of said county shall, at said time or at such further  
12 time as may be fixed by order of the court, hear and determine such  
13 appeal without a jury. The judgment of the court shall confirm,  
14 correct, modify, or annul the assessment insofar as the same affects  
15 the property of the appellant. A certified copy of the decision of the  
16 court shall be filed with the officer who shall have custody of the  
17 assessment roll, and he or she shall modify and correct such assessment  
18 roll in accordance with such decision. Appellate review of the  
19 judgment of the superior court may be sought as in other civil cases.  
20 However, the review must be sought within fifteen days after the date  
21 of the entry of the judgment of such superior court. A certified copy  
22 of the order of the supreme court or the court of appeals upon such  
23 appeal shall be filed with the officer having custody of such  
24 assessment roll, who shall thereupon modify and correct such assessment  
25 roll in accordance with such decision.

26 **Sec. 414.** RCW 85.08.490 and 1923 c 46 s 11 are each amended to  
27 read as follows:

28 The purchaser, upon the foreclosure of any certificate of  
29 delinquency for any assessment or installment thereof, shall acquire  
30 title to such property subject to the installments of the assessment  
31 not yet due at the date of the decree of foreclosure, and the  
32 complaint, decree of foreclosure, order of sale, sale, certificate of  
33 sale and deed shall so state.

34 The holder of any certificate of delinquency for general taxes may,  
35 before commencing any action to foreclose the lien of such certificate,  
36 pay in full all drainage or diking or sewerage improvement district  
37 assessments or any installment thereof due and outstanding against the

1 whole or any portion of the property included in such certificate of  
2 delinquency and the amount of all assessments so paid together with  
3 interest at ten percent per annum thereon shall be included in the  
4 amount for which foreclosure may be had; or, if he or she elects to  
5 foreclose such certificate without paying such assessments in full, the  
6 purchaser at such foreclosure sale shall acquire title to such property  
7 subject to all such drainage or diking or sewerage improvement district  
8 assessments. Any property in any drainage or diking or sewerage  
9 improvement district sold under foreclosure for general taxes shall  
10 remain subject to the lien of all drainage and diking or sewerage  
11 improvement district assessments or installments thereof not yet due at  
12 the time of the decree of foreclosure and the complaint, decree of  
13 foreclosure, order of sale, sale, certificate of sale and deed shall so  
14 state.

15 **Sec. 415.** RCW 85.08.500 and 1923 c 46 s 11 are each amended to  
16 read as follows:

17 Property subject to a drainage or diking or sewerage improvement  
18 district assessment, acquired by a county pursuant to a foreclosure and  
19 sale for general taxes, when offered for sale by the county, shall be  
20 offered for the amount of the general taxes for which the same was  
21 struck off to the county, together with all drainage or diking or  
22 sewerage improvement district assessments or installments thereof, due  
23 at the time of such resale, including maintenance assessments, and  
24 supplemental assessments levied pursuant to the provisions of RCW  
25 85.08.520, coming due while the property was held in the name of the  
26 county; and the property shall be sold subject to the lien of all  
27 drainage or diking or sewerage improvement district assessments or  
28 installments thereof not yet due at the time of such sale, and the  
29 notice of sale and deed shall so state. PROVIDED, That the county  
30 board may in its discretion, sell said property at a lesser sum than  
31 the amount for which the property is offered in the notice of sale.  
32 The proceeds of such sale shall be applied first to discharge in full  
33 the lien or liens for general taxes for which said property was sold,  
34 and the remainder, or such portion thereof as may be necessary, shall  
35 be applied toward the discharge of all drainage or diking or sewerage  
36 improvement district assessment liens upon such property, and the  
37 surplus, if any, shall be applied toward the payment of any delinquent

1 or due local assessments or local assessment installments outstanding  
2 against the property levied by any authority other than that of the  
3 county, taking them in the order of their maturities, beginning with  
4 the earliest; after which if any money remains the treasurer shall hold  
5 the same for the person whose interest in the property entitles him or  
6 her thereto. If there be no purchaser, the property shall again be  
7 offered for sale within one year thereafter, and shall be successively  
8 offered for sale each year until a sale thereof be effected.

9 Property struck off to or bid in by a county may be leased pursuant  
10 to resolution of the county commissioners on such terms as the  
11 commissioners shall determine for a period ending not later than the  
12 time at which such property shall again be offered for sale as required  
13 by law. Rentals received under such lease shall be applied in the  
14 manner hereinabove provided for the proceeds of sale of such property.

15 All statements of general state taxes where drainage, diking, or  
16 sewer improvement district assessments against the land described  
17 therein are due shall include a notation thereon or be accompanied by  
18 a statement showing such fact.

19 **Sec. 416.** RCW 85.08.570 and 1923 c 46 s 13 are each amended to  
20 read as follows:

21 When a drainage, diking, or sewerage system is proposed which will  
22 require a location, or the assessment of lands, in more than one  
23 county, application therefor shall be made to the board of county  
24 commissioners in each of said counties, and the county engineers shall  
25 make preliminary reports for their respective counties. The lines of  
26 such proposed improvement shall be examined by the county engineers of  
27 the counties wherein said improvements will lie, jointly. The hearings  
28 in regard to such improvements, provided for by RCW 85.08.150, and  
29 85.08.400 through 85.08.430 shall be had by the boards of county  
30 commissioners of the two counties in joint sessions, and all other  
31 matters required to be done by the county commissioners in regard to  
32 such improvement and the improvement district shall be had and done by  
33 the boards of county commissioners of the counties wherein such system  
34 of improvements shall lie, either in joint session at such place as the  
35 said board shall order, or by concurrent order entered into by the said  
36 boards at their respective offices. Notice of the hearings shall be  
37 given by the auditors of both counties jointly by publication in the

1 official paper of each of said counties. The county engineer of the  
2 county wherein the greatest length of drainage, diking, or sewerage  
3 system will lie, shall have charge of the engineering work and be ex  
4 officio a member of the boards in this chapter provided for. The  
5 schedule of apportionment shall be prepared in separate parts for the  
6 land in the respective counties; and that part of said roll containing  
7 the assessments upon the lands in each respective county shall be  
8 transmitted to the treasurer thereof, and the treasurer of said county  
9 shall give notice of said assessments as provided in RCW 85.08.400  
10 through 85.08.430, and shall collect the assessments therein contained  
11 and shall also extend and collect the annual maintenance levies of said  
12 district upon the lands of said district lying in his or her county.  
13 The auditor of the county in which the greater length of the drainage,  
14 diking, or sewerage system shall lie shall act as clerk of the joint  
15 session of the boards of county commissioners, and shall issue the  
16 warrants of the improvement district, and shall attest the signatures  
17 of the two boards of county commissioners on the bonds. He or she  
18 shall furnish to the auditor of the other county duplicate copies of  
19 the records of proceedings of such joint sessions. Duplicate records  
20 of all proceedings had and papers filed in connection with such  
21 improvements shall be kept, one with the auditor of each county.  
22 Protests or other papers filed with the auditor who is not clerk of the  
23 joint sessions shall be forwarded forthwith by him or her to the  
24 auditor who acts as clerk of such joint sessions. The treasurer of  
25 said county shall register and certify and pay the warrants and the  
26 bonds, and shall have charge of the funds of the district; and to him  
27 or her, the treasurer of the county in which the lesser portion of such  
28 system of improvements lie, shall remit semiannually, in time for the  
29 semiannual warrant and bond calls, all such collections made in such  
30 other county. A drainage, diking, or sewerage improvement district  
31 lying in more than one county shall be designated "joint drainage (or  
32 diking) or sewerage improvement district No. . . . . of . . . . . and  
33 . . . . . counties." All proceedings in regard to joint drainage,  
34 diking improvement districts, which have heretofore been had and done  
35 substantially in accordance with the amendatory provisions of this  
36 chapter are hereby approved and declared to be valid.

1           **Sec. 417.** RCW 85.08.820 and 1988 c 127 s 38 are each amended to  
2 read as follows:

3           Whenever the department of ecology shall have purchased and the  
4 state of Washington owns the entire issue of any series of bonds of any  
5 county in the state, the payment of which is to be made from and is  
6 secured by assessments upon the property included within any drainage  
7 improvement district organized and existing in such county, and it  
8 shall appear to the satisfaction of the director of ecology that owing  
9 to and by reason of the nature of the soil within and the topography of  
10 such drainage improvement district the lands contained therein were not  
11 or will not be drained sufficiently to permit the cultivation thereof  
12 within the time when assessments for the payment of the interest on  
13 said bonds and to constitute a sinking fund to retire said bonds as  
14 provided by law became or will become due, and that by reason thereof  
15 the owners of said lands were or will be unable to meet said  
16 assessment, the director of ecology shall have the power and he or she  
17 is hereby authorized under such terms and conditions as he or she shall  
18 deem advisable to enter into a contract in writing with the board of  
19 county commissioners of the county issuing such bonds, waiving the  
20 payment of interest upon such bonds from the date of their issue for  
21 not to exceed five years, and extending the time of payment of said  
22 bonds for not to exceed five years; and upon the execution of said  
23 contract the board of county commissioners of said county shall have  
24 the power and is hereby authorized to cancel all assessments made upon  
25 the lands included within such drainage improvement district for the  
26 payment of principal and/or interest on said bonds prior to the date of  
27 said contract, and to omit the levy of any assessments for said  
28 purposes until the expiration of the time of the waiver of interest  
29 payments upon said bonds specified in said contract.

30           **Sec. 418.** RCW 85.08.840 and 1957 c 94 s 3 are each amended to read  
31 as follows:

32           The boards of county commissioners of the counties in which a joint  
33 drainage improvement district is situated shall have jurisdiction in  
34 joint session to hear, supervise, and conduct the merger proceedings  
35 relating to such a district. The auditor of the county in which the  
36 greater length of the system of improvements lies shall act as clerk of  
37 the joint sessions of the boards of county commissioners, and shall

1 give the notice provided for in RCW 85.08.870. He or she shall furnish  
2 to the auditor of the other county duplicate copies of the records of  
3 proceedings of the joint sessions. Duplicate records of all  
4 proceedings had and papers filed in connection with the merger of a  
5 joint drainage improvement district shall be kept with the auditor of  
6 each county. The board of county commissioners of the county in which  
7 a drainage improvement district or consolidated drainage improvement  
8 district is situated shall have exclusive jurisdiction to hear,  
9 supervise, and conduct merger proceedings relating to such districts.

10 **Sec. 419.** RCW 85.15.030 and 1973 1st ex.s. c 195 s 111 are each  
11 amended to read as follows:

12 To operate under this chapter, the board of commissioners of the  
13 improvement district shall cause to be prepared and filed with the  
14 board of county commissioners a property roll. The roll shall contain:  
15 (1) A description of all properties benefited and improvements thereon  
16 which receive protection and service from the systems of the district  
17 with the name of the owner or the reputed owner thereof and his or her  
18 address as shown on the tax rolls of the assessor or treasurer of the  
19 county wherein the property is located and (2) the determined value of  
20 such land and improvements thereon as last assessed and equalized by  
21 the assessor of such county or counties. Such assessed and equalized  
22 values shall be deemed prima facie to be just, fair, and correct  
23 valuations against which annual taxes shall be levied for the operation  
24 of the district and the maintenance and expansion of its facilities.

25 If property outside of the limits of the original district are upon  
26 the roll as adopted ultimately, and the original district has  
27 outstanding bonds or long-term warrants, the board of county  
28 commissioners shall set up separate dollar rate levies for the full  
29 retirement thereof.

30 **Sec. 420.** RCW 85.15.090 and 1967 c 184 s 10 are each amended to  
31 read as follows:

32 The decision of the board of county commissioners upon any  
33 objection made within the time and in the manner prescribed may be  
34 reviewed by the superior court of the county wherein the property in  
35 question is located, upon appeal thereto taken in the following manner:  
36 Any person aggrieved must file his or her petition for writ of review



1 with the clerk of the superior court wherein the property is located  
2 within ten days after the roll affecting such aggrieved party was  
3 adopted by resolution, and serve a copy thereof upon the county  
4 treasurer. The petition shall describe the property in question, shall  
5 set forth the written objections which were made to the decision, and  
6 the date of filing of such objections, and shall be signed by such  
7 party or someone in his or her behalf. The court shall forthwith grant  
8 such petition if correct as to form and filed in accordance with this  
9 chapter.

10 **Sec. 421.** RCW 85.15.110 and 1967 c 184 s 12 are each amended to  
11 read as follows:

12 The county clerk shall charge the same filing fees for petitions  
13 for review as in civil actions. At the time of the filing of such a  
14 petition with the clerk, the appellant shall execute and file a bond in  
15 the penal sum of two hundred dollars, with at least two sureties, to be  
16 approved by the judge of the court, conditioned upon his or her  
17 prosecuting his or her appeal without delay and to guarantee all costs  
18 which may be assessed against him or her by reason of such review. The  
19 court shall, on motion of either party to the cause, with notice to the  
20 other party, set the cause for trial at the earliest time available to  
21 the court, fixing a date for hearing and trial without a jury. The  
22 cause shall have preference over all civil actions pending in the court  
23 except eminent domain and forcible entry and detainer proceedings.

24 **Sec. 422.** RCW 85.15.150 and 1967 c 184 s 16 are each amended to  
25 read as follows:

26 The board of any improvement district proceeding under this chapter  
27 shall, on or before the first day of September of each year, make an  
28 estimate of the costs reasonably anticipated to be required for the  
29 effective functioning of the district during the ensuing year and until  
30 further revenue therefor can be made available, and shall cause its  
31 (~~chairman~~) chair or secretary to file the same with the board of  
32 county commissioners of the county containing the district and other  
33 benefited area. The board of county commissioners shall, on or before  
34 the first Monday in October next ensuing, certify the amount of the  
35 district's estimate, or such amount as it shall deem advisable, to the  
36 county treasurer. The amount so certified shall be applied by the

1 regular taxing agencies against the benefit valuation of lands,  
2 buildings and improvements as shown by the then current complete roll  
3 of such properties certified to and filed with such county treasurer by  
4 the board of county commissioners. When thus levied, the amount of  
5 assessment produced thereby shall be added by the general taxing  
6 authorities to the general taxes against said lands and collected  
7 therewith as a part thereof. If unpaid, any delinquencies in such  
8 assessments shall bear interest at the same rate and in the same manner  
9 as general taxes and they shall be included in and be made a part of  
10 any general tax foreclosure proceedings, according to the provisions of  
11 law with relation to such foreclosures. As assessment collections are  
12 made, the county treasurer shall credit the same to the funds of the  
13 district.

14 **Sec. 423.** RCW 85.16.130 and 1949 c 26 s 9 are each amended to read  
15 as follows:

16 At the hearing upon the report of the appraisers, which may be  
17 adjourned from time to time until finally completed, the board shall  
18 carefully examine and consider the special benefits and the  
19 apportionment of estimated costs determined by the appraisers and  
20 reported in the schedule or schedules, and any objections thereto which  
21 shall have been made in writing and filed with the board on or prior to  
22 ten o'clock a.m. of the date fixed for such hearing. Each objector  
23 shall be given reasonable time and opportunity to submit evidence and  
24 be heard on the merits of his or her objections. At the conclusion of  
25 such hearing, the board shall so correct, revise, raise, lower, change,  
26 or modify such schedule or schedules, or any part thereof, or strike  
27 therefrom any property not specially benefited, as to said board shall  
28 appear equitable and just. The board shall cause the clerk of the  
29 board to enter on each such schedule or schedules all such additions,  
30 cancellations, changes, and modifications made by it.

31 **Sec. 424.** RCW 85.16.150 and 1949 c 26 s 10 are each amended to  
32 read as follows:

33 When the board shall have determined that the schedule or schedules  
34 of benefits and/or apportionment of costs as filed or as changed and  
35 modified by it are fair, just and equitable and, if estimated costs  
36 have been apportioned, that said benefits equal or exceed said costs

1 apportioned, the members of the board approving the same shall sign  
2 said schedule or schedules and cause the clerk of the board to attest  
3 their signatures under his or her seal, and shall enter an order in the  
4 journal approving and confirming the final determination of such  
5 benefits and apportionment of costs and all proceedings leading thereto  
6 and in connection therewith. If separate schedules be established for  
7 maintenance of the diking system and of the drainage system, the board  
8 shall by order establish two separate maintenance funds, one for the  
9 maintenance of the diking system and one for the maintenance of the  
10 drainage system.

11 **Sec. 425.** RCW 85.18.160 and 1951 c 45 s 17 are each amended to  
12 read as follows:

13 The board of commissioners of any diking district proceeding under  
14 this chapter shall, on or before the first day of November of each  
15 year, make an estimate of the costs reasonably anticipated to be  
16 required for the effective functioning of such district during the  
17 ensuing year and until further revenue therefor can be made available,  
18 and cause its (~~chairman~~) chair or secretary to certify the same on or  
19 before said date to the county auditor, and the amount so certified  
20 shall be levied by the regular taxing agencies against the base  
21 benefits to the lands and buildings within such district as shown by  
22 the then current complete roll of such properties and the determined  
23 benefits thereto as therefore certified to and filed with such county  
24 auditor by the commissioners of such district. When thus levied, the  
25 amount of assessment produced thereby shall be added by the general  
26 taxing authorities to the general taxes against said lands and  
27 collected therewith as a part thereof. If unpaid, any delinquencies in  
28 such assessments shall bear interest at the same rate and in the same  
29 manner as general taxes and they shall be included in and be made a  
30 part of any general tax foreclosure proceedings, according to the  
31 provisions of law with relation to such foreclosures. As assessment  
32 collections are made, the county treasurer shall credit the same to the  
33 funds of such district.

34 **Sec. 426.** RCW 85.16.210 and 1988 c 202 s 80 are each amended to  
35 read as follows:

36 At such hearing, which may be adjourned from time to time as may be

1 necessary to give all persons interested or affected a reasonable  
2 opportunity to be heard, and after consideration of all evidence  
3 offered and all factors, situations, and conditions bearing upon or  
4 determinative of the benefits accruing and to accrue to such pieces or  
5 parcels of property, the board shall correct, revise, raise, lower, or  
6 otherwise change or confirm the benefits as theretofore determined, in  
7 respect of such pieces or parcels of property, as to it shall seem  
8 fair, just, and equitable under the circumstances, and thereafter such  
9 proceedings shall be had with respect to the confirmation or  
10 determination of the benefits and making and filing of a roll thereof,  
11 as are in RCW 85.16.130, 85.16.150, and 85.16.160 provided. Any  
12 property owner affected by any change thus made in the determination of  
13 benefits accruing to his or her property who shall have appeared at the  
14 hearing by the board and made written objections thereto as provided in  
15 RCW 85.16.130, may appeal from the action of the board to the superior  
16 court and seek appellate review by the supreme court or the court of  
17 appeals, within the time, in the manner and upon the conditions, so far  
18 as applicable, provided in RCW 85.08.440, with respect to appeals from  
19 the order of the board confirming the apportionment of the original  
20 cost of construction.

21 **Sec. 427.** RCW 85.16.230 and 1951 c 63 s 3 are each amended to read  
22 as follows:

23 Whenever any payer of a diking, drainage, or sewerage improvement  
24 district maintenance assessment believes that, through obvious error in  
25 name, number, description, amount of benefit valuation, double  
26 assessment, or extension, or other obvious error, property on which he  
27 or she has paid an assessment has been erroneously assessed, he or she  
28 may pay such assessment under protest. If, within thirty days after  
29 such payment under protest, he or she files with the board a written  
30 verified petition setting out his or her name, address, and legal  
31 description of the property, the nature of the obvious error alleged to  
32 have been made, and the date and amount of any assessment paid thereon,  
33 the board shall cause such claim to be investigated. If upon  
34 investigation any assessment is found to be erroneous through obvious  
35 error, the board shall order such assessment to be corrected if no bond  
36 or long term warrant issue is affected. Where correction is ordered of  
37 an erroneous assessment already collected, the auditor, upon receipt of

1 a certified copy of the board's order of correction, shall refund to  
2 the person paying the assessment the difference between the correct  
3 assessment and the erroneous assessment, plus legal interest on such  
4 difference from date of payment, by a warrant drawn on the maintenance  
5 fund of the district.

6 **Sec. 428.** RCW 85.18.040 and 1985 c 469 s 76 are each amended to  
7 read as follows:

8 The notice of the time and place of hearing shall be given to any  
9 owner, or reputed owner, of the property which is listed on the roll as  
10 aforesaid, by mailing a copy thereof at least thirty days before the  
11 date fixed for the hearing to the owner or owners at his or her or  
12 their address as shown on the tax rolls of the county treasurer for the  
13 property described. In addition thereto, the notice shall be published  
14 at least once a week for three consecutive weeks in a newspaper of  
15 general circulation in the district. At least fifteen days must elapse  
16 between the last date of publication thereof and the date fixed for the  
17 hearing.

18 **Sec. 429.** RCW 85.18.100 and 1951 c 45 s 11 are each amended to  
19 read as follows:

20 The decision of the board of commissioners upon any objection made  
21 within the time and in the manner prescribed may be reviewed by the  
22 superior court of the county wherein the property in question is  
23 located, upon appeal thereto taken in the following manner: Any person  
24 aggrieved must file his or her petition for writ of review with the  
25 clerk of the superior court wherein the property is located within ten  
26 days after the roll affecting such aggrieved party was adopted by  
27 resolution, and serve a copy thereof upon the commissioners. The  
28 petition shall describe the property in question, set forth the written  
29 objections which were made to the decision, the date of filing of such  
30 objections, and be signed by such party or one in his or her behalf.  
31 The court shall forthwith grant such petition if correct as to form and  
32 filed in accordance with this chapter.

33 **Sec. 430.** RCW 85.18.120 and 1951 c 45 s 13 are each amended to  
34 read as follows:

35 The county clerk shall charge the same filing fees for petitions

1 for review as in civil actions. At the time of the filing of such  
2 petition with the clerk, the appellant shall execute and file a bond in  
3 the penal sum of two hundred dollars, with at least two sureties, to be  
4 approved by the judge of said court, conditioned upon his or her  
5 prosecuting his or her appeal without delay and to guarantee all costs  
6 which may be assessed against him or her by reason of such review. The  
7 court shall, on motion of either party to the cause, with notice to the  
8 other party, set said cause for trial at the earliest time available to  
9 the court, fixing a date for hearing and trial without a jury. Said  
10 cause shall have preference over all civil actions pending in said  
11 court except eminent domain and forcible entry and detainer  
12 proceedings.

13 **Sec. 431.** RCW 85.24.070 and 1985 c 396 s 53 are each amended to  
14 read as follows:

15 A three-member board of commissioners shall be the governing body  
16 of an intercounty diking and drainage district. The initial  
17 commissioners shall be appointed, and the elected commissioners  
18 elected, as provided in chapter 85.38 RCW.

19 The members of such board, before entering upon their duties, shall  
20 take and subscribe on oath substantially as follows:

21 State of Washington }  
22 } ss.  
23 County of .....

24 I, the undersigned, a member of the board of commissioners of the  
25 diking and drainage district No. . . . ., in . . . . . and  
26 . . . . . counties, do solemnly swear (or affirm) that I will  
27 faithfully discharge my duties as a member of the commission.

28 Upon the taking of such oath and the entering into a bond, as provided  
29 in RCW 85.38.080, the county legislative authority shall enter an order  
30 upon its records that the three persons named have qualified as the  
31 board of commissioners for diking and drainage district No. . . . ., in  
32 . . . . . and . . . . . counties, and that those persons and their  
33 successors do and shall constitute a board of commissioners for the  
34 diking and drainage district. The order when made shall be conclusive  
35 of the regularity of the election and qualification of the board of

1 diking and drainage commissioners for the particular district, and the  
2 persons named therein shall constitute the board of diking and drainage  
3 commissioners.

4 The board of diking and drainage commissioners shall thereupon  
5 immediately organize and elect one of their number as ((~~chairman~~))  
6 chair and may either appoint a voter of the district or another diking  
7 and drainage commissioner to act as secretary. The board shall then  
8 proceed to make and cause to be made specifications and details of a  
9 system which may be adopted by the board for the improvements to be  
10 made, together with an estimate of the total cost thereof; and shall,  
11 upon the adoption of the plan of improvement of the district, proceed  
12 to acquire the necessary property and property rights for the  
13 construction, establishment, and maintenance of the system either by  
14 purchase or by power of eminent domain as hereinafter provided. Upon  
15 such acquisition being had, the board shall then proceed with the  
16 construction of the diking and drainage system and in doing so shall  
17 have the power to do the work directly or in its discretion to have all  
18 or any part of the work done by contract. In case the board shall  
19 decide upon doing the same by contract, it shall advertise for bids for  
20 the construction work, or such part thereof as they may determine to  
21 have done by contract, and shall have the authority to let a contract  
22 to the lowest responsible bidder after advertising for bids.

23 Any contractor doing work hereunder shall be required to furnish a  
24 bond as provided by the laws of the state of Washington relating to  
25 contractors of public work.

26 The board shall have the right, power, and authority to issue  
27 vouchers or warrants in payment or evidence of payment of any and all  
28 expenses incurred under this chapter, and shall have the power to issue  
29 the same to any contractor as the work progresses, the same to be based  
30 upon the partial estimates furnished from time to time by engineers of  
31 the district. All warrants issued hereunder shall draw interest at a  
32 rate determined by the board.

33 Upon the completion of the construction of the system, and  
34 ascertainment of the total cost thereof including all compensation and  
35 damages and costs and expenses incident to the acquiring of the  
36 necessary property and property right, the board shall then proceed to  
37 levy an assessment upon the taxable real property within the district  
38 which the board may find to be specially benefited by the proposed

1 improvements; and shall make and levy such assessment upon each piece,  
2 lot, parcel, and separate tract of real estate in proportion to the  
3 particular and special benefits thereto. Upon determining the amount  
4 of the assessment against each particular tract of real estate as  
5 aforesaid, the commissioners shall make or cause to be made an  
6 assessment roll, in which shall appear the names of the owners of the  
7 property assessed, so far as known, and a general description of each  
8 lot, block, parcel, or tract of land within the district, and the  
9 amount assessed against the same, as separate, special, or particular  
10 benefits. The board shall thereupon make an order setting and fixing  
11 a day for hearing any objections to the assessment roll by any one  
12 affected thereby, which day shall be at least twenty days after the  
13 mailing of notices thereof, postage prepaid, as herein provided. The  
14 board shall send or cause to be sent by mail to each owner of the  
15 premises assessed, whose name and place of residence is known, a  
16 notice, substantially in the following form:

17 To . . . . .: Your property (here describe the property) is  
18 assessed \$ . . . . . A hearing on the assessment roll will be had  
19 before the undersigned at the office of the board at . . . . . on the  
20 . . . . . day of . . . . . at which time you are notified to be and  
21 appear and to make any and all objections which you may have as to the  
22 amount of the assessment against your property, or as to whether it  
23 should be assessed at all; and to make any and all objections which you  
24 may have to the assessment against your lands, or any part or portion  
25 thereof.

26 The failure to send or cause to be sent such notice shall not be  
27 fatal to the proceedings herein described. The secretary of the board  
28 on the mailing of the notices shall certify generally that he or she  
29 has mailed such notices to the known address of all owners, and such  
30 certificate shall be prima facie evidence of the mailing of all such  
31 notices at the date mentioned in the certificate.

32 The board shall cause at least ten days' notice of the hearing to  
33 be given by posting notice in at least ten public places within the  
34 boundaries of the district, and by publishing the same at least five  
35 successive times in a daily newspaper published in each of the counties  
36 affected; and for at least two successive weeks in one or more weekly  
37 newspapers within the boundaries of the district, in each county if  
38 there are such newspapers published therein, and if there is no such



1 newspaper published, then in one or more weekly newspapers, having a  
2 circulation in the district, for two successive weeks. The notice  
3 shall be signed by the ((~~chairman~~)) chair or secretary of the board of  
4 commissioners, and shall state the date and place of hearing of  
5 objections to the assessment roll and levy, and of all other  
6 objections; and that all interested parties will be heard as to any  
7 objection to the assessment roll and the levies as therein made.

8       **Sec. 432.** RCW 85.24.075 and 1909 c 225 s 21 are each amended to  
9 read as follows:

10       The ((~~chairman~~)) chair of the board shall preside at all meetings  
11 and shall have the right to vote upon all questions the same as other  
12 members, and shall perform such duties in addition to those in this  
13 chapter prescribed as may be fixed by the board. The secretary of the  
14 board shall perform the duties in this chapter prescribed, and such  
15 other duties as may be fixed by the board. A majority of the board  
16 shall constitute a quorum for the transaction of business, but it shall  
17 require a majority of the entire board to authorize any action by the  
18 board.

19       **Sec. 433.** RCW 85.24.130 and 1988 c 202 s 82 are each amended to  
20 read as follows:

21       Any person interested in any real estate affected by said  
22 assessment may, within the time fixed, appear and file objections. As  
23 to all parcels, lots, or blocks as to which no objections are filed,  
24 within the time as aforesaid, the assessment thereon shall be confirmed  
25 and shall be final. On the hearing, each person may offer proof, and  
26 proof may also be offered on behalf of the assessment, and the board  
27 shall affirm, modify, change, and determine the assessment, in such sum  
28 as to the board appears just and right. The commissioners may increase  
29 the assessment during such hearing upon any particular tract by mailing  
30 notice to the owner at his or her last known address, to be and appear  
31 within a time not less than ten days after the date of the notice, to  
32 show cause why his or her assessment should not be increased. When the  
33 assessment is finally equalized and fixed by the board, the secretary  
34 thereof shall certify the same to the county treasurer of each county  
35 in which the lands are situated, for collection; or if appeal has been  
36 taken from any part thereof, then so much thereof as has not been

1 appealed from shall be certified. In case any owner of property  
2 appeals to the superior court in relation to the assessment or other  
3 matter when the amount of the assessment is determined by the court  
4 finally, either upon determination of the superior court, or review by  
5 the supreme court or the court of appeals, then the assessment as  
6 finally fixed and determined by the court shall be certified by the  
7 clerk of the proper court to the county treasurer of the county in  
8 which the lands are situated and shall be spread upon and become a part  
9 of the assessment roll hereinbefore referred to.

10 **Sec. 434.** RCW 85.24.140 and 1988 c 202 s 83 are each amended to  
11 read as follows:

12 Any person who feels aggrieved by the final assessment made against  
13 any lot, block, or parcel of land owned by him or her, may appeal  
14 therefrom to the superior court of the county in which the land is  
15 situated. Such appeal shall be taken within the time and substantially  
16 in the manner prescribed by the laws of this state for appeals from  
17 justices' courts. All notice of appeal shall be filed with the said  
18 board, and shall be served upon the prosecuting attorney of the county  
19 in which the action is brought. The secretary of the board shall, at  
20 appellant's expense, certify to the superior court so much of the  
21 record as appellant may request, and the cause shall be tried in the  
22 superior court de novo.

23 Any person aggrieved by any final order or judgment made by the  
24 superior court concerning any assessment authorized by this chapter,  
25 may seek appellate review of the order or judgment as in other civil  
26 cases.

27 **Sec. 435.** RCW 85.24.150 and 1985 c 469 s 83 are each amended to  
28 read as follows:

29 The final assessment shall be a lien paramount to all other liens  
30 except liens for taxes and other special assessments upon the property  
31 assessed, from the time the assessment roll shall have been finally  
32 approved by the board, and placed in the hands of the county treasurers  
33 as collectors. After the roll shall have been delivered to the county  
34 treasurers for collection, each treasurer shall proceed to collect the  
35 amounts due in the manner that other taxes are collected as to all  
36 lands situated within the county of which he or she is treasurer. The

1 treasurer shall give at least ten days' notice in one or more  
2 newspapers of general circulation in the counties in which the lands  
3 are situated for two successive weeks, that the roll has been certified  
4 to him or her for collection, and that unless payment be made within  
5 thirty days from the date of the notice, that the sum charged against  
6 each lot or parcel of land shall be paid in not more than ten equal  
7 annual payments, with interest upon the whole sum so charged, at a rate  
8 not to exceed seven percent per annum. The interest shall be paid  
9 annually. The county treasurer shall proceed to collect the amount due  
10 each year upon the publication of notice as hereinafter provided. In  
11 such publication notice it shall not be necessary to give a description  
12 of each tract, piece or parcel of land, or of the names of the owners  
13 thereof.

14 The treasurer shall also mail a copy of the notice to the owner of  
15 the property assessed, when the post office address of the owner is  
16 known to the treasurer; but the failure to mail the notice shall not be  
17 necessary to the validity of the collection of the tax.

18 **Sec. 436.** RCW 85.24.160 and 1986 c 278 s 38 are each amended to  
19 read as follows:

20 The owner of any lot or parcel of land charged with any assessment,  
21 as hereinbefore provided, may redeem the same from all liability by  
22 paying the entire assessment charged against such lot or parcel of  
23 land, or part thereof, without interest, within thirty days after  
24 notice to him or her of such assessment, as herein provided.

25 **Sec. 437.** RCW 85.24.170 and 1909 c 225 s 22 are each amended to  
26 read as follows:

27 The treasurer of each county shall collect the taxes levied and  
28 assessed hereunder upon all that portion of the property situated  
29 within the county for which the treasurer is acting. The treasurer of  
30 the county in which the smaller or minor portion of the taxes are to be  
31 collected shall forward the amount collected by him or her quarterly  
32 each year on the first Monday in January, April, July, and October, to  
33 the treasurer of the county in which the larger or major portion of the  
34 taxes are to be collected. The treasurer of the county in which the  
35 larger portion of the taxes have been levied and assessed shall be the  
36 disbursing officer of such diking and drainage district, and shall pay

1 out the funds of such district upon orders drawn by the ((~~chairman~~))  
2 chair and secretary of the board acting under authority of the board,  
3 and shall be the treasurer of the fund.

4 **Sec. 438.** RCW 85.24.180 and 1909 c 225 s 23 are each amended to  
5 read as follows:

6 If any of the installment of taxes are not paid as herein provided,  
7 the county treasurer shall sell all lots or parcels of land on which  
8 taxes have been levied and assessed, whether in the name of the  
9 designated owner or the name of an unknown owner, to satisfy all  
10 delinquent and unpaid assessments, interest, penalties, and costs. The  
11 treasurer must commence the sale of property upon which taxes are  
12 delinquent within sixty days after the same become delinquent, and  
13 continue such sale from day to day thereafter until all the lots and  
14 parcels of land upon which taxes have not been paid are sold. Such  
15 sales shall take place at the front door of the court house. The  
16 proper treasurer shall give notice of such sales by publishing a notice  
17 thereof once a week for two successive weeks in two or more newspapers  
18 published within the district, or if no such newspaper is published,  
19 within the district, then within any two or more newspapers having a  
20 general circulation in such district; such notice shall contain a list  
21 of all lots and parcels of land upon which such assessments are  
22 delinquent, with the amount of interest, penalty, and cost at the date  
23 of sale, including costs of advertising had upon each of such lots,  
24 pieces, or parcels of land, together with the names of the owners  
25 thereof, if known to the treasurer, or the word "unknown" if unknown to  
26 the treasurer, and shall specify the time and place of sale, and that  
27 the several lots or parcels of land therein described, or so much as  
28 may be necessary, will be sold to satisfy the assessment, interest,  
29 penalty, and cost due upon each. All such sales shall be made between  
30 the hours of ten o'clock a.m. and three o'clock p.m. Such sales shall  
31 be made in the manner now prescribed by the general laws of this state  
32 for the sale of property for delinquent taxes, and certificates and  
33 deeds shall be made to the purchasers and redemptions made as is now  
34 prescribed by the general laws of this state in the manner and upon the  
35 terms therein specified: PROVIDED, That no tax deeds shall be made  
36 until after the expiration of one year after the issuance of the  
37 certificate, and during such year any person interested may redeem. A

1 certificate of purchase shall be issued to the district for all lots  
2 and parcels of land not sold. Certificates issued to the district  
3 shall be delivered to the board of commissioners of the district. The  
4 board of commissioners of the district may sell and transfer any such  
5 certificate to any person who is willing to pay to the district the  
6 amount for which the lot or parcel of land therein described was  
7 stricken off to the district, with the interest subsequently accrued  
8 thereon. Within ten days after the completion of sale of all lots,  
9 pieces, and parcels of land authorized to be sold as aforesaid, the  
10 treasurer must make a return to the board of commissioners with a  
11 statement of the doings thereon, showing all lots and parcels of land  
12 sold by him or her, to whom sold and the sum paid therefor. The  
13 purchaser at improvement sales acquires a lien on the lot, piece, or  
14 parcel of land sold for the amount paid by him or her at such sales for  
15 all delinquent taxes and assessments, and all costs and charges  
16 thereon, whether levied previously or subsequently to such sale,  
17 subsequently paid by him or her on the lot or parcel of land, and shall  
18 be entitled to interest thereon at the rate of ten percent per annum  
19 from the date of such payment.

20 **Sec. 439.** RCW 85.24.290 and 1909 c 225 s 29 are each amended to  
21 read as follows:

22 When any notice is required to be given to the owner under any of  
23 the provisions of this chapter, such notice shall be given to the agent  
24 instead of the owner, in case the owner prior to the giving of the  
25 notice required by the board or proper officer has filed with the board  
26 or proper officer the name of the agent with his or her post office  
27 address.

28 **Sec. 440.** RCW 85.28.030 and 1899 c 125 s 3 are each amended to  
29 read as follows:

30 The petitioner, or someone in his or her behalf, shall enter into  
31 a bond in the penal sum of one hundred dollars, with two or more  
32 sureties, to be approved by the clerk of said court, payable to the  
33 state of Washington, conditioned that the petitioner or petitioners  
34 will pay all costs and expenses incurred in the proceeding; which said  
35 bond shall be filed with the petition.



1 In the matter of the application of . . . . . for a private  
2 ditch.

3 The state of Washington to . . . . .

4 Whereas, on the . . . . day of . . . . . 19. . . filed his or her  
5 petition in the above entitled court praying that a private ditch or  
6 drain be established across the following described lands, to wit: .

7 . . . . .  
8 for the purpose of draining certain lands belonging to said  
9 . . . . ., and whereas, on the . . . . day of . . . . ., 19. . .,  
10 Messrs. . . . . and . . . . . with . . . . . county surveyor of  
11 . . . . . county, were appointed to view said premises in the manner  
12 provided by law, and said viewers having, on the . . . . day of  
13 . . . . ., 19. . ., filed their report in this court, finding in  
14 favor of said ditch and locating the same upon the following course:  
15 . . . . . for a distance of . . . . . upon said land, and  
16 of a width of . . . . feet and a depth of . . . . feet; and they  
17 further find that said land will be damaged by the establishing and  
18 construction of said ditch in the sum of \$. . . .: Now therefore, you  
19 are hereby summoned to appear within twenty days after the service of  
20 this summons, exclusive of the day of service, and file your objections  
21 to said petition and the report of said viewers, with this court; and  
22 in case of your failure so to do, said report will be approved and said  
23 petition granted.

24 .....  
25 Plaintiff's Attorney.  
26 P.O. Address .....

27 **Sec. 443.** RCW 85.28.080 and 1899 c 125 s 7 are each amended to  
28 read as follows:

29 In case any person interested in any of the lands to be crossed by  
30 such ditch, as aforesaid, does not reside in the county, or cannot be  
31 found therein, or conceals himself or herself so that personal service  
32 cannot be had upon him or her, upon proof thereof being made  
33 satisfactorily to appear to said court, said summons may be served by  
34 publication, in the same manner and with like effect as is done in  
35 civil actions: PROVIDED, That no other or different form of summons  
36 shall be required for publication than is required for personal  
37 service.

1           **Sec. 444.** RCW 85.28.090 and 1899 c 125 s 8 are each amended to  
2 read as follows:

3           Upon the expiration of the time within which exceptions may be  
4 filed to the report of the viewers aforesaid, the court shall set a day  
5 upon which the petition and the report of the viewers shall be heard  
6 and considered by the court. In case exceptions have been filed by any  
7 party or parties, which exceptions must have been served upon the  
8 petitioner or petitioners prior to the hearing, the court shall hear  
9 evidence in regard thereto, and without a jury, pass upon the questions  
10 of the necessity for said ditch and the location thereof. If the court  
11 finds that such ditch is necessary, and the route selected is the best  
12 and most practicable, and that the compensation allowed by the viewers  
13 is just and reasonable, then the court shall file his or her findings  
14 to this effect and cause an order to be entered approving the petition  
15 and report of the viewers. If, within twenty days from the filing of  
16 the findings of facts aforesaid, the petitioner or petitioners shall  
17 pay into court all the costs and sums awarded to the owner or owners of  
18 the land over which said ditch shall pass, a decree shall be entered  
19 establishing the same: PROVIDED, If any party shall except to the  
20 amount of damages found by the viewers, then the amount of such damages  
21 shall be tried by jury, unless a jury trial be waived by the parties,  
22 in which case trial thereof may be had by the court. Such trial shall  
23 be at a regular term of said court, at which a jury shall be present,  
24 and shall be conducted and verdict rendered in the same manner as in  
25 civil actions: PROVIDED FURTHER, That it shall not be incumbent on the  
26 petitioner to pay into court the amount of the award or awards of said  
27 jury, until within twenty days after said verdict shall have been  
28 rendered and entered.

29           **Sec. 445.** RCW 85.32.050 and 1973 1st ex.s. c 195 s 122 are each  
30 amended to read as follows:

31           The roll of properties referred to in this chapter shall contain  
32 (1) a description of all properties and improvements thereon, with the  
33 name of the owner or the reputed owner thereof and his or her address  
34 as shown on the tax rolls of the assessor or treasurer of the county  
35 wherein the property is located, and (2) the determined value of such  
36 land and improvements thereon as last assessed and equalized by the  
37 taxing agencies of such county. Such assessed and equalized values



1 shall be deemed prima facie as a just, fair, and correct base of value  
2 for consideration by the board in its determination ultimately of the  
3 just and correct base of value in each instance against which annual  
4 dollar rates shall be levied by the district for the operation of the  
5 district and the expansion and maintenance of its facilities.

6 If property outside of the territorial limits of the district are  
7 upon the roll as adopted ultimately, and the district has prior  
8 indebtedness existing, the board shall set up separate dollar rate  
9 levies for the retirement thereof until it is extinguished, which  
10 levies shall be applied solely against the properties within the  
11 territorial limits of the district. Adjustments of the roll shall be  
12 made before final adoption in such a manner that the money raised  
13 through annual dollar rate levies for maintenance, expansion, and  
14 operational costs of the district in no instance shall exceed the value  
15 of the service rendered or to be rendered and the benefit received and  
16 to be received by the property involved.

17 **Sec. 446.** RCW 85.32.060 and 1985 c 469 s 84 are each amended to  
18 read as follows:

19 When the board causes a property roll to be filed with it and a  
20 hearing to be held thereon as provided in this chapter, it shall give  
21 notice of the hearing in the following manner:

22 The notice shall be published at least three times in consecutive  
23 issues in a weekly newspaper, or once a week for three consecutive  
24 weeks in a daily newspaper having general circulation in the area  
25 involved. The last publication shall be more than fifteen days prior  
26 to date of hearing. The board also shall cause a copy of the notice to  
27 be mailed in regular course of the federal mail at least thirty days  
28 prior to the date of the hearing to the owner or reputed owner of the  
29 property at his or her address, all as shown on the tax rolls or  
30 records of the county taxing agencies of the county wherein the  
31 property is situated, such notice being deemed adequate and sufficient.  
32 The sworn affidavit of the one doing such mailing shall be deemed  
33 conclusive of the fact that the notice was mailed.

34 The notice shall state the following:

35 (1) That the board has tentatively determined that the property of  
36 the owner or reputed owner named is receiving and will receive service  
37 and benefit from the facilities of the district;

1 (2) That the board has caused a tentative roll of the properties  
2 with any improvements thereon which are receiving and will receive  
3 service and benefit to be filed with it; and that the roll shows a base  
4 of valuation thereon for the properties against which annual dollar  
5 rates will be levied and collected in the same manner as general taxes  
6 to pay the fair value of the benefit and service received and to be  
7 received by the property through use of the facilities of the district,  
8 and to pay the annual cost of operation, development, and maintenance  
9 of the district and its facilities;

10 (3) That on a date, time, and place stated, the board will give  
11 consideration to the facts and the roll, will hear all objections  
12 filed, will review the roll and alter, modify, or change the same  
13 consistent with facts established and with equity and fair dealing  
14 concerning the properties involved to the end that just levies will be  
15 made for service and benefits received and to be received against each  
16 property for the purposes mentioned; and at the hearing or continuance  
17 thereof, it will adopt the roll in final form and certify and file a  
18 copy thereof with the assessor and treasurer of the county wherein the  
19 property is located; and will cause annual millage to be levied against  
20 such established valuations for the purposes stated;

21 (4) That all persons desiring to object to the proceedings, to the  
22 proposed base valuations, or to any other thing or matter in connection  
23 with the proceedings, must file written objections with the board  
24 stating clearly the basis of the objection before the time of the  
25 hearing, or all objections will be deemed waived.

26 **Sec. 447.** RCW 85.32.170 and 1961 c 131 s 18 are each amended to  
27 read as follows:

28 The decision of the board upon any objection made within the time  
29 and in the manner prescribed in this chapter may be reviewed by the  
30 superior court of the county wherein the property in question is  
31 located. Any person aggrieved must file his or her petition for writ  
32 of review with the clerk of the superior court wherein the property is  
33 located within ten days after the roll affecting such aggrieved party  
34 was adopted by resolution, and he or she shall serve a copy thereof  
35 upon the board. The petition shall describe the property in question,  
36 set forth the written objections which were made to the decision, give  
37 the date of filing of such objections, and shall be signed by such

1 party or someone in his or her behalf. The court shall forthwith grant  
2 such petition if correct as to form and filed in accordance with this  
3 section.

4 **Sec. 448.** RCW 86.09.259 and 1985 c 396 s 58 are each amended to  
5 read as follows:

6 A flood control district shall be managed by a board of directors  
7 consisting of three members. The initial directors shall be appointed,  
8 and the elected directors elected, as provided in chapter 85.38 RCW.  
9 The directors shall elect a (~~chairman~~) chair from their number and  
10 shall either elect one of their number, or appoint a voter of the  
11 district, as secretary to hold office at its pleasure and who shall  
12 keep a record of its proceedings.

13 **Sec. 449.** RCW 86.09.292 and 1937 c 72 s 98 are each amended to  
14 read as follows:

15 In case any member of the district board is absent at the time of  
16 any regular monthly meeting of said board, and a quorum of said board  
17 cannot be obtained by reason of the absence of said member, it shall be  
18 the duty of the (~~chairman~~) chair of the board of county commissioners  
19 of the county in which the office of the district board is located to  
20 act in place of said absent member, and the acts of the district board  
21 at said meeting shall be valid so far as a quorum is concerned and  
22 shall have the same effect as though said absent member were present  
23 and acting thereat.

24 **Sec. 450.** RCW 86.09.301 and 1985 c 396 s 62 are each amended to  
25 read as follows:

26 Every district officer, upon taking office, shall take and  
27 subscribe an official oath for the faithful discharge of the duties of  
28 his or her office during the term of his or her incumbency.

29 **Sec. 451.** RCW 86.09.304 and 1985 c 396 s 63 are each amended to  
30 read as follows:

31 Every district officer or employee handling any district funds  
32 shall execute a surety bond payable to the district in the sum of  
33 double the estimated amount of funds handled monthly, conditioned that  
34 the principal will strictly account for all moneys or credit received

1 by him or her for the use of the district. Each bond and the amount  
2 thereof shall be approved by the county legislative authority of the  
3 county within which the major portion of the district is situated, and  
4 thereafter filed with the secretary of the district.

5 **Sec. 452.** RCW 86.09.310 and 1937 c 72 s 104 are each amended to  
6 read as follows:

7 Every person, upon the expiration or sooner termination of his or  
8 her term of office as an officer of the district, shall immediately  
9 turn over and deliver, under oath, to his or her successor in office,  
10 all records, books, papers, and other property under his or her control  
11 and belonging to such office. In case of the death of any officer, his  
12 or her legal representative shall turn over and deliver such records,  
13 books, papers, and other property to the successor in office of such  
14 deceased person.

15 **Sec. 453.** RCW 86.09.319 and 1937 c 72 s 107 are each amended to  
16 read as follows:

17 Any county treasurer collecting or handling funds of the district  
18 shall be liable upon his or her official bond and to criminal  
19 prosecution for malfeasance, misfeasance, or nonfeasance in office  
20 relative to any of his or her duties prescribed herein.

21 **Sec. 454.** RCW 86.09.325 and 1983 c 167 s 201 are each amended to  
22 read as follows:

23 The ex officio district treasurer shall pay out moneys collected or  
24 deposited with him or her in behalf of the district, or portions  
25 thereof, upon warrants issued by the county auditor against the proper  
26 funds of the districts, except the sums to be paid out of the bond fund  
27 for interest and principal payments on bonds.

28 **Sec. 455.** RCW 86.09.328 and 1937 c 72 s 110 are each amended to  
29 read as follows:

30 The said ex officio district treasurer shall report in writing on  
31 or before the fifteenth day of each month to the district board, the  
32 amount of money held by him or her, the amount in each fund, the amount  
33 of receipts for the month preceding in each fund, and the amount or

1 amounts paid out of each fund, and said report shall be filed with the  
2 secretary of the board.

3 **Sec. 456.** RCW 86.09.391 and 1985 c 396 s 66 are each amended to  
4 read as follows:

5 The board of appraisers shall elect a member as (~~chairman~~) chair  
6 and the secretary of the district or his or her deputy shall be ex  
7 officio secretary of the board of appraisers. The appraisers shall  
8 receive such compensation and expenses as the board of directors of the  
9 district, with the approval of the county legislative authority of the  
10 county within which the major portion of the district is situated,  
11 shall determine, and which may forthwith be paid by the issuance of  
12 district warrants.

13 **Sec. 457.** RCW 86.09.430 and 1986 c 278 s 43 are each amended to  
14 read as follows:

15 Said notice of hearing on said determination of assessment ratios  
16 shall state that the base assessment map designating the classes in  
17 which the lands in the district have been placed for assessment  
18 purposes on the ratios authorized by law, has been prepared by the  
19 board of appraisers and is on file at the office of the district board  
20 and may be inspected at any time during office hours; that a hearing on  
21 said map will be held before the county legislative authority at the  
22 office of the district board on . . . . ., the . . . . . day of  
23 . . . . ., . . . . ., at the hour of . . . . . o'clock (naming  
24 the time), where any person may appear and present such objections, if  
25 any, he or she may have to said map, and shall be signed by the  
26 secretary of the district.

27 **Sec. 458.** RCW 86.09.433 and 1985 c 396 s 69 are each amended to  
28 read as follows:

29 At the time set for said hearing the county legislative authority  
30 shall be present at the place designated in the notice and if it  
31 appears that due notice of the hearing has been given, shall proceed to  
32 hear such objections to the base map as shall be presented and shall  
33 hear all pertinent evidence that may be offered. The county  
34 legislative authority shall have authority to adjourn said hearings  
35 from time to time to study the record and evidence presented, to make

1 such independent investigation as it shall deem necessary and to  
2 correct, modify, or confirm the things set out on said base map or any  
3 part thereof and to determine all questions concerning the matter and  
4 shall finally make an order confirming said map with such  
5 substitutions, changes, or corrections, if any, as may have been made  
6 thereon, which order shall be signed by the (~~chairman~~) chair of the  
7 county legislative authority and attached to said map.

8 **Sec. 459.** RCW 86.09.448 and 1985 c 396 s 71 are each amended to  
9 read as follows:

10 Any person, firm, or corporation feeling aggrieved at any  
11 determination by said county legislative authority of the  
12 classification or relative percentage of his or her or its lands,  
13 aforesaid, may have the same reviewed by a proceeding for that purpose,  
14 in the nature of an appeal, initiated in the superior court of the  
15 county in which the land affected is situated. The matter shall be  
16 heard and tried by the court and shall be informal and summary but full  
17 opportunity to be heard and present evidence shall be given before  
18 judgment is pronounced.

19 **Sec. 460.** RCW 86.09.466 and 1985 c 396 s 75 are each amended to  
20 read as follows:

21 The secretary of the district on or before the first day of  
22 November in each year shall estimate the amount of money necessary to  
23 be raised for any and all district purposes during the ensuing year  
24 based upon a budget furnished him or her by the district board and  
25 submit the same to the county legislative authority of the county  
26 within which the major portion of the district is situated for its  
27 suggestions, approval, and revision and upon the approval of the budget  
28 by said county legislative authority, either as originally submitted or  
29 as revised, the secretary shall prepare an assessment roll with  
30 appropriate headings in which must be listed all the lands in each  
31 assessment classification shown on the base assessment map.

32 **Sec. 461.** RCW 86.09.493 and 1937 c 72 s 165 are each amended to  
33 read as follows:

34 On or before the fifteenth day of January in each year the  
35 secretary must deliver the assessment roll or the respective

1 segregations thereof to the county treasurer of each respective county  
2 in which the lands described are located, with a statement of the  
3 amounts and/or percentages of the collections on said roll which shall  
4 be apportioned to the respective district funds, and said assessments  
5 shall become due and payable at the time or times general taxes accrue  
6 payable.

7 One-half of all assessments on said roll shall become delinquent on  
8 the first day of June following the filing of the roll unless said one-  
9 half is paid on or before the thirty-first day of May of said year, and  
10 the remaining one-half shall become delinquent on the first day of  
11 December following, unless said one-half is paid on or before the  
12 thirtieth day of November. All delinquent assessments shall bear  
13 interest at the rate of ten percent per annum from the date of  
14 delinquency until paid.

15 Within twenty days after the filing of the assessment roll as  
16 aforesaid the respective county treasurers shall each publish a notice  
17 in a newspaper published in their respective counties in which any  
18 portion of the district may lie, that said assessments are due and  
19 payable at the office of the county treasurer of the county in which  
20 said land is located and will become delinquent unless paid as herein  
21 provided. Said notice shall state the dates of delinquency as fixed in  
22 this chapter and the rate of interest charged thereon and shall be  
23 published once a week for four successive weeks and shall be posted  
24 within said period of twenty days in some public place in said district  
25 in each county in which any portion of the district is situated.

26 Upon receiving the assessment roll, the county treasurer shall  
27 prepare therefrom an assessment book in which shall be written the  
28 description of the land as it appears in the assessment roll, the name  
29 of the owner or owners where known, and if assessed to the unknown  
30 owners, then the word "unknown", and the total assessment levied  
31 against each tract of land. Proper space shall be left in said book  
32 for the entry therein of all subsequent proceedings relating to the  
33 payment and collection of said assessments.

34 Upon payment of any assessment the county treasurer must enter the  
35 date of said payment in said assessment book opposite the description  
36 of the land and the name of the person paying, and give a receipt to  
37 such person specifying the amount of the assessment and the amount paid  
38 with the description of the property assessed.

1           It shall be the duty of the county treasurer of the county in which  
2 any land in the district is located to furnish upon request of the  
3 owner, or any person interested, a statement showing any and all  
4 assessments levied as shown by the assessment roll in his or her office  
5 upon land described in such request, and all statements of general  
6 taxes covering any land in the district shall be accompanied by a  
7 statement showing the condition of district assessments against such  
8 lands: PROVIDED, That the failure of the county treasurer to render  
9 any statement herein required of him or her shall not render invalid  
10 any assessments made by any district or proceedings had for the  
11 enforcement and collection of district assessments pursuant to this  
12 chapter.

13           **Sec. 462.** RCW 86.09.496 and 1937 c 72 s 166 are each amended to  
14 read as follows:

15           On or before the thirty-first day of December of each year, the  
16 county treasurer of the county in which the land is located shall cause  
17 to be posted the delinquency list which must contain the names of  
18 persons to whom the property is assessed and a description of the  
19 property delinquent and the amount of the assessment and costs due,  
20 opposite each name and description.

21           He or she must append to and post with the delinquency list a  
22 notice that unless the assessments delinquent, together with costs and  
23 accrued interest, are paid, the real property upon which such  
24 assessments are a lien will be sold at public auction. The said notice  
25 and delinquent list shall be posted at least twenty days prior to the  
26 time of sale. Concurrent as nearly as possible with the date of the  
27 posting aforesaid, the said county treasurer shall publish the location  
28 of the place where said notice is posted and in connection therewith a  
29 notice that unless delinquent assessments together with costs and  
30 accrued interest are paid, the real property upon which such  
31 assessments are a lien will be sold at public auction. Such notice  
32 must be published once a week for three successive weeks in a newspaper  
33 of general circulation published in the county within which the land is  
34 located; but said notice of publication need not comprise the  
35 delinquent list where the same is posted as herein provided. Both  
36 notices must designate the time and place of sale. The time of sale  
37 must not be less than twenty-one nor more than twenty-eight days from



1 the date of posting and from the date of the first publication of the  
2 notice thereof, and the place must be at some point designated by the  
3 treasurer.

4 **Sec. 463.** RCW 86.09.499 and 1937 c 72 s 167 are each amended to  
5 read as follows:

6 The treasurer of the county in which the land is situated shall  
7 conduct the sale of all lands situated therein and must collect in  
8 addition to the assessment due as shown on the delinquent list the  
9 costs and expenses of sale and interest at the rate of ten percent per  
10 annum from the date or dates of delinquency as hereinbefore provided.  
11 On the day fixed for the sale, or some subsequent day to which he or  
12 she may have postponed it, and between the hours of ten o'clock a.m.  
13 and three o'clock p.m., the county treasurer making the sale must  
14 commence the same, beginning at the head of the list, and continuing  
15 alphabetically, or in the numerical order of the parcels, lots, or  
16 blocks, until completed. He or she may postpone the day of commencing  
17 the sale, or the sale from day to day, by giving oral notice thereof at  
18 the time of the postponement, but the sale must be completed within  
19 three weeks from the first day fixed.

20 **Sec. 464.** RCW 86.09.502 and 1937 c 72 s 168 are each amended to  
21 read as follows:

22 The owner or person in possession of any real estate offered for  
23 sale for assessments due thereon may designate in writing to the county  
24 treasurer, by whom the sale is to be made, and prior to the sale, what  
25 portion of the property he or she wishes sold, if less than the whole;  
26 but if the owner or possessor does not, then the treasurer may  
27 designate it, and the person who will take the least quantity of the  
28 land, or in case an undivided interest is assessed, then the smallest  
29 portion of the interest, and pay the assessment and costs due,  
30 including one dollar to the treasurer for duplicate of the certificate  
31 of sale, is the purchaser. The treasurer shall account to the district  
32 for said one dollar. If the purchaser does not pay the assessment and  
33 costs before ten o'clock a.m. the following day, the property must be  
34 resold on the next sale day for the assessments and costs. In case  
35 there is no purchaser in good faith for the same on the first day that  
36 the property is offered for sale, and if there is no purchaser in good

1 faith when the property is offered thereafter for sale, the whole  
2 amount of the property assessed shall be struck off to the district as  
3 the purchaser, and the duplicate certificate shall be delivered to the  
4 secretary of the district, and filed by him or her in the office of the  
5 district. No charge shall be made for the duplicate certificate where  
6 the district is the purchaser, and in such case the treasurer shall  
7 make an entry, "Sold to the district", and he or she will be credited  
8 with the amount thereof in settlement. The district, as a purchaser at  
9 said sale, shall be entitled to the same rights as a private purchaser,  
10 and may assign or transfer the certificate of sale upon the payment of  
11 the amount which would be due if redemption were being made by the  
12 owner. If no redemption is made of land for which the district holds  
13 a certificate of purchase, the district will be entitled to receive the  
14 treasurer's deed therefor in the same manner as a private person would  
15 be entitled thereto.

16 After receiving the amount of assessments and costs, the county  
17 treasurer must make out in duplicate a certificate, dated on the day of  
18 sale, stating (when known) the names of the persons assessed, a  
19 description of the land sold, the amount paid therefor, that it was  
20 sold for assessments, giving the amount and the year of assessment, and  
21 specifying the time when the purchaser will be entitled to a deed. The  
22 certificate must be signed by the treasurer making the sale and one  
23 copy delivered to the purchaser, and the other filed in the office of  
24 the county treasurer of the county in which the land is situated:  
25 PROVIDED, That upon the sale of any lot, parcel, or tract of land not  
26 larger than an acre, the fee for a duplicate certificate shall be  
27 twenty-five cents and in case of a sale to a person or a district, of  
28 more than one parcel or tract of land, the several parcels or tracts  
29 may be included in one certificate.

30 **Sec. 465.** RCW 86.09.508 and 1937 c 72 s 170 are each amended to  
31 read as follows:

32 A redemption of the property sold may be made by the owner or any  
33 person on behalf and in the name of the owner or by any party in  
34 interest at any time before deed issues, by paying the amount of the  
35 purchase price and interest as in this chapter provided, and the amount  
36 of any assessments which such purchaser may have paid thereon after  
37 purchase by him or her and during the period of redemption in this

1 section provided, together with like interest on such amount, and if  
2 the district is the purchaser, the redemptioner shall not be required  
3 to pay the amount of any district assessment levied subsequent to the  
4 assessment for which said land was sold, but all subsequent and unpaid  
5 assessments levied upon said land to the date of such redemption shall  
6 remain a lien and be payable and the land be subject to sale and  
7 redemption at the times applicable to such subsequent annual district  
8 assessment. Redemption must be made in legal tender, as provided for  
9 the collection of state and county taxes, and the county treasurer must  
10 credit the amount paid to the person named in the certificate and pay  
11 it on demand to such person or his or her assignees. No redemption  
12 shall be made except to the county treasurer of the county in which the  
13 land is situated.

14 **Sec. 466.** RCW 86.09.511 and 1937 c 72 s 171 are each amended to  
15 read as follows:

16 Upon completion of redemption, the county treasurer to whom  
17 redemption has been made shall enter the word "redeemed", the date of  
18 redemption and by whom redeemed on the certificate and on the margin of  
19 the assessment book where the entry of the certificate is made. If the  
20 property is not redeemed within two years, after the fifteenth day of  
21 January of the year in which such property was sold, the county  
22 treasurer of the county in which the land sold is situated must  
23 thereafter, upon demand of the owner of the certificate of sale, make  
24 to the purchaser, or his or her assignees a deed of the property,  
25 reciting in the deed substantially the matters contained in the  
26 certificate, and that no person redeemed the property during the time  
27 allowed by law for its redemption. The treasurer shall receive from  
28 the purchaser, for the use of the district, one dollar for making such  
29 deed: PROVIDED, If redemption is not made of any lot, parcel, or tract  
30 of land not larger than one acre, the fee for a deed shall be twenty-  
31 five cents and when any person or district holds a duplicate  
32 certificate covering more than one tract of land, the several parcels,  
33 or tracts of lands, mentioned in the certificate may be included in one  
34 deed.

35 **Sec. 467.** RCW 86.09.556 and 1937 c 72 s 186 are each amended to  
36 read as follows:

1 Any claim against the district shall be presented to the district  
2 board for allowance or rejection. Upon allowance, the claim shall be  
3 attached to a voucher verified by the claimant or his or her agent and  
4 approved by the ((~~chairman~~)) chair of the board and countersigned by  
5 the secretary and directed to the county auditor of the county in which  
6 the office of the district treasurer is located, for the issuance of a  
7 warrant against the proper fund of the district in payment of said  
8 claim.

9 **Sec. 468.** RCW 86.09.562 and 1986 c 278 s 45 are each amended to  
10 read as follows:

11 Said county treasurer shall pay out the moneys received or  
12 deposited with him or her or any portion thereof upon warrants issued  
13 by the county auditor of the same county of which the district  
14 treasurer is an officer against the proper funds of the district except  
15 the sums to be paid out of the special funds for interest and principal  
16 payments on bonds or notes.

17 **Sec. 469.** RCW 86.09.619 and 1965 c 26 s 12 are each amended to  
18 read as follows:

19 It shall be the duty of the board of directors of the district to  
20 make adequate provision for the payment of all district bonds in  
21 accordance with their terms by levy and collection of assessments or  
22 otherwise and upon its failure so to do said levy and collection of  
23 assessments shall be made as follows:

24 (1) If the annual assessment roll has not been delivered to the  
25 county treasurer on or before the fifteenth day of January, he or she  
26 shall notify the secretary by registered mail that the roll must be  
27 delivered to him or her forthwith.

28 (2) If the roll is not delivered within ten days from the date of  
29 mailing the notice, or if the roll has not been equalized and the levy  
30 made, the treasurer shall immediately notify the county commissioners  
31 of the county in which the office of the directors is situated, and  
32 such commissioners shall cause an assessment roll for the district to  
33 be prepared and shall equalize it if necessary, and make the levy in  
34 the same manner and with like effect as if it had been made and  
35 equalized by the directors, and all expenses incident thereto shall be  
36 borne by the district.

1 (3) In case of neglect or refusal of the secretary to perform his  
2 or her duties, the district treasurer shall perform them, and shall be  
3 accountable therefor, on his or her official bond, as in other cases.

4 **Sec. 470.** RCW 86.09.703 and 1985 c 396 s 86 are each amended to  
5 read as follows:

6 If funds are available the county legislative authority shall, at  
7 the expense of the county, refer the petition to the county engineer  
8 for a preliminary investigation as to the feasibility of the objects  
9 sought by the petition. If the investigation discloses that the matter  
10 petitioned for is feasible, conducive to the public welfare, consistent  
11 with a comprehensive plan of development and in the best interest of  
12 the district and will promote the purposes for which the district was  
13 organized, the county legislative authority shall so find, approve the  
14 petition, enter an order in his or her records declaring the  
15 establishment of the new boundaries as petitioned for, or as modified  
16 by him or her, and file a certified copy of the order with each county  
17 auditor, without filing fee, and with the board.

18 The board shall forthwith cause a review of the classifications and  
19 ratio of benefits, in the same manner and with the same effect as for  
20 the determination of such matters in the first instance.

21 The lands in the original district shall remain bound for the whole  
22 of the original unpaid assessment thereon for the payment of any  
23 outstanding warrants or bonds to be paid by such assessments. Until  
24 the assessments are collected and all indebtedness of the original  
25 district paid, separate funds shall be maintained for the original  
26 district and the revised district.

27 **Sec. 471.** RCW 86.13.030 and 1913 c 54 s 3 are each amended to read  
28 as follows:

29 When such a contract shall have been entered into it shall be the  
30 duty of each of the boards of county commissioners to make for their  
31 respective counties, each year, a tax levy at a rate sufficient to meet  
32 the requirements of the contract to be performed by the county, or  
33 sufficient to provide such lesser amount as the boards of county  
34 commissioners shall agree upon for such year, to be evidenced by  
35 separate resolution of each board, and when such levy shall be made the  
36 same shall be extended upon the tax rolls of the county levying the

1 same as other taxes shall be extended, and shall be collected in the  
2 same manner and shall be a lien upon the property as in the case of  
3 other taxes. The fund realized in each county by such tax levy shall  
4 go into a separate fund in the treasury of the county collecting the  
5 same, to be designated intercounty river improvement fund, and the  
6 entire fund so collected in the two counties shall be devoted to and be  
7 disbursed for the purposes specified in such contract and as in this  
8 chapter provided, and for no other purpose, but without regard to the  
9 particular county in which the work is performed, material required or  
10 expenditure made, it being the intent that the entire fund realized in  
11 the two counties shall be devoted to the one common purpose as if the  
12 two counties were one county and the two funds one fund. The fund in  
13 each county shall be disbursed by the county treasurer of such county  
14 upon warrants signed by the county auditor of that county. Such  
15 warrants shall be issued by order of the board of county commissioners  
16 of such county, or a majority thereof. Each county auditor shall,  
17 whenever requested by the county auditor of the other county, furnish  
18 the county auditor of the other county a statement of payments into and  
19 warrants drawn upon the fund of his or her county from time to time,  
20 and in addition thereto, each county auditor shall on the first Monday  
21 of January, April, July and October each year during the life of the  
22 contract furnish the other a complete statement thereof. Obligations  
23 incurred in the prosecution of such improvement and warrants issued  
24 shall be payable only out of said special funds, and no general  
25 obligation against or debt of either county shall be created thereby or  
26 by any contract entered into by virtue of this chapter, but it is not  
27 the intent of this chapter to deny to either county the right to have  
28 in the courts any proper proceeding to compel compliance with such  
29 contract on the part of the other county.

30 **Sec. 472.** RCW 86.13.050 and 1913 c 54 s 5 are each amended to read  
31 as follows:

32 When such a contract shall have been entered into and occasion  
33 shall arise for the joint action of the two boards of county  
34 commissioners whether such joint action is provided for in this chapter  
35 or otherwise desired upon any matter having relation to such contract  
36 or the prosecution of such improvement, such joint action may be  
37 secured by a notice calling a joint meeting signed by two county

1 commissioners, designating the time and place in either county of such  
2 meeting, served by one of the two county auditors upon the remaining  
3 county commissioners at least seven days (exclusive of the date of  
4 service or mailing) prior to the time so designated. If the notice is  
5 signed by two county commissioners of the same county the place of  
6 meeting shall be at some place in the other county designated in the  
7 notice. Such service may be personal or by mail addressed to the  
8 member in care of the county auditor of his or her county. The six  
9 county commissioners may constitute a legal meeting without notice by  
10 being present together for that purpose. The auditor's certificate of  
11 such personal service or mailing, attached to a copy of the notice,  
12 shall be made a part of the records of the meeting and be competent  
13 proof of the fact. Except in the case hereinafter provided for, the  
14 presence of four of the county commissioners shall be necessary to  
15 constitute a legal meeting. Each meeting shall be presided over by one  
16 of those present selected by vote. The county auditor of the county  
17 wherein the meeting is held shall be secretary of the meeting, and  
18 shall make duplicate record of its proceedings, one of which, with his  
19 or her certificate thereon, shall be forwarded to the county auditor of  
20 the other county, and such record shall be a part of the record of the  
21 board of county commissioners of each county. A majority vote of those  
22 present at any legal meeting shall be determinative upon any question  
23 properly considered at the meeting, and shall be binding upon each  
24 county as if enacted or adopted by its own board of county  
25 commissioners separately, but no joint meeting whatsoever shall in any  
26 manner continue, extend, change, alter, modify, or abrogate the  
27 contract when made or any of the terms and conditions contained  
28 therein. Each county commissioner shall be paid out of said fund in  
29 his or her own county all disbursements made by him or her for  
30 traveling and other expenses incurred in attending any joint meeting or  
31 in any way connected with the prosecution of the improvement. Any  
32 legal meeting shall have power to adjourn to another time and place.  
33 An adjourned meeting shall have all the powers of the meeting of which  
34 it is an adjournment, but shall have no power after the end of the  
35 thirtieth day following the date of the original meeting of which it is  
36 an adjournment. If the three county commissioners of either county  
37 shall fail to attend any two meetings consecutively called, the notice  
38 for the next succeeding meeting may be also served upon the special

1 commissioner hereinafter provided for, and if he or she and three  
2 county commissioners attend pursuant to such notice the four shall  
3 constitute a legal meeting, but if he or she does not so attend and  
4 three county commissioners do attend, the same shall constitute a legal  
5 meeting: PROVIDED, All notices calling a joint meeting shall specify  
6 distinctly and separately each question to be considered at said  
7 meeting; and it shall be unlawful to consider any question at such  
8 meeting or at any adjourned meeting thereof except those which have  
9 been distinctly and separately specified, except in cases where all six  
10 county commissioners are present or five county commissioners present  
11 are unanimous on the question, and in any action which may be taken on  
12 any question other than those specified in the notice shall be void and  
13 shall not be binding on either county, except in cases where all six  
14 county commissioners are present or the action was by unanimous vote of  
15 five county commissioners present at such meeting.

16 **Sec. 473.** RCW 86.13.060 and 1913 c 54 s 6 are each amended to read  
17 as follows:

18 When such a contract shall have been entered into there shall be  
19 designated at the first legal joint meeting, or adjournment thereof,  
20 held in each calendar year a special commissioner to serve as such  
21 until the first joint meeting held in the ensuing year. If such  
22 designation shall not be made at any such first annual meeting, the  
23 United States engineer in charge of the district in which such  
24 improvement is located shall be such special commissioner until the  
25 next succeeding first annual meeting. If a special commissioner shall  
26 for any reason fail to serve as such officer, or be removed by  
27 unanimous vote of any legal meeting, a successor to him or her may be  
28 chosen at any subsequent legal joint meeting during his or her term.  
29 Such special commissioner shall have power to attend and vote at any  
30 joint meeting in the following cases and none other, to wit: (1) In  
31 cases specially so provided in RCW 86.13.050 hereof; (2) in any case  
32 where the vote of any such joint meeting shall stand equally divided  
33 upon any question arising under this chapter or such contract or in the  
34 prosecution of the work of improvement. The special commissioner shall  
35 have no voice or vote except upon questions on which the vote of the  
36 county commissioners is equally divided. The procedure in cases  
37 covered by the foregoing subdivision (2) of this section shall be



1 substantially as follows: It shall be the duty of the secretary of the  
2 meeting at which the division shall occur, if the attendance of the  
3 special commissioner at that meeting is not secured, to forthwith  
4 transmit to the special commissioner written notice of the fact of  
5 disagreement and the question involved, and of the time and place to  
6 which the meeting shall have been adjourned or at which the question  
7 will recur. If there shall be no such adjournment of the meeting, or  
8 if the secretary shall not give such notice, any two commissioners may  
9 in the manner provided in RCW 86.13.050 call a joint meeting for the  
10 consideration of the question in dispute, and in such event either  
11 county auditor may give such notice to the special commissioner. No  
12 informality in the mode of securing the attendance of the special  
13 commissioner shall invalidate the proceedings of or any vote taken at  
14 any meeting which he or she shall attend and which he or she is  
15 empowered to attend by the provisions of this chapter. The special  
16 commissioner shall receive, to be paid equally out of the two funds,  
17 his or her traveling and other expenses incurred in attending meetings  
18 or otherwise in connection with the work of improvement, and such  
19 compensation for his or her services as shall be fixed by the joint  
20 meeting which shall have selected him or her, or failing to be so  
21 fixed, his or her compensation shall be ten dollars per day of actual  
22 service.

23 **Sec. 474.** RCW 86.13.090 and 1913 c 54 s 9 are each amended to read  
24 as follows:

25 When such a contract shall have been entered into, it shall be  
26 lawful to issue warrants upon said fund though there be at the time of  
27 such issuance no money in the fund, but in such cases the aggregate of  
28 such warrants so issued in any year shall not exceed one-half the  
29 amount of the next annual tax levy required by such contract. Such  
30 warrants shall be stamped by the county treasurer when presented to him  
31 or her for payment, to bear interest at a certain rate thereafter until  
32 paid, such rate to be the then current rate as determined by the county  
33 auditor.

34 **Sec. 475.** RCW 86.13.100 and 1915 c 103 s 1 are each amended to  
35 read as follows:

36 Whenever two counties of this state, acting under a contract made

1 pursuant to RCW 86.13.010 through 86.13.090, shall make an improvement  
2 in connection with the course, channel, or flow of a river, shall  
3 acquire property by statute, purchase, gift, or otherwise, said  
4 counties, acting through their boards of county commissioners jointly  
5 shall have the power, and are hereby authorized to sell, transfer,  
6 trade, lease, or otherwise dispose of said property by public or  
7 private, negotiation or sale. The deeds to the property so granted,  
8 transferred, leased, or sold shall be executed by the ((~~chairman~~))  
9 chair of the meeting of the joint boards of county commissioners, and  
10 attested by the secretary of said joint meeting where the sale is  
11 authorized. The proceeds of the sale of said property shall be used by  
12 said counties for the carrying on, completion or maintenance of said  
13 improvement, as directed by the boards of county commissioners of said  
14 counties acting jointly.

15 **Sec. 476.** RCW 86.15.060 and 2005 c 127 s 1 are each amended to  
16 read as follows:

17 (1) Except as provided in subsection (2) of this section,  
18 administration of the affairs of zones shall be in the county engineer.  
19 The engineer may appoint such deputies and engage such employees,  
20 specialists, and technicians as may be required by the zone and as are  
21 authorized by the zone's budget. Subject to the approval of the  
22 supervisors, the engineer may organize, or reorganize as required, the  
23 zone into such departments, divisions, or other administrative  
24 relationships as he or she deems necessary to its efficient operation.

25 (2) In a zone with supervisors elected pursuant to RCW 86.15.050,  
26 the supervisors may provide for administration of the affairs of the  
27 zone by other than the county engineer, pursuant to the authority  
28 established in RCW 86.15.095 to hire employees, staff, and services and  
29 to enter into contracts.

30 **Sec. 477.** RCW 86.15.130 and 1961 c 153 s 13 are each amended to  
31 read as follows:

32 The treasurer of each zone shall be the county treasurer. He or  
33 she shall establish within his or her office a zone flood control fund  
34 for each zone into which shall be deposited the proceeds of all tax  
35 levies, assessments, gifts, grants, loans, or other revenues which may  
36 become available to a zone.

1 The treasurer shall also establish the following accounts within  
2 the zone fund:

3 (1) For each flood control improvement financed by a bond issue, an  
4 account to which shall be deposited the proceeds of any such bond  
5 issue; and

6 (2) An account for each outstanding bond issue to which will be  
7 deposited any revenues collected for the retirement of such outstanding  
8 bonds or for the payment of interest or charges thereon; and

9 (3) A general account to which all other receipts of the zone shall  
10 be deposited.

11 **Sec. 478.** RCW 86.16.035 and 1995 c 8 s 5 are each amended to read  
12 as follows:

13 Subject to RCW 43.21A.068, the department of ecology shall have  
14 supervision and control over all dams and obstructions in streams, and  
15 may make reasonable regulations with respect thereto concerning the  
16 flow of water which he or she deems necessary for the protection to  
17 life and property below such works from flood waters.

18 **Sec. 479.** RCW 86.24.030 and 1988 c 127 s 39 are each amended to  
19 read as follows:

20 The state director of ecology, when state funds shall be available  
21 therefor, shall have authority on behalf of the state to enter into  
22 contracts with the United States or any agency thereof and/or with any  
23 such flood control district, county, or counties so acting jointly, for  
24 flood control purposes for any such flood control district, county, or  
25 counties so acting jointly, the amount of the state's participation in  
26 any such contract to be such sum as may be appropriated therefor, or,  
27 in event of unallocated state appropriations for flood control  
28 purposes, in such necessary sum as to any such contract as he or she  
29 shall determine.

30 **Sec. 480.** RCW 87.03.025 and 1963 c 20 s 13 are each amended to  
31 read as follows:

32 Whenever public lands of the state are situated in or taken into an  
33 irrigation district they shall be treated the same as other lands,  
34 except as hereinafter provided. The commissioner of public lands shall  
35 be served with a copy of the petition proposing to include such lands,

1 together with a map of the district and notice of the time and place of  
2 hearing thereon, at least thirty days before the hearing, and if he or  
3 she determines that such lands will be benefited by being included in  
4 the district he or she shall give his or her consent thereto in  
5 writing. If he or she determines that they will not be benefited he or  
6 she shall file with the board a statement of his or her objections  
7 thereto.

8 Any public lands of the state which are situated within the  
9 boundaries of an irrigation district, but which were not included in  
10 the district at the time of its organization, may be included after a  
11 hearing as herein provided.

12 Whenever the commissioner or any interested person desires to have  
13 state public lands included in an existing district, he or she shall  
14 file a request to that effect in writing with the district board, which  
15 shall thereupon fix a time and place for hearing the request and post  
16 notice thereof in three public conspicuous places in the district, one  
17 of which shall be at the place of hearing, at least twenty days before  
18 the hearing, and send by registered mail a copy of the notice to the  
19 commissioner. The notice shall describe the lands to be included and  
20 direct all persons objecting to such inclusion to appear at the time  
21 and place stated and present their objections. At the hearing the  
22 district board shall consider all objections and may adjourn to a later  
23 date, and by resolution determine the matter, and its determination  
24 shall be final: PROVIDED, That no such lands shall be included in a  
25 district without the written consent of the commissioner of public  
26 lands.

27 Any public lands of the state situated in any irrigation district  
28 shall be subject to the provisions of the laws of this state relating  
29 to the collection of irrigation district assessments to the same extent  
30 and in the same manner in which lands of like character held under  
31 private ownership are subject thereto, but collection and payment of  
32 the assessments shall be governed solely by the provisions of chapter  
33 79.44 RCW.

34 **Sec. 481.** RCW 87.03.031 and 1961 c 105 s 2 are each amended to  
35 read as follows:

36 Any qualified district elector who certifies as provided in RCW  
37 87.03.032 through 87.03.034 that he or she cannot conveniently be

1 present to cast his or her ballot at his or her proper election  
2 precinct on the day of any irrigation district election shall be  
3 entitled to vote by absentee ballot in such election in the manner  
4 herein provided.

5 **Sec. 482.** RCW 87.03.032 and 1961 c 105 s 3 are each amended to  
6 read as follows:

7 The notice of election shall conform to the requirements for  
8 election notices provided by Title 87 RCW for the election being held,  
9 and shall specify in addition that any qualified district elector who  
10 certifies that he or she cannot conveniently be present at his or her  
11 proper election precinct on the day of election may vote by absentee  
12 ballot, and that a ballot and form of certificate of qualifications  
13 will be furnished to him or her on written request being made of the  
14 district's secretary. The requisite ballot and a form of certificate  
15 of qualifications shall be furnished by the district's secretary to any  
16 person who prior to the date of election makes written request  
17 therefor, stating that he or she is a qualified district elector. Such  
18 ballot and form may be furnished also to qualified district electors in  
19 any way deemed to be convenient without regard to requests having been  
20 made therefor.

21 **Sec. 483.** RCW 87.03.033 and 1961 c 105 s 4 are each amended to  
22 read as follows:

23 (1) To be counted in a given election, an absentee ballot must  
24 conform to these requirements:

25 (a) It must be sealed in an unmarked envelope and delivered to the  
26 district's principal office prior to the close of the polls on the day  
27 of that election; or be sealed in an unmarked envelope and mailed to  
28 the district's secretary, postmarked not later than midnight of that  
29 election day and received by the secretary within five days of that  
30 date.

31 (b) The sealed envelope containing the ballot shall be accompanied  
32 by a certificate of qualifications stating, with respect to the voter,  
33 his or her name, age, citizenship, residence, that he or she holds  
34 title or evidence of title to lands within the district which, under  
35 RCW 87.03.045 entitles him or her to vote in the election, and that he

1 or she cannot conveniently be present to cast his or her ballot at his  
2 or her proper election precinct on election day.

3 (c) The statements in the certificate of qualifications shall be  
4 certified as correct by the voter by the affixing of his or her  
5 signature thereto in the presence of a witness who is acquainted with  
6 the voter, and the voter shall enclose and seal his or her ballot in  
7 the unmarked envelope in the presence of this witness but without  
8 disclosing his or her vote. The witness, by affixing his or her  
9 signature to the certificate of qualifications, shall certify that he  
10 or she is acquainted with the voter, that in his or her presence the  
11 voter's signature was affixed and the ballot enclosed as required in  
12 this paragraph.

13 (2) The form of statement of qualifications and its certification  
14 shall be substantially as prescribed by the district's board of  
15 directors. This form may also provide that the voter shall describe  
16 all or some part of his or her lands within the district which, under  
17 RCW 87.03.045 entitles him or her to vote in the election, but a voter  
18 otherwise qualified shall not be disqualified because of the absence or  
19 inaccuracy of the description so given. The regular form of irrigation  
20 district ballot shall be used by absentee voters.

21 **Sec. 484.** RCW 87.03.045 and 1985 c 66 s 1 are each amended to read  
22 as follows:

23 In districts with two hundred thousand acres or more, a person  
24 eighteen years old, being a citizen of the United States and a resident  
25 of the state and who holds title or evidence of title to land in the  
26 district or proposed district shall be entitled to vote therein. He or  
27 she shall be entitled to one vote for the first ten acres of said land  
28 or fraction thereof and one additional vote for all of said land over  
29 ten acres. A majority of the directors shall be residents of the  
30 county or counties in which the district is situated and all shall be  
31 electors of the district. If more than one elector residing outside  
32 the county or counties is voted for as director, only that one who  
33 receives the highest number of votes shall be considered in  
34 ascertaining the result of the election. Where land is community  
35 property both the husband and wife may vote if otherwise qualified. An  
36 agent of a corporation owning land in the district, duly authorized in  
37 writing, may vote on behalf of the corporation by filing with the

1 election officers his or her instrument of authority. An elector  
2 resident in the district shall vote in the precinct in which he or she  
3 resides, all others shall vote in the precinct nearest their residence.

4 **Sec. 485.** RCW 87.03.075 and 1985 c 66 s 4 are each amended to read  
5 as follows:

6 Voting in an irrigation district shall be by ballot. Ballots shall  
7 be of uniform size and quality, provided by the district, and for the  
8 election of directors shall contain only the names of the candidates  
9 who have filed with the secretary of the district a declaration in  
10 writing of their candidacy, or a petition of nomination as hereinafter  
11 provided, not later than five o'clock p.m. on the first Monday in  
12 November. Ballots shall contain space for sticker voting or for the  
13 writing in of the name of an undeclared candidate. Ballots shall be  
14 issued by the election board according to the number of votes an  
15 elector is entitled to cast. A person filing a declaration of  
16 candidacy, or petition of nomination as hereinafter provided, shall  
17 designate therein the position for which he or she is a candidate. No  
18 ballots on any form other than the official form shall be received or  
19 counted.

20 In any election for directors where the number of votes which may  
21 be received will have no bearing on the length of the term to be  
22 served, the candidates for the position of director, in lieu of filing  
23 a declaration of candidacy hereunder, shall file with the secretary of  
24 the district a petition of nomination signed by at least ten qualified  
25 electors of the district, or of the division if the district has been  
26 divided into director divisions, not later than five o'clock p.m. on  
27 the first Monday in November. If, after the expiration of the date for  
28 filing petitions of nomination, it appears that only one qualified  
29 candidate has been nominated thereby for each position to be filled it  
30 shall not be necessary to hold an election, and the board of directors  
31 shall at their next meeting declare such candidate elected as director.  
32 The secretary shall immediately make and deliver to such person a  
33 certificate of election signed by him or her and bearing the seal of  
34 the district. The procedure set forth in this paragraph shall not  
35 apply to any other irrigation district elections.

1       **Sec. 486.** RCW 87.03.080 and 1961 c 192 s 14 are each amended to  
2 read as follows:

3       An election of directors in an irrigation district shall be held on  
4 the second Tuesday of December of each year, and the term of each  
5 director shall be three years from the first Tuesday of January  
6 following his or her election. The directors elected at the  
7 organization election shall serve until their successors are elected  
8 and qualified. At the first annual election occurring thirty days or  
9 more after the date of the order establishing the district, there shall  
10 be elected directors to succeed those chosen at the organization  
11 election. If the board consists of three directors the candidate  
12 receiving the highest number of votes shall serve a term of three  
13 years; the next highest, two years; and the next highest, one year. In  
14 case of five directors, the two candidates receiving the highest number  
15 of votes shall each serve a term of three years; the next two highest,  
16 two years; and the next highest, one year; or until successors are  
17 elected and qualified. In case of seven directors, the three  
18 candidates receiving the highest number of votes shall each serve a  
19 term of three years, the next two highest, two years, and the next two  
20 highest, one year, or until their successors are elected and qualified.  
21 Whenever a district with three directors desires to increase the number  
22 of its directors to five directors or whenever a district with five  
23 directors desires to increase the number of its directors to seven  
24 directors, the board of directors, acting on its own initiative or on  
25 the written petition of at least twenty electors of the district, shall  
26 submit the question to the electors of the district at a regular or  
27 special district election. In the event the electors by a majority of  
28 the votes cast favor an increase in the number of directors, there  
29 shall be elected at the next annual district election two additional  
30 directors. The person receiving the highest number of votes shall  
31 serve for a three year term and the next highest, a two year term.

32       The number of directors may be decreased to five or three, as the  
33 case may be, substantially in the same manner as that provided for the  
34 increase of directors. In case of three directors the term of one  
35 director only shall expire annually.

36       **Sec. 487.** RCW 87.03.081 and 1961 c 192 s 15 are each amended to  
37 read as follows:



1 A vacancy in the office of director shall be filled by appointment  
2 by the board of county commissioners of the county in which the  
3 proceedings for the organization of the district were had. At the next  
4 annual election occurring thirty days or more after the date of the  
5 appointment, a successor shall be elected who shall take office on the  
6 first Tuesday in January following and shall serve for the remainder of  
7 the unexpired term.

8 A director appointed to fill a vacancy occurring after the  
9 expiration of the term of a director shall serve until his or her  
10 successor is elected and qualified. At the next election of directors  
11 occurring thirty days or more after the appointment, a successor shall  
12 be elected who shall take office on the first Tuesday in January next  
13 and shall serve for the term for which he or she was elected.

14 Failure on the part of any irrigation district to hold one or more  
15 annual elections for selection of officers, or otherwise to provide  
16 district officers shall not dissolve the district or impair its powers,  
17 where later officers for the district are appointed or elected and  
18 qualify as such and exercise the powers and duties of their offices in  
19 the manner provided by law.

20 **Sec. 488.** RCW 87.03.082 and 1961 c 192 s 16 are each amended to  
21 read as follows:

22 Each director shall take and subscribe an official oath for the  
23 faithful discharge of the duties of his or her office, and shall  
24 execute a bond to the district in the sum of one thousand dollars,  
25 conditioned for the faithful discharge of his or her duties, which  
26 shall be approved by the judge of the superior court of the county  
27 where the district was organized, and the oath and bond shall be  
28 recorded in the office of the county clerk of that county and filed  
29 with the secretary of the board of directors. The secretary shall take  
30 and subscribe a written oath of office and execute a bond in the sum of  
31 not less than one thousand dollars to be fixed by the directors, which  
32 shall be approved and filed as in the case of the bond of a director.  
33 If a district is appointed fiscal agent of the United States to collect  
34 money for it, the secretary and directors and the district treasurer  
35 shall each execute such additional bonds as the secretary of the  
36 interior may require, conditioned for the faithful discharge of their

1 duties which shall be approved, recorded, and filed as other official  
2 bonds. All such bonds shall be secured at the cost of the district.

3 **Sec. 489.** RCW 87.03.090 and 1931 c 60 s 1 are each amended to read  
4 as follows:

5 The inspector is (~~(chairman)~~) chair of the election board, and may  
6 First: Administer all oaths required in the progress of an  
7 election.

8 Second: Appoint judges and clerks, if, during the progress of the  
9 election, any judge or clerk cease to act. Any member of the board of  
10 election, or any clerk thereof, may administer and certify oaths  
11 required to be administered during the progress of an election. The  
12 board of election for each precinct may, if they deem it necessary,  
13 before opening the polls, appoint two persons to act as clerks of the  
14 election. Before opening the polls, each member of the board and each  
15 clerk must take and subscribe an oath to faithfully perform the duties  
16 imposed upon them by law. Any elector of the precinct may administer  
17 and certify such oath. The polls must be opened at one o'clock p.m. on  
18 the afternoon of the election, and be kept open until eight o'clock  
19 p.m., when the same must be closed. The provisions of the general  
20 election law of this state, concerning the form of ballots to be used  
21 shall not apply to elections held under this act: PROVIDED, That any  
22 district elections called before this act shall take effect shall be  
23 noticed and conducted in the manner prescribed by law in effect at the  
24 time the election is called.

25 **Sec. 490.** RCW 87.03.100 and 1981 c 345 s 2 are each amended to  
26 read as follows:

27 As soon as all the votes are read off and counted, a certificate  
28 shall be drawn upon each of the papers containing the poll list and  
29 tallies, or attached thereto, stating the number of votes each one  
30 voted for has received, and designating the office to fill which he or  
31 she was voted for, which number shall be written in figures and in  
32 words at full length. Each certificate shall be signed by the  
33 (~~(clerk[s])~~) clerks, (~~(judge[s])~~) judges, and the inspector. One of  
34 said certificates, with the poll list and the tally paper to which it  
35 is attached, shall be retained by the inspector, and preserved by him  
36 or her at least six months. The ballots, together with the other of

1 said certificates, with the poll list and tally paper to which it is  
2 attached, shall be sealed by the inspector, in the presence of the  
3 judges and clerks, and endorsed "Election returns of [naming the  
4 precinct] precinct," and be directed to the secretary of the board of  
5 directors, and shall be immediately delivered by the inspector, or by  
6 some other safe and responsible carrier designated by said inspector,  
7 to said secretary, and the ballots shall be kept unopened for at least  
8 six months, and if any person be of the opinion that the vote of any  
9 precinct has not been correctly counted, he or she may appear on the  
10 day appointed for the board of directors to open and canvass the  
11 returns, and demand a recount of the vote of the precinct that is so  
12 claimed to have been incorrectly counted.

13 **Sec. 491.** RCW 87.03.110 and 1913 c 165 s 4 are each amended to  
14 read as follows:

15 The secretary of the board of directors must, as soon as the result  
16 is declared, enter in the records of such board a statement of such  
17 result, which statement must show:

- 18 (1) The whole number of votes cast in the district;
- 19 (2) The name of the persons voted for;
- 20 (3) The office to fill which each person was voted for;
- 21 (4) The number of votes given in each precinct to each of such  
22 persons;
- 23 (5) The number of votes given in each precinct for and against any  
24 proposition voted upon.

25 The board of directors must declare elected the person having the  
26 highest number of votes given for each office. The secretary must  
27 immediately make out, and deliver to such person a certificate of  
28 election signed by him or her and authenticated by the seal of the  
29 district.

30 **Sec. 492.** RCW 87.03.115 and 1983 c 262 s 1 are each amended to  
31 read as follows:

32 The directors of the district shall organize as a board and shall  
33 elect a president from their number, and appoint a secretary, who shall  
34 keep a record of their proceedings. The office of the directors and  
35 principal place of business of the district shall be at some place in  
36 the county in which the organization was effected, to be designated by

1 the directors. The directors serving districts of five thousand acres  
2 or more shall hold a regular monthly meeting at their office on the  
3 first Tuesday in every month, or on such other day in each month as the  
4 board shall direct in its bylaws, and may adjourn any meeting from time  
5 to time as may be required for the proper transaction of business.  
6 Directors serving districts of less than five thousand acres shall hold  
7 at least quarterly meetings on a day designated by the board's bylaws,  
8 and may adjourn any meeting from time to time as may be required for  
9 the proper transaction of business. Special meetings shall be called  
10 and conducted in the manner required by chapter 42.30 RCW. All  
11 meetings of the directors must be public. A majority of the directors  
12 shall constitute a quorum for the transaction of business, and in all  
13 matters requiring action by the board there shall be a concurrence of  
14 at least a majority of the directors. All records of the board shall  
15 be open to the inspection of any electors during business hours. The  
16 board shall have the power, and it shall be its duty, to adopt a seal  
17 of the district, to manage and conduct the business and affairs of the  
18 district, to make and execute all necessary contracts, to employ and  
19 appoint such agents, officers, and employees as may be necessary and  
20 prescribe their duties, and to establish equitable bylaws, rules, and  
21 regulations for the government and management of the district, and for  
22 the equitable distribution of water to the lands within the district,  
23 upon the basis of the beneficial use thereof, and generally to perform  
24 all such acts as shall be necessary to fully carry out the provisions  
25 of this chapter: PROVIDED, That all water, the right to the use of  
26 which is acquired by the district under any contract with the United  
27 States shall be distributed and apportioned by the district in  
28 accordance with the acts of congress, and rules and regulations of the  
29 secretary of the interior until full reimbursement has been made to the  
30 United States, and in accordance with the provisions of said contract  
31 in relation thereto. The bylaws, rules, and regulations must be on  
32 file and open to inspection of any elector during regular business  
33 hours. All leases, contracts, or other form of holding any interest in  
34 any state or other public lands shall be, and the same are hereby  
35 declared to be title to and evidence of title to lands and for all  
36 purposes within this act, shall be treated as the private property of  
37 the lessee or owner of the contractual or possessory interest:  
38 PROVIDED, That nothing in this section shall be construed to affect the

1 title of the state or other public ownership, nor shall any lien for  
2 such assessment attach to the fee simple title of the state or other  
3 public ownership. The board of directors shall have authority to  
4 develop and to sell, lease, or rent the use of: (1) Water derived from  
5 the operation of the district water facilities to such municipal and  
6 quasi municipal entities, the state of Washington, and state entities  
7 and agencies, public and private corporations and individuals located  
8 within and outside the boundaries of the district and on such terms and  
9 conditions as the board of directors shall determine; and (2) power  
10 derived from hydroelectric facilities authorized by RCW 87.03.015(1) as  
11 now or hereafter amended, to such municipal or quasi municipal  
12 corporations and cooperatives authorized to engage in the business of  
13 distributing electricity, electrical companies subject to the  
14 jurisdiction of the utilities and transportation commission, and other  
15 irrigation districts and on such terms and conditions as the board of  
16 directors shall determine: PROVIDED, No water shall be furnished for  
17 use outside of said district until all demands and requirements for  
18 water for use in said district are furnished and supplied by said  
19 district: AND PROVIDED FURTHER, That as soon as any public lands  
20 situated within the limits of the district shall be acquired by any  
21 private person, or held under any title of private ownership, the owner  
22 thereof shall be entitled to receive his or her proportion of water as  
23 in case of other land owners, upon payment by him or her of such sums  
24 as shall be determined by the board, and at the time to be fixed by the  
25 board, which sums shall be such equitable amount as such lands should  
26 pay having regard to placing said lands on the basis of equality with  
27 other lands in the district as to benefits received, and giving credit  
28 if equitable for any sums paid as water rent by the occupant of said  
29 lands prior to the vesting of private ownership, and such lands shall  
30 also become subject to all taxes and assessments of the district  
31 thereafter imposed.

32 **Sec. 493.** RCW 87.03.175 and 1923 c 138 s 7 are each amended to  
33 read as follows:

34 Said director shall forthwith consider said certified report and if  
35 he or she deem it advisable make, through the appropriate divisions of  
36 his or her department, additional studies of the project at the expense

1 of the district, and as soon as practicable thereafter, but in any  
2 event within ninety days from the receipt of said certified report,  
3 make his or her findings and submit the same to the district board.

4 **Sec. 494.** RCW 87.03.180 and 1923 c 138 s 7 are each amended to  
5 read as follows:

6 In his or her findings said state director shall give generally his  
7 or her conclusions regarding the supply of water available for the  
8 project, the nature of the soil proposed to be irrigated and its  
9 susceptibility to irrigation, the duty of water for irrigation and the  
10 probable need of drainage, the probable cost of works, water rights,  
11 and other property necessary for the project, the conditions of land  
12 settlement therein, and the proper amount and dates of maturity of the  
13 bonds proposed to be issued, and such other matters as he or she deems  
14 pertinent to the success of the project, provided that said findings  
15 and conclusions shall be advisory only and shall not be binding upon  
16 the directors of the irrigation district.

17 **Sec. 495.** RCW 87.03.245 and 1919 c 180 s 8 are each amended to  
18 read as follows:

19 The board of directors must allow the secretary as many deputies,  
20 to be appointed by them, as will, in the judgment of the board, enable  
21 him or her to complete the assessment within the time herein  
22 prescribed. The board must fix the compensation of such deputies for  
23 the time actually engaged.

24 **Sec. 496.** RCW 87.03.250 and 1921 c 129 s 12 are each amended to  
25 read as follows:

26 On or before the first Tuesday in September in each year to and  
27 including the year 1923, and on or before the first Tuesday in November  
28 beginning with the year 1924 and each year thereafter, the secretary  
29 must complete his or her assessment roll and deliver it to the board,  
30 who must immediately give a notice thereof, and of the time the board  
31 of directors, acting as a board of equalization will meet to equalize  
32 assessments, by publication in a newspaper published in each of the  
33 counties comprising the district. The time fixed for the meeting shall  
34 not be less than twenty nor more than thirty days from the first

1 publication of the notice, and in the meantime the assessment roll must  
2 remain in the office of the secretary for the inspection of all persons  
3 interested.

4 **Sec. 497.** RCW 87.03.255 and 1921 c 129 s 13 are each amended to  
5 read as follows:

6 Upon the day specified in the notice required by RCW 87.03.250 for  
7 the meeting, the board of directors, which is hereby constituted a  
8 board of equalization for that purpose, shall meet and continue in  
9 session from day to day as long as may be necessary, not to exceed ten  
10 days, exclusive of Sundays, to hear and determine such objections to  
11 the said assessment roll as may come before them; and the board may  
12 change the same as may be just. The secretary of the board shall be  
13 present during its session, and note all changes made at said hearing;  
14 and on or before the 30th day of October in each year to and including  
15 the year 1923, and on or before the 15th day of January beginning with  
16 the (~~{year}~~) year 1925 and each year thereafter he or she shall have  
17 the assessment roll completed as finally equalized by the board.

18 **Sec. 498.** RCW 87.03.260 and 1983 c 167 s 216 are each amended to  
19 read as follows:

20 The board of directors shall in each year before said roll is  
21 delivered by the secretary to the respective county treasurers, levy an  
22 assessment sufficient to raise the ensuing annual interest on the  
23 outstanding bonds, and all payments due or to become due in the ensuing  
24 year to the United States or the state of Washington under any contract  
25 between the district and the United States or the state of Washington  
26 accompanying which bonds of the district have not been deposited with  
27 the United States or the state of Washington as in this act provided.  
28 Beginning in the year preceding the maturity of the first series of the  
29 bonds of any issue, the board must from year to year increase said  
30 assessment for the ensuing years in an amount sufficient to pay and  
31 discharge the outstanding bonds as they mature. Similar levy and  
32 assessment shall be made for the expense fund which shall include  
33 operation and maintenance costs for the ensuing year. The board shall  
34 also at the time of making the annual levy, estimate the amount of all  
35 probable delinquencies on said levy and shall thereupon levy a  
36 sufficient amount to cover the same and a further amount sufficient to

1 cover any deficit that may have resulted from delinquent assessments  
2 for any preceding year. The board shall also, at the time of making  
3 the annual levy, estimate the amount of the assessments to be made  
4 against lands owned by the district, including local improvement  
5 assessments, and shall levy a sufficient amount to pay said  
6 assessments. All lands owned by the district shall be exempt from  
7 general state and county taxes: PROVIDED, HOWEVER, That in the event  
8 any lands, and any improvements located thereon, acquired by the  
9 district by reason of the foreclosure of irrigation district  
10 assessments, shall be by said district resold on contract, then and in  
11 that event, said land, and any such improvements, shall be by the  
12 county assessor immediately placed upon the tax rolls for taxation as  
13 real property and shall become subject to general property taxes from  
14 and after the date of said contract, and the secretary of the said  
15 irrigation district shall be required to immediately report such sale  
16 within ten days from the date of said contract to the county assessor  
17 who shall cause the property to be entered on the tax rolls as of the  
18 first day of January following.

19 The board may also at the time of making the said annual levy, levy  
20 an amount not to exceed twenty-five percent of the whole levy for the  
21 said year for the purpose of creating a surplus fund. This fund may be  
22 used for any of the district purposes authorized by law. The  
23 assessments, when collected by the county treasurer, shall constitute  
24 a special fund, or funds, as the case may be, to be called  
25 respectively, the "Bond Fund of . . . . . Irrigation District," the  
26 "Contract Fund of . . . . . Irrigation District," the "Expense Fund  
27 of . . . . . Irrigation District," the " Warrant Fund of . . . . .  
28 Irrigation District," the "Surplus Fund of . . . . . Irrigation  
29 District".

30 If the annual assessment roll of any district has not been  
31 delivered to the county treasurer on or before the 15th day of January  
32 in the year 1927, and in each year thereafter, he or she shall notify  
33 the secretary of the district by registered mail that said assessment  
34 roll must be delivered to the office of the county treasurer forthwith.  
35 If said assessment roll is not delivered within ten days from the date  
36 of mailing of said notice to the secretary of the district, or if said  
37 roll when delivered is not equalized and the required assessments  
38 levied as required by law, or if for any reason the required assessment



1 or levy has not been made, the county treasurer shall immediately  
2 notify the legislative authority of the county in which the office of  
3 the board of directors is situated, and said county legislative  
4 authority shall cause an assessment roll for the said district to be  
5 prepared and shall equalize the same if necessary and make the levy  
6 required by this chapter in the same manner and with like effect as if  
7 the same had been equalized and made by the said board of directors,  
8 and all expenses incident thereto shall be borne by the district. In  
9 case of neglect or refusal of the secretary of the district to perform  
10 the duties imposed by law, then the treasurer of the county in which  
11 the office of the board of directors is situated must perform such  
12 duties, and shall be accountable therefor, on his or her official bond,  
13 as in other cases.

14 At the time of making the annual levy in the year preceding the  
15 final maturity of any issue of district bonds, the board of directors  
16 shall levy a sufficient amount to pay and redeem all bonds of said  
17 issue then remaining unpaid. All surplus remaining in any bond fund  
18 after all bonds are paid in full must be transferred to the surplus  
19 fund of the district.

20 Any surplus moneys in the surplus fund or any surplus moneys in the  
21 bond fund when so requested by the board of directors shall be invested  
22 by the treasurer of said county under the direction of said board of  
23 directors in United States bonds or bonds of the state of Washington,  
24 or any bonds pronounced by the treasurer of the state of Washington as  
25 valid security for the deposit of public funds, and in addition thereto  
26 any bonds or warrants of said district, all of which shall be kept in  
27 the surplus fund until needed by the district for the purposes  
28 authorized by law.

29 **Sec. 499.** RCW 87.03.270 and 2009 c 350 s 6 are each amended to  
30 read as follows:

31 The assessment roll, before its equalization and adoption, shall be  
32 checked and compared as to descriptions and ownerships, with the county  
33 treasurer's land rolls. On or before the fifteenth day of January in  
34 each year the secretary must deliver the assessment roll or the  
35 respective segregation thereof to the county treasurer of each  
36 respective county in which the lands therein described are located, and

1 said assessments shall become due and payable after the county  
2 treasurer has completed the property tax roll for the current year's  
3 collection and provided the notification required by RCW 84.56.020.

4 All assessments on said roll shall become delinquent on the first  
5 day of May following the filing of the roll unless the assessments are  
6 paid on or before the thirtieth day of April of said year: PROVIDED,  
7 That if an assessment is ten dollars or more for said year and if one-  
8 half of the assessment is paid on or before the thirtieth day of April,  
9 the remainder shall be due and payable on or before the thirty-first  
10 day of October following and shall be delinquent after that date. All  
11 delinquent assessments shall bear interest at the rate of twelve  
12 percent per annum, computed on a monthly basis and without compounding,  
13 from the date of delinquency until paid.

14 Upon receiving the assessment roll the county treasurer shall  
15 prepare therefrom an assessment book in which shall be written the  
16 description of the land as it appears in the assessment roll, the name  
17 of the owner or owners where known, and if assessed to the unknown  
18 owners, then the word "unknown", and the total assessment levied  
19 against each tract of land. Proper space shall be left in said book  
20 for the entry therein of all subsequent proceedings relating to the  
21 payment and collection of said assessments.

22 On or before April 1st of each year, the treasurer of the district  
23 shall send a statement of assessments due. County treasurers who  
24 collect irrigation district assessments may send the statement of  
25 irrigation district assessments together with the statement of general  
26 taxes.

27 Upon payment of any assessment the county treasurer must enter the  
28 date of said payment in said assessment book opposite the description  
29 of the land and the name of the person paying and give a receipt to  
30 such person specifying the amount of the assessment and the amount paid  
31 with the description of the property assessed.

32 It shall be the duty of the treasurer of the district to furnish  
33 upon request of the owner, or any person interested, a statement  
34 showing any and all assessments levied as shown by the assessment roll  
35 in his or her office upon land described in such request. All  
36 statements of irrigation district assessments covering any land in the  
37 district shall show the amount of the irrigation district assessment,  
38 the dates on which the assessment is due, the place of payment, and, if

1 the property was sold for delinquent assessments in a prior year, the  
2 amount of the delinquent assessment and the notation "certificate  
3 issued": PROVIDED, That the failure of the treasurer to render any  
4 statement herein required of him or her shall not render invalid any  
5 assessments made by any irrigation district.

6 It shall be the duty of the county treasurer of any county, other  
7 than the county in which the office of the board of directors is  
8 located, to make monthly remittances to the county treasurer of the  
9 county in which the office of the board of directors is located  
10 covering all amounts collected by him or her for the irrigation  
11 district during the preceding month.

12 When the treasurer collects a delinquent assessment, the treasurer  
13 shall collect any other amounts due by reason of the delinquency,  
14 including accrued costs, which shall be deposited to the treasurer's  
15 operation and maintenance fund.

16 **Sec. 500.** RCW 87.03.272 and 1982 c 102 s 2 are each amended to  
17 read as follows:

18 Notwithstanding the provisions of RCW 87.03.260, 87.03.270,  
19 87.03.440, and 87.03.445, the board of directors of any district acting  
20 as fiscal agent for the United States or the state of Washington for  
21 the collection of any irrigation charges may authorize the secretary of  
22 the district to act as the exclusive collection agent for the  
23 collection of all nondelinquent irrigation assessments of the district  
24 pursuant to such rules and regulations as the board of directors may  
25 adopt.

26 When the secretary acts as collection agent, his or her official  
27 bond shall be of a sufficient amount as determined by the board of  
28 directors of the district to cover any amounts he or she may be  
29 handling while acting as collection agent, in addition to any other  
30 amount required by reason of his or her other duties.

31 The assessment roll of such district shall be delivered to the  
32 county treasurer in accordance with the provisions of RCW 87.03.260 and  
33 87.03.270 and the assessment roll shall be checked and verified by the  
34 county treasurer as provided in RCW 87.03.270.

35 After the assessment roll has been checked and verified by the  
36 county treasurer, the secretary of the district shall proceed to  
37 publish the notice as required under RCW 87.03.270; except that the

1 notice shall provide that until the assessments and tolls become  
2 delinquent on November 1st they shall be due and payable in the office  
3 of the secretary of the district.

4 When the secretary of such district receives payments, he or she  
5 shall issue a receipt for such payments and shall be accountable on his  
6 or her official bond for the safekeeping of such funds and shall remit  
7 the same, along with an itemized statement of receipts, at least once  
8 each month to the county treasurer wherein the land is located on which  
9 the payment was made.

10 When the county treasurer receives the monthly statement of  
11 receipts from the secretary, he or she shall enter the payments shown  
12 thereon on the assessment roll maintained in his or her office.

13 On the fifteenth day of November of each year it shall be the duty  
14 of the secretary to transmit to the county treasurer the delinquency  
15 list which shall include the names, amounts, and such other information  
16 as the county treasurer shall require, and thereafter the secretary  
17 shall not accept any payment on the delinquent portion of any account.  
18 Upon receipt of the list of delinquencies, the county treasurer shall  
19 proceed under the provisions of this chapter as though he or she were  
20 the collection agent for such district to the extent of such delinquent  
21 accounts.

22 **Sec. 501.** RCW 87.03.280 and 1925 c 3 s 1 are each amended to read  
23 as follows:

24 Where any district under contract with the United States has levied  
25 any assessment for the collection of money payable to the United States  
26 under such contract, and the secretary of the interior has by agreement  
27 with the board of directors of said district, authorized the extension  
28 or cancellation of any payments due to the United States by the  
29 cancellation of assessments already levied therefor but remaining  
30 unpaid, the board of directors of such district shall certify to the  
31 county treasurer of the county in which the land is located, a  
32 statement of the year and amounts assessed against each tract for which  
33 such cancellation has been authorized, and the county treasurer, upon  
34 receipt of such certificate, shall, in all cases where the assessment  
35 remains unpaid and the lands have not been sold, endorse upon the  
36 district's assessment roll, "Corrected under Certificate of Board of  
37 Directors" and shall deduct and cancel from the assessment against each

1 such tract the amount of such assessment so authorized to be canceled;  
2 and in all cases where such cancellations have been certified to the  
3 county treasurer after such lands assessed have been sold and before  
4 the period of redemption shall have expired, the county treasurer  
5 shall, in those cases where the tract assessed has been sold to the  
6 district, and the district is the owner of the certificate of sale,  
7 require the district to surrender its certificate of sale and shall  
8 thereupon deduct the amount of such cancellation plus the penalties  
9 thereon upon the original assessment roll with an endorsement,  
10 "Corrected under Certificate of Board of Directors" and he or she shall  
11 thereupon issue to the district in lieu of the certificate surrendered,  
12 a substitute certificate of sale for the corrected amount of such  
13 assessment, if any, remaining uncanceled, and shall file a copy thereof  
14 in the office of the county auditor as in the case of the original  
15 certificate surrendered, and such substitute certificate shall entitle  
16 the holder thereof to all rights possessed under the original  
17 certificate so corrected as to amount: PROVIDED, HOWEVER, That such  
18 cancellation shall have the same effect as though the lands had  
19 originally not been assessed for the amounts so deducted and shall not  
20 operate to bar the district of the right in making subsequent annual  
21 assessments to levy and collect against such tracts the amount of any  
22 money due the United States, including the amount of any assessments so  
23 canceled.

24 **Sec. 502.** RCW 87.03.440 and 1996 c 320 s 18 and 1996 c 214 s 1 are  
25 each reenacted and amended to read as follows:

26 The treasurer of the county in which is located the office of the  
27 district shall be ex officio treasurer of the district, and any county  
28 treasurer handling district funds shall be liable upon his or her  
29 official bond and to criminal prosecution for malfeasance and  
30 misfeasance, or failure to perform any duty as county or district  
31 treasurer. The treasurer of each county in which lands of the district  
32 are located shall collect and receipt for all assessments levied on  
33 lands within his or her county. There shall be deposited with the  
34 district treasurer all funds of the district. The district treasurer  
35 shall pay out such funds upon warrants issued by the county auditor  
36 against the proper funds of the district, except the sums to be paid  
37 out of the bond fund for interest and principal payments on bonds:

1 PROVIDED, That in those districts which designate their own treasurer,  
2 the treasurer may issue the warrants or any checks when the district is  
3 authorized to issue checks. All warrants shall be paid in the order of  
4 their issuance. The district treasurer shall report, in writing, on  
5 the first Monday in each month to the directors, the amount in each  
6 fund, the receipts for the month preceding in each fund, and file the  
7 report with the secretary of the board. The secretary shall report to  
8 the board, in writing, at the regular meeting in each month, the amount  
9 of receipts and expenditures during the preceding month, and file the  
10 report in the office of the board.

11 The preceding paragraph of this section notwithstanding, the board  
12 of directors or board of control of an irrigation district which lies  
13 in more than one county and which had assessments in each of two of the  
14 preceding three years equal to at least five hundred thousand dollars,  
15 or a board of joint control created under chapter 87.80 RCW, may  
16 designate some other person having experience in financial or fiscal  
17 matters as treasurer of the district. In addition, the board of  
18 directors of an irrigation district which lies entirely within one  
19 county may designate some other person having experience in financial  
20 or fiscal matters as treasurer of the district if the district had  
21 assessments, tolls, and miscellaneous collections in each of two of the  
22 preceding three years equal to at least two million dollars or if the  
23 board has the approval of the county treasurer to designate some other  
24 person. If a board designates a treasurer, it shall require a bond  
25 with a surety company authorized to do business in the state of  
26 Washington in an amount of two hundred fifty thousand dollars  
27 conditioned that he or she will faithfully perform the duties of his or  
28 her office as treasurer of the district. The premium on the bond shall  
29 be paid by the district. The designated treasurer shall collect and  
30 receipt for all irrigation district assessments on lands within the  
31 district and shall act with the same powers and duties and be under the  
32 same restrictions as provided by law for county treasurers acting in  
33 matters pertaining to irrigation districts, except the powers, duties,  
34 and restrictions in RCW 87.56.110 and 87.56.210 which shall continue to  
35 be those of county treasurers.

36 In those districts which have designated their own treasurers, the  
37 provisions of law pertaining to irrigation districts which require  
38 certain acts to be done and which refer to and involve a county

1 treasurer or the office of a county treasurer or the county officers  
2 charged with the collection of irrigation district assessments, except  
3 RCW 87.56.110 and 87.56.210 shall be construed to refer to and involve  
4 the designated district treasurer or the office of the designated  
5 district treasurer.

6 Any claim against the district for which it is liable under  
7 existing laws shall be presented to the board as provided in RCW  
8 4.96.020 and upon allowance it shall be attached to a voucher and  
9 approved by the ((~~chairman~~)) chair and signed by the secretary and  
10 directed to the proper official for payment: PROVIDED, That in the  
11 event claimant's claim is for crop damage, the claimant in addition to  
12 filing his or her claim within the applicable period of limitations  
13 within which an action must be commenced and in the manner specified in  
14 RCW 4.96.020 must file with the secretary of the district, or in the  
15 secretary's absence one of the directors, not less than three days  
16 prior to the severance of the crop alleged to be damaged, a written  
17 preliminary notice pertaining to the crop alleged to be damaged. Such  
18 preliminary notice, so far as claimant is able, shall advise the  
19 district; that the claimant has filed a claim or intends to file a  
20 claim against the district for alleged crop damage; shall give the name  
21 and present residence of the claimant; shall state the cause of the  
22 damage to the crop alleged to be damaged and the estimated amount of  
23 damage; and shall accurately locate and describe where the crop alleged  
24 to be damaged is located. Such preliminary notice may be given by  
25 claimant or by anyone acting in his or her behalf and need not be  
26 verified. No action may be commenced against an irrigation district  
27 for crop damages unless claimant has complied with the provisions of  
28 RCW 4.96.020 and also with the preliminary notice requirements of this  
29 section.

30 **Sec. 503.** RCW 87.03.442 and 1961 c 276 s 4 are each amended to  
31 read as follows:

32 The secretary or other authorized person shall issue receipts for  
33 all moneys received for deposit in such funds and he or she and any  
34 other person handling the funds shall furnish a surety bond to be  
35 approved by the board and the attorney for the district, in such amount  
36 as the board may designate and conditioned for the safekeeping of such  
37 funds and the premium thereon shall be paid by the district.

1        Upon depositing any district funds the secretary shall demand and  
2 the depositary bank shall furnish a surety bond, to be approved by the  
3 board and the attorney, in an amount equal to the maximum deposit,  
4 conditioned for the prompt payment of the deposits upon demand, and the  
5 bond shall not be canceled during the time for which it was written.  
6 Or the depositary may deposit with the secretary or in some bank to the  
7 credit of the district in lieu of the bond, securities approved by the  
8 board of a market value in an amount not less than the amount of the  
9 maximum deposit. All depositaries which have qualified for insured  
10 deposits under any federal deposit insurance act need not furnish bonds  
11 or securities, except for so much of the deposit as is not so insured.

12        **Sec. 504.** RCW 87.03.570 and 1889-90 p 695 s 50 are each amended to  
13 read as follows:

14        The board of directors, at the time and place mentioned in said  
15 notice, or at such other time or times to which the hearing of said  
16 petition may be adjourned, shall proceed to hear the petition and all  
17 the objections thereto presented in writing by any person showing  
18 cause, as aforesaid, why said proposed change of the boundaries of the  
19 district should not be made. The failure by any person interested in  
20 said district, or in the matter of the proposed change of its  
21 boundaries, to show cause in writing, as aforesaid, shall be deemed and  
22 taken as an assent on his or her part to a change of the boundaries of  
23 the district as prayed for in said petition, or to such a change  
24 thereof as will include a part of said lands. And the filing of such  
25 petition with said board, as aforesaid, shall be deemed and taken as an  
26 assent on the part of each and all of such petitioners to such a change  
27 of said boundaries that they may include the whole or any portion of  
28 the lands described in said petition.

29        **Sec. 505.** RCW 87.03.610 and 1889-90 p 698 s 58 are each amended to  
30 read as follows:

31        A guardian, an executor or administrator of an estate, who is  
32 appointed as such under the laws of this state, and who, as such  
33 guardian, executor or administrator, is entitled to the possession of  
34 the lands belonging to the estate which he or she represents, may, on  
35 behalf of his or her ward or the estate which he or she represents,  
36 upon being thereunto authorized by the proper court, sign and



1 acknowledge the petition in this act mentioned, and may show cause, as  
2 in this act mentioned, why the boundaries of the district should not be  
3 changed.

4 **Sec. 506.** RCW 87.03.660 and 1921 c 129 s 38 are each amended to  
5 read as follows:

6 The board of directors, at the time and place mentioned in the  
7 notice, or at the time or times to which the hearing of said petition  
8 may be adjourned, shall proceed to hear the petition, and all  
9 objections thereto presented in writing, by any person showing cause,  
10 as aforesaid, why the prayer of said petition should not be granted.  
11 The failure of any person interested in said district or consolidated  
12 district to show cause, in writing, why the tract or tracts of land  
13 mentioned in said petition should not be excluded from said district,  
14 or the former district mentioned should not be excluded from the  
15 consolidated district, as the case may be, shall be deemed and taken as  
16 an assent by him or her to such exclusion, and the filing of such  
17 petition with such board, as aforesaid, shall be deemed and taken as an  
18 assent by each and all of such petitioners to such exclusion.

19 **Sec. 507.** RCW 87.03.690 and 1889-90 p 703 s 71 are each amended to  
20 read as follows:

21 A guardian, and executor or an administrator of an estate who is  
22 appointed as such under the laws of this state, and who, as such  
23 guardian, executor or administrator, is entitled to the possession of  
24 the lands belonging to the estate which he or she represents, may, on  
25 behalf of his or her ward or the estate which he or she represents,  
26 upon being thereto properly authorized by the proper court, sign and  
27 acknowledge the petition in this act mentioned, and may show cause, as  
28 in this act provided, why the boundaries of the district should not be  
29 changed.

30 **Sec. 508.** RCW 87.03.760 and 1988 c 202 s 86 are each amended to  
31 read as follows:

32 At the conclusion, or final adjournment, of the hearing provided  
33 for in RCW 87.03.755, the board of directors of the district shall have  
34 the power, by unanimous resolution to adopt the proposed plan, or such  
35 modification thereof as may be determined by the board, and reduce the

1 boundaries of the district to such area as, in the judgment of the  
2 board, can be furnished with sufficient water for successful irrigation  
3 by the irrigation system of the district, and to exclude from the  
4 district all lands lying outside of such reduced boundaries, and  
5 provide for the repayment to the owners of any such excluded lands,  
6 respectively, of any sums paid for assessments levied by the district,  
7 and to cancel all unpaid assessments levied by the district against the  
8 lands excluded and release such lands from further liability therefor.  
9 Any person interested and feeling himself or herself aggrieved by the  
10 adoption of such final resolution reducing the boundaries of the  
11 district and excluding lands therefrom, shall have a right of appeal  
12 from the action of the board to the superior court of the county in  
13 which the district is situated, which appeal may be taken in the manner  
14 provided by law for appeals from justices' courts, and if upon the  
15 hearing of such appeal it shall be determined by the court that the  
16 irrigation system of the district will not furnish sufficient water for  
17 the successful irrigation of the lands included within the reduced  
18 boundaries of the district, or that any lands have been excluded from  
19 the district unnecessarily, arbitrarily, capriciously, or fraudulently  
20 or without substantial reason for such exclusion, the court shall enter  
21 a decree canceling and setting aside the proceedings of the board of  
22 directors, otherwise the court shall enter a decree confirming the  
23 action of the board. Any party to the proceedings on appeal in the  
24 superior court, feeling himself or herself aggrieved by the decree of  
25 the superior court confirming the action of the board of directors of  
26 the district reducing the boundaries of the district and excluding  
27 lands therefrom, may seek appellate review within thirty days after the  
28 entry of the decree of the superior court in the manner provided by  
29 law. If, at the expiration of thirty days from the entry of the final  
30 resolution of the board of directors of the district reducing the  
31 boundaries of the district and excluding lands therefrom, no appeal has  
32 been taken to the superior court of the county in which the district is  
33 situated, or if, after hearing upon appeal the superior court shall  
34 confirm the action of the district, and at the expiration of thirty  
35 days from the entry of such decree, no appellate review is sought, the  
36 boundaries of the district shall thereafter be in accordance with the  
37 resolution of the board reducing the boundaries, and all lands excluded  
38 from the district by such resolution shall be relieved from all further

1 liability for any indebtedness of the district or any unpaid  
2 assessments theretofore levied against such lands, and the owners of  
3 excluded lands, upon which assessments have been paid, shall be  
4 entitled to warrants of the district for all sums paid by reason of  
5 such assessments, payable from a special fund created for that purpose,  
6 for which levies shall be made upon the lands remaining in the  
7 district, as the board of directors may provide.

8 **Sec. 509.** RCW 87.03.765 and 1988 c 202 s 87 are each amended to  
9 read as follows:

10 Whenever it shall appear, to the satisfaction of the director of  
11 ecology, that the irrigation system of any irrigation district, to  
12 which the department of ecology of the state of Washington under a  
13 contract with the district for the purchase of its bonds, has advanced  
14 funds for the purpose of constructing an irrigation system for the  
15 district, has been found incapable of furnishing sufficient water for  
16 the successful irrigation of all of the lands of such district, and  
17 that the board of directors of such district has reduced the boundaries  
18 thereof and excluded from the district, as provided in RCW 87.03.750  
19 through 87.03.760, sufficient lands to render such irrigation system  
20 adequate for the successful irrigation of the lands of the district,  
21 and that more than thirty days have elapsed since the adoption of the  
22 resolution by the board of directors reducing the boundaries of the  
23 district and excluding lands therefrom, and no appeal has been taken  
24 from the action of the board, or that the action of the board has been  
25 confirmed by the superior court of the county in which the district is  
26 situated and no appeal has been taken to the supreme court or the court  
27 of appeals, or that upon review by the supreme court or the court of  
28 appeals the action of the board of directors of the district has been  
29 confirmed, the director of ecology shall be and he or she is hereby  
30 authorized to cancel and reduce the obligation of the district to the  
31 department of ecology, for the repayment of moneys advanced for the  
32 construction of an irrigation system for the district, to such amount  
33 as, in his or her judgment, the district will be able to pay from  
34 revenues derived from assessments upon the remaining lands of the  
35 district, and to accept, in payment of the balance of the obligation of  
36 the district, the authorized bonds of the district, in numerical order  
37 beginning with the lowest number, on the basis of the percentage of the

1 face value thereof fixed in contracts between the district and the  
2 department of ecology, in an amount equal to said balance of the  
3 obligation of the district, in full and complete satisfaction of all  
4 claims of the department of ecology against the district.

5 **Sec. 510.** RCW 87.03.820 and 1973 c 150 s 1 are each amended to  
6 read as follows:

7 Whenever as the result of abandonment of an irrigation district  
8 right-of-way real property held by an irrigation district is to be sold  
9 or otherwise disposed of, notice shall be given to the owners of lands  
10 adjoining that real property and such owners shall have a right of  
11 first refusal to purchase at the appraised price all or any part of the  
12 real property to be sold or otherwise disposed of which adjoins or is  
13 adjacent to their land.

14 Real property to be sold or otherwise disposed of under this  
15 section shall have been first appraised by the county assessor or by a  
16 person designated by him or her.

17 Notice under this section shall be sufficient if sent by registered  
18 mail to the owner, and at the address, as shown in the tax records of  
19 the county in which the land is situated. Notice under this section  
20 shall be in addition to any other notice required by law.

21 After sixty days from the date of sending of notice, if no  
22 applications for purchase have been received by the irrigation district  
23 or other person or entity sending notice, the rights of first refusal  
24 of owners of adjoining lands shall be deemed to have been waived, and  
25 the real property may be sold or otherwise disposed of.

26 If two or more owners of adjoining lands apply to purchase the same  
27 real property, or apply to purchase overlapping parts of the real  
28 property, the respective rights of the applicants may be determined in  
29 the superior court of the county in which the real property is  
30 situated; and the court may divide the real property in question  
31 between some or all of the applicants or award the whole to one  
32 applicant, as justice may require.

33 Any sale or other disposal of real property pursuant to chapters  
34 87.52, 87.53, and 87.56 RCW shall be made in accordance with the  
35 requirements of this section.

1       **Sec. 511.** RCW 87.04.010 and 1961 c 192 s 1 are each amended to  
2 read as follows:

3       An irrigation district comprising two hundred thousand or more  
4 acres, or irrigation districts comprising less than two hundred  
5 thousand acres which have followed the optional procedure specified in  
6 this amendatory act, shall be divided into divisions of as nearly equal  
7 area as practical, consistent with being fair and equitable to the  
8 electors of the district. The number of divisions shall be the same as  
9 the number of directors, which shall be numbered first, second, third,  
10 etc. One director, who shall be an elector of the division, shall be  
11 elected for each division of the district by the electors of his or her  
12 division. A district elector shall be considered an elector of the  
13 division in which he or she holds title to or evidence of title to  
14 land. An elector holding title to or evidence of title to land in more  
15 than one division shall be considered an elector of the division  
16 nearest his or her place of residence.

17       **Sec. 512.** RCW 87.22.065 and 1929 c 120 s 7 are each amended to  
18 read as follows:

19       Said notice shall state that the district (naming it) proposes to  
20 issue and dispose of a refunding bond issue specifying the amount; that  
21 proceedings have been instituted in the superior court of the state of  
22 Washington in and for the specified county to determine the maximum  
23 benefits to be received by the lands within the operation of said  
24 district from the issuance and disposal of said proposed bond issue,  
25 and further to determine the irrigable acreage which will be assessed  
26 for the payment of said bonds, shall state that a schedule of the lands  
27 involved together with a statement of the amount of maximum benefits  
28 received by the amount of irrigable acreage in each respectively, is on  
29 file in said proceedings and may be inspected by any interested person,  
30 shall state the time and place fixed for the hearing of the petition  
31 and shall state that any person interested in such proceedings may on  
32 or before the day fixed for said hearing file his or her written  
33 objections thereto with the clerk of said court, or he or she will be  
34 forever bound by such orders as the court shall make in such  
35 proceedings.

1       **Sec. 513.** RCW 87.22.215 and 1929 c 120 s 30 are each amended to  
2 read as follows:

3       Any bondholder or group of bondholders shall have the right to  
4 request said county treasurer in writing to pay the interest and  
5 installments of principal of his or her or their bond or bonds to such  
6 agent as may be designated in said request and payment to said agent  
7 shall constitute a valid payment to the record owner or owners of said  
8 bond or bonds within the provisions of this chapter.

9       **Sec. 514.** RCW 87.25.030 and 1988 c 127 s 51 are each amended to  
10 read as follows:

11       If, after the investigation herein provided for, the director finds  
12 that the project of the district is feasible, that the bond issue  
13 proposed to be certified is necessary and in sufficient amount to  
14 complete the improvement contemplated and that the district shows a  
15 clear probability of successful operation, he or she shall submit a  
16 complete transcript, to be furnished and certified by the district, of  
17 the proceedings relating to the organization and establishment of the  
18 district and relating to or affecting the validity of the bond issue  
19 involved, to the attorney general, for his or her written opinion as to  
20 the legality of the same. If the attorney general finds that any of  
21 the matters submitted in the transcript are not legally sufficient he  
22 or she shall so state in his or her opinion to the director of ecology.  
23 The district shall then be given an opportunity, if possible, to  
24 correct the proceeding or thing complained of to the satisfaction of  
25 the attorney general. If the attorney general finds that all the  
26 matters submitted in the transcript as originally submitted or as  
27 subsequently corrected are legally sufficient said director shall  
28 thereupon file his or her report with the secretary of state and  
29 forward a copy to the secretary of the district, to be kept among the  
30 records of the district.

31       **Sec. 515.** RCW 87.25.060 and 1923 c 51 s 6 are each amended to read  
32 as follows:

33       When the proposed bond issue has been finally approved by the  
34 director, he or she shall file a supplemental report with the secretary  
35 of state giving the numbers, date or dates of issue, and denominations

1 of said bonds which shall then be entitled to certification as herein  
2 provided.

3 **Sec. 516.** RCW 87.25.100 and 1988 c 127 s 55 are each amended to  
4 read as follows:

5 Whenever the bonds of any irrigation district have been certified,  
6 as provided in this chapter, no expenditures shall be made from the  
7 proceeds of such bonds, nor shall any liability chargeable against such  
8 proceeds be incurred, until there shall have been filed with and  
9 approved by the director of ecology a schedule of proposed expenditures  
10 in such form as said director shall prescribe, and no expenditures from  
11 the proceeds of said bonds shall be made for any purpose in excess of  
12 the amount allowed therefor in such schedule without the written  
13 consent of said director: PROVIDED, FURTHER, That, if it shall be  
14 necessary, the attorney general may employ competent attorneys to  
15 assist him or her in the performance of his or her duties under this  
16 chapter, said attorneys to be paid by the irrigation district for which  
17 services are rendered from any of the funds of said district at such  
18 time and in such manner as the attorney general shall require.

19 **Sec. 517.** RCW 87.52.030 and 1897 c 79 s 3 are each amended to read  
20 as follows:

21 Upon the delivery of said petition the board of directors of said  
22 irrigation district shall, at their next succeeding regular monthly  
23 meeting, order an election, the date of which election shall be within  
24 twenty days from the date of said meeting of the board of directors and  
25 which election shall be conducted as other elections of irrigation  
26 districts are conducted. At said election the qualified electors of  
27 said irrigation district shall cast ballots which shall contain the  
28 words "Disorganize, Yes," or "Disorganize, No." No person shall be  
29 entitled to vote at any election held under the provisions of RCW  
30 87.52.010 through 87.52.060 unless he or she is a qualified voter under  
31 the election laws of the state, and holds title or evidence of title to  
32 land in said district.

33 **Sec. 518.** RCW 87.52.040 and 1897 c 79 s 4 are each amended to read  
34 as follows:

35 If three-fifths of the votes cast at any election under the

1 provisions of RCW 87.52.010 through 87.52.060 shall contain the words  
2 "Disorganize, Yes," then the board of directors shall present to the  
3 superior judge of the county in which said irrigation district is  
4 located an application for an order of said superior court that such  
5 irrigation district be declared disorganized and dissolved, and that  
6 its affairs be liquidated and wound up, as provided for in RCW  
7 87.52.010 through 87.52.060, and reciting that at an election of such  
8 irrigation district, held as provided in RCW 87.52.010 through  
9 87.52.060, three-fifths of the votes cast contained the words  
10 "Disorganize, Yes," and such petition shall be certified to by the  
11 directors of said district. They shall also file with said superior  
12 court a statement, sworn to by the directors of said irrigation  
13 district, showing all outstanding indebtedness of said irrigation  
14 district, or if there be no such indebtedness, then the directors shall  
15 make oath to that effect. Notice of said application shall be given by  
16 the clerk, which notice shall set forth the nature of the application,  
17 and shall specify the time and place at which it is to be heard, and  
18 shall be published in a newspaper of the county printed and published  
19 nearest to said irrigation district, once each week for four weeks, or  
20 if no newspaper is published in the county, by publication in the  
21 newspaper nearest thereto in the state. At the time and place  
22 appointed in the notice, or at any other time to which it may be  
23 postponed by the judge, he or she shall proceed to consider the  
24 application, and if satisfied that the provisions of RCW 87.52.010  
25 through 87.52.060 have been complied with he or she shall enter an  
26 order declaring said irrigation district dissolved and disorganized.

27 **Sec. 519.** RCW 87.52.060 and 1897 c 79 s 5 are each amended to read  
28 as follows:

29 Upon the disorganization of any irrigation district under the  
30 provisions of RCW 87.52.010 through 87.52.060, the board of directors  
31 at the time of the disorganization shall be trustees of the creditors  
32 and of the property holders of said district for the purpose of  
33 collecting and paying all indebtedness of said district, in which  
34 actual construction work has been done, and shall have the power to sue  
35 and be sued. It shall be the duty of said board of directors, and they  
36 shall have the power and authority, to levy and collect a tax  
37 sufficient to pay all such indebtedness, which tax shall be levied and



1 collected in the manner prescribed by law for the levying and  
2 collection of taxes of irrigation districts. Any balance of moneys of  
3 said district remaining over after all outstanding indebtedness and the  
4 cost of the proceedings under RCW 87.52.010 through 87.52.060 have been  
5 paid shall be divided and refunded to the assessment payers in said  
6 irrigation district, to each in proportion to the amount contributed by  
7 him or her to the total amount of assessments collected by said  
8 district. Said board of directors shall report to the court from time  
9 to time as the court may direct, and upon a showing to the court that  
10 all indebtedness has been paid, an order shall be entered discharging  
11 said board of directors. Upon the entry of such order said board of  
12 directors and all the officers of said district shall deliver over to  
13 the clerk of said court all books, papers, records, and documents  
14 belonging to said district, or under their control as officers thereof:  
15 PROVIDED, That nothing herein contained shall be construed to validate  
16 or authorize the payment of any indebtedness of said district exceeding  
17 the legal limitation of indebtedness specified by law for irrigation  
18 districts; or any indebtedness contracted by such irrigation district  
19 or its officers without lawful authority.

20 **Sec. 520.** RCW 87.53.100 and 1951 c 237 s 10 are each amended to  
21 read as follows:

22 Upon the entry of final judgment, the court shall issue an order  
23 appointing a trustee for the district and shall deliver to him or her  
24 a certified copy of the order. The court shall fix the compensation of  
25 the trustee and the amount of his or her bond to be obtained at the  
26 cost of the district.

27 **Sec. 521.** RCW 87.53.120 and 1951 c 237 s 12 are each amended to  
28 read as follows:

29 The trustee shall file with the clerk a report of the disposition  
30 made of the cash funds and of the sale and if the court finds the sale  
31 was fairly conducted, it shall enter an order confirming the sale, and  
32 the trustee shall execute and deliver to the purchaser an instrument  
33 conveying to him or her all property and rights of the district, free  
34 from all claims of the district or its creditors, which shall entitle  
35 the purchaser to immediate possession.

1           **Sec. 522.** RCW 87.53.150 and 1988 c 127 s 62 are each amended to  
2 read as follows:

3           Whenever any bonds of the district are held in the state  
4 reclamation revolving account, and, in the opinion of the director of  
5 ecology, the district is or will be unable to meet its obligations, and  
6 that the state's investment can be best preserved by the dissolution of  
7 the district the director may give his or her consent to dissolution  
8 under such stipulations and adjustments of the indebtedness as he or  
9 she deems best for the state.

10           **Sec. 523.** RCW 87.56.040 and 1925 ex.s. c 124 s 4 are each amended  
11 to read as follows:

12           Such action shall be one in rem and personal service of process  
13 shall not be required to be made on any interested person: PROVIDED,  
14 That the court shall be authorized in proper instances to order  
15 issuance and personal service of process specifying such time for  
16 appearance as the court shall require, AND PROVIDED FURTHER, That any  
17 owner of land within the district or any creditor of the district or  
18 their respective attorneys may file with the receiver provided for in  
19 this chapter, a written request that his or her name and address be  
20 placed on the receiver's mailing list and thereafter the receiver shall  
21 mail to such person at his or her given address at least ten days'  
22 written notice of all subsequent hearings before the court. Personal  
23 service of said notice may be made in any instance in lieu of mailing  
24 at the option of the receiver.

25           **Sec. 524.** RCW 87.56.180 and 1925 ex.s. c 124 s 23 are each amended  
26 to read as follows:

27           The judgment shall also name a trustee to be nominated by the  
28 creditors representing a majority of the indebtedness who shall give  
29 bond conditioned for the faithful performance of his or her duties and  
30 the strict accounting of all funds received by him or her in such  
31 amount as the court shall determine, and who shall have authority to  
32 receive payment on account of said judgment and to satisfy said  
33 judgment against the several lands at the time payment thereon is made  
34 by the landowners in proportion to the amount of said payment. When  
35 any landowner shall make full payment of the amount of the judgment

1 apportioned against his or her land, he or she shall be entitled to  
2 full satisfaction thereof of record.

3 **Sec. 525.** RCW 87.56.190 and 1925 ex.s. c 124 s 24 are each amended  
4 to read as follows:

5 In case any landowner fails to pay the judgment against his or her  
6 land or any installment thereof, when the same shall become due and  
7 payable, said judgment may be enforced by the trustee named in the  
8 decree in the manner provided by law for the enforcement of judgments  
9 in the superior court, and the costs of execution and sale shall be  
10 charged to the defaulting land.

11 **Sec. 526.** RCW 87.56.203 and 1925 ex.s. c 124 s 26 are each amended  
12 to read as follows:

13 The trustee named in the decree shall receive such compensation for  
14 his or her services as the court shall determine to be paid at such  
15 times as the court shall fix from funds collected on account of said  
16 judgment.

17 **Sec. 527.** RCW 87.56.210 and 1925 ex.s. c 124 s 28 are each amended  
18 to read as follows:

19 If the judgment rendered by the court, upon stipulation, be not  
20 appealed from as in this chapter provided and the time for appeal has  
21 expired, or having been appealed from has been finally determined upon  
22 appeal, the court shall upon application of the receiver, order all  
23 evidences of indebtedness filed in the registry of the court under the  
24 provisions relating to judgment upon stipulation to be delivered to the  
25 office of the county treasurer, who shall have authority and it shall  
26 be his or her duty to cancel the same, and said evidences of  
27 indebtedness shall thereafter cease to be obligations of the district,  
28 and the district thereafter shall be discharged of said indebtedness.

29 **Sec. 528.** RCW 87.64.010 and 1983 c 167 s 243 are each amended to  
30 read as follows:

31 Whenever the state shall now or hereafter own, the entire issue of  
32 the bonds of any irrigation, diking or drainage district, and in the  
33 judgment of the director of ecology such district is, or will be,  
34 unable to meet its obligations to the state as they mature, and in the

1 judgment of the director of ecology the investment of the state can be  
2 made more secure by extending, without refunding, the time of payment  
3 of any or all said bonds and interest payments, or by the exchange of  
4 the bonds held by the state for refunding bonds of such district issued  
5 as in the manner provided by law at the same or a lower rate of  
6 interest and/or for a longer term, or by the cancellation of a portion  
7 of the bonds held by the state and/or interest accrued thereon, and the  
8 exchange of the remaining bonds held by the state for the refunding  
9 bonds of the district issued in the manner provided by law at the same  
10 or a lower rate of interest and/or for the same or a longer term, the  
11 director of ecology shall be and is hereby authorized and empowered to  
12 enter into contract with the district so extending the time of payment  
13 of said bonds and interest payments, without refunding or to so  
14 exchange the bonds held by the state for such refunding bonds or to  
15 cancel a portion of the bonds held by the state and/or interest accrued  
16 thereon, and exchange the remaining bonds held by the state for such  
17 refunding bonds as in his or her judgment will be for the best interest  
18 of the state.

19 **Sec. 529.** RCW 87.64.020 and 1983 c 167 s 244 are each amended to  
20 read as follows:

21 Whenever the state shall, now or hereafter, own a portion of the  
22 bonds of any irrigation, diking, or drainage district, and in the  
23 judgment of the director of ecology such district is, or will be,  
24 unable to meet its obligations as they mature, and in the judgment of  
25 the director of ecology the investment of the state can be made more  
26 secure by extending, without refunding, the time of payment of any or  
27 all said bonds and interest payments or by exchanging the bonds held by  
28 the state for the refunding bonds of the district issued in the manner  
29 provided by law at the same or a lower rate of interest and/or for a  
30 longer term, or by the cancellation of a portion of the bonds held by  
31 the state and/or interest accrued thereon, and the exchange of the  
32 remaining bonds held by the state for the refunding bonds of the  
33 district issued in the manner provided by law at the same or a lower  
34 rate of interest and/or for a longer term, the director of ecology  
35 shall be and is hereby authorized and empowered to enter into contract  
36 with the district so extending the time of payment of said bonds and  
37 interest payments, without refunding, or to so exchange the bonds held

1 by the state for such refunding bonds or to cancel a portion of the  
2 bonds held by the state and/or interest accrued thereon, and exchange  
3 the remaining bonds held by the state for such refunding bonds as in  
4 his or her judgment will be for the best interest of the state:  
5 PROVIDED, That the owners of at least ninety percent of all the other  
6 bonds of said district shall make and execute the same arrangement with  
7 the district: AND PROVIDED FURTHER, That when, in addition to owning  
8 a portion of the first issue of bonds of any such irrigation, diking,  
9 or drainage district, the state also owns all the outstanding second  
10 issue of bonds of such district, the director of ecology shall be and  
11 he or she is hereby authorized and empowered to surrender and cancel  
12 said second issue of bonds held by the state upon whatsoever terms and  
13 conditions he or she shall deem to the best interest of the state: AND  
14 PROVIDED FURTHER, That whenever the owners of at least ninety percent  
15 of all other bonds of such district and/or other evidences of  
16 indebtedness are willing to release their existing obligations against  
17 said district and to substitute therefor a contract to pay such  
18 existing indebtedness in whole or in part from the proceeds of the sale  
19 of lands owned by the district at the time of such settlement, or  
20 acquired by the district through levies then existing, the director of  
21 ecology shall be and he or she is hereby authorized and empowered to  
22 cancel the bonds held by the state upon whatsoever terms that he or she  
23 shall deem most beneficial for the state, or if deemed beneficial to  
24 the state, he or she may release the state's bonds and join with the  
25 other holders in the above mentioned contract for the sale of the  
26 district land as hereinbefore stated: AND PROVIDED FURTHER, That the  
27 director of ecology be and he or she is hereby authorized to accept in  
28 any settlement made under this chapter, refunding bonds of any  
29 irrigation district that may be issued in accordance with chapter 87.22  
30 RCW, or any amendment thereto, and he or she is hereby authorized, when  
31 in his or her judgment it is to the interest of the state, to  
32 participate in the refunding of bonds of an irrigation district held  
33 under said chapter 87.22 RCW, or any amendment thereto.

34 **Sec. 530.** RCW 87.64.040 and 1988 c 127 s 64 are each amended to  
35 read as follows:

36 Whenever the department of ecology shall have heretofore entered,  
37 or shall hereafter enter, into a contract with an irrigation, diking,

1 or drainage district and shall have expended moneys under said  
2 contract, and said district shall be indebted to the state for the  
3 moneys so expended, and in the judgment of the director of ecology said  
4 district shall have not received benefits equal to the amount of said  
5 indebtedness, the director of ecology shall be and is hereby authorized  
6 and empowered to settle and compromise the claim of the state against  
7 said district upon such terms and for such an amount as he or she shall  
8 deem fair and just to the state and the district.

9 **Sec. 531.** RCW 87.84.070 and 1973 1st ex.s. c 195 s 132 are each  
10 amended to read as follows:

11 The directors shall be empowered to specially assess land located  
12 in the district for benefits thereto taking as a basis the last  
13 equalized assessment for county purposes: PROVIDED, That such  
14 assessment shall not exceed twenty-five cents per thousand dollars of  
15 assessed value upon such assessed valuation without securing  
16 authorization by vote of the electors of the district at an election  
17 called for that purpose.

18 The board shall give notice of such an election, for the time and  
19 in the manner and form provided for irrigation district elections. The  
20 manner of conducting and voting at such an election, opening and  
21 closing polls, canvassing the votes, certifying the returns, and  
22 declaring the result shall be nearly as practicable the same as in  
23 irrigation district elections.

24 The special assessment provided for herein shall be due and payable  
25 at such times and in such amounts as designated by the district  
26 directors, which designation shall be made to the county auditor in  
27 writing, and the amount so designated shall be added to the general  
28 taxes, and entered upon the assessment rolls in his or her office, and  
29 collected therewith.

30 **Sec. 532.** RCW 88.08.060 and 1909 c 249 s 293 are each amended to  
31 read as follows:

32 Every person not duly licensed thereto, who shall pilot or offer to  
33 pilot any vessel into, within or out of the waters of Juan de Fuca  
34 Strait or Puget Sound, shall be guilty of a misdemeanor: PROVIDED,  
35 That nothing herein shall prohibit a master of a vessel acting as his

1 or her own pilot, nor compel a master or owner of any vessel to take  
2 out a pilot license for that purpose.

3 **Sec. 533.** RCW 88.16.130 and 1977 ex.s. c 337 s 14 are each amended  
4 to read as follows:

5 Any person not holding a license as pilot under the provisions of  
6 this chapter who pilots any vessel subject to the provisions of this  
7 chapter on waters covered by this chapter shall pay to the board the  
8 pilotage rates payable under the provisions of this chapter. Any  
9 master or owner of a vessel required to employ a pilot licensed under  
10 the provisions of this chapter who refuses to do so when such a pilot  
11 is available shall be punished pursuant to RCW 88.16.150 as now or  
12 hereafter amended and shall be imprisoned in the county jail of the  
13 county wherein he or she is so convicted until said fine and the costs  
14 of his or her prosecution are paid.

15 **Sec. 534.** RCW 88.24.010 and Code 1881 s 3271 are each amended to  
16 read as follows:

17 Any person owning land adjoining any navigable waters or  
18 watercourse, within or bordering upon this state, may erect upon his or  
19 her own land any wharf or wharves, and may extend them so far into said  
20 waters or watercourses as the convenience of shipping may require; and  
21 he or she may charge for wharfage such rates as shall be reasonable:  
22 PROVIDED, That he or she shall at all times leave sufficient room in  
23 the channel for the ordinary purposes of navigation.

24 **Sec. 535.** RCW 88.24.020 and 1893 c 49 s 1 are each amended to read  
25 as follows:

26 (1) Whenever any person shall be desirous of erecting any wharf at  
27 the terminus of any public highway, or at any accustomed landing place,  
28 he or she may apply to the county commissioners of the proper county,  
29 who, if they shall be satisfied that the public convenience requires  
30 said wharf, may authorize the same to be erected and kept up for any  
31 length of time not exceeding twenty years. And they shall annually  
32 prescribe the rates of wharfage and charges thereon, but there shall be  
33 no charge for the landing of passengers or their baggage.

34 (2) No such authority shall be granted to any person other than the  
35 owner of the land where the wharf is proposed to be erected, unless

1 such owner shall neglect to apply for such authority; and whenever  
2 application shall be made for such authority by any person other than  
3 such owner, the board of county commissioners shall not grant the same  
4 unless proof shall be made that the applicant caused notice in writing  
5 of his or her intention to make such application, to be given by  
6 posting up at least three notices in public places in the neighborhood  
7 where the proposed wharf is to be erected and one notice at the county  
8 court house, twenty days prior to any regular session of the board of  
9 county commissioners at which application shall be made and by serving  
10 a copy of said notice in writing upon such owner of the land, if  
11 residing in the county, at least ten days before the session of the  
12 board of county commissioners at which the application is made.

13 (3) When such application is heard, if the owner of such land  
14 applies for such authority and files his or her undertaking with one or  
15 more sureties to be approved by the county commissioners in a sum not  
16 less than one hundred dollars nor more than five hundred dollars, to be  
17 fixed by the county commissioners, conditioned that such person will  
18 erect said wharf within the time therein limited, to be fixed by the  
19 county commissioners, and maintain the same and keep said wharf  
20 according to law; and if default shall at any time be made in the  
21 condition of such undertaking damages not exceeding the penalty may be  
22 recovered by any person aggrieved before any court having competent  
23 jurisdiction, then said county commissioners shall authorize such owner  
24 of the land to erect and keep such wharf.

25 (4) If such owner of the land does not apply as aforesaid the  
26 commissioners may authorize the same to be erected and kept by such  
27 applicant upon his or her entering into an undertaking as required of  
28 such owner of the land.

29 **Sec. 536.** RCW 88.24.030 and Code 1881 s 3273 are each amended to  
30 read as follows:

31 Whenever any person or persons shall be desirous of erecting a  
32 wharf at the terminus of any street of any incorporated town or city in  
33 the state, he or she or they may apply to the municipal authorities of  
34 such town or city who, if they shall be satisfied that the public  
35 convenience requires said wharf, may authorize the same to be erected  
36 and kept in repair for any length of time not exceeding ten years; and  
37 every person building, owning or occupying a wharf in this state, upon



1 which wharfage is charged and received, shall be held accountable to  
2 the owner or owners, consignees or agents, for any and all damage done  
3 to property stored upon, or passing over said wharf, in consequence of  
4 the unfinished, incomplete, or insufficient condition of said wharf;  
5 and every such person shall post or cause to be posted in a conspicuous  
6 place on said wharf the established rates of wharfage, noting  
7 passengers and their baggage free.

8 **Sec. 537.** RCW 88.32.020 and 1907 c 236 s 2 are each amended to  
9 read as follows:

10 Whenever the board of county commissioners of any such county shall  
11 have adjudged as provided in RCW 88.32.010, said board shall thereupon  
12 apply to the person, who, for the time being, shall be judge of the  
13 United States district court, for the district within which the county  
14 shall be situated, to name eleven reputable citizens and freeholders of  
15 such county and file a list thereof with said board of county  
16 commissioners. The persons so named, or a majority of them, shall act  
17 as a commission, and be known as the "river and harbor improvement  
18 commission of . . . . . county", and shall receive no compensation,  
19 except their actual necessary expenses, including necessary clerical  
20 assistance, to be audited by the board of county commissioners; and  
21 they shall be deemed the agents of the county in the performance of the  
22 duties imposed upon them by RCW 88.32.010 through 88.32.220. Each  
23 member of such commission shall, before entering upon his or her  
24 duties, take and subscribe an oath, substantially as follows:

25 "State of Washington }  
26 } ss.  
27 County of .....

28 I, the undersigned, a member of the river and harbor improvement  
29 commission of . . . . . county, to define and establish the  
30 assessment district and assess the costs of the following improvement  
31 (here give the general description of the improvement), do solemnly  
32 swear (or affirm, as the case may be), that I will well and truly  
33 discharge my duties as a member of said commission." In case the  
34 person who is United States judge shall be unable or decline to act,

1 the board of county commissioners shall name the eleven persons to act  
2 as such commission.

3 **Sec. 538.** RCW 88.32.040 and 1907 c 236 s 3 are each amended to  
4 read as follows:

5 It shall be the duty of such commission to define and establish an  
6 assessment district, within such county, comprising all the taxable  
7 real property, and also (with the limitations hereinafter expressed)  
8 the state shorelands, which shall be specially benefited by said river,  
9 lake, canal, or harbor improvement, and to apportion and assess the  
10 amount of separate, special, and particular benefits against each lot,  
11 block, parcel, or tract of land or shoreland within such district, by  
12 reason of such improvement. The commission in making the assessment  
13 shall include in the properties upon (~~(which)~~) which the assessment  
14 is laid, all shorelands of the state, whether unsold or under contract  
15 of sale and subject to sale by it and as against all purchasers from  
16 the state or under contract to purchase such lands, the assessment  
17 shall be a charge upon such land and the purchaser's interest therein.  
18 The county auditor shall certify to the state commissioner of public  
19 lands a schedule of the state shorelands so assessed and of the  
20 assessment thereon, and the purchaser shall from time to time pay to  
21 the proper county treasurer the sums due and unpaid under such  
22 assessment, and at the time of such payment the county treasurer shall  
23 give him or her, in addition to a regular receipt for such payment, a  
24 certificate that such payment has been made, which certificate the  
25 purchaser shall immediately file with the commissioner of public lands,  
26 and no patent from the state nor deed shall issue to such purchaser,  
27 nor shall any assignment of his or her contract to purchase be approved  
28 by the commissioner of public lands until every matured installment of  
29 such assessment shall have first been fully paid and satisfied:  
30 PROVIDED, HOWEVER, That no such assessment shall create any charge  
31 against such shoreland or affect the title thereof as against the  
32 state, and the state shall be as free to forfeit or annul such contract  
33 and again sell such land as if the assessment had never been made, and  
34 in case of such forfeiture or annulment the state shall be free to sell  
35 again such land entirely disencumbered and unencumbered of all right  
36 and claim of such former purchaser, and such purchaser shall have no  
37 right, interest, or claim upon or against such land or the state or

1 such new purchaser or at all, but every such sum paid by such former  
2 purchaser upon such assessment shall be utterly forfeited as against  
3 him or her, his or her personal representatives and assigns, and shall  
4 inure to the benefit of such new purchaser.

5 **Sec. 539.** RCW 88.32.090 and 1988 c 202 s 90 are each amended to  
6 read as follows:

7 Any person who feels aggrieved by the final assessment made against  
8 any lot, block, or parcel of land owned by him or her may appeal  
9 therefrom to the superior court of such county. Such appeal shall be  
10 taken within the time, and substantially in the manner prescribed by  
11 the laws of this state for appeals from justice's courts. All notices  
12 of appeal shall be filed with the board of county commissioners, and  
13 served upon the prosecuting attorney of the county. The clerk of the  
14 board of county commissioners shall at appellant's expense certify to  
15 the superior court so much of the record, as appellant may request, and  
16 the cause shall be tried in the superior court de novo.

17 Any person aggrieved by any final order or judgment, made by the  
18 superior court concerning any assessment authorized by RCW 88.32.010  
19 through 88.32.220, may seek appellate review of the order or judgment  
20 in accordance with the laws of this state relative to such review,  
21 except that review shall be sought within thirty days after the entry  
22 of such judgment.

23 **Sec. 540.** RCW 88.32.100 and 1907 c 236 s 8 are each amended to  
24 read as follows:

25 The final assessment shall be a lien, paramount to all other liens,  
26 except liens for taxes and other special assessments, upon the property  
27 assessed, from the time the assessment roll shall be approved by said  
28 board of county commissioners and placed in the hands of the county  
29 treasurer, as collector. After said roll shall have been delivered to  
30 the county treasurer for collection, he or she shall proceed to collect  
31 the same, in the manner as other taxes are collected: PROVIDED, That  
32 such treasurer shall give at least ten days' notice in the official  
33 newspaper (and shall mail a copy of such notice to the owner of the  
34 property assessed, when the post office address of such owner is known,  
35 but failure to mail such notice shall not be fatal when publication  
36 thereof is made), that such roll has been certified to him or her for

1 collection, and that unless payment be made within thirty days from the  
2 date of such notice, that the sum charged against each lot or parcel of  
3 land shall be paid in not more than ten equal annual payments, with  
4 interest upon the whole sum so charged at a rate not to exceed seven  
5 percent per annum. Said interest shall be paid semiannually, and the  
6 county treasurer shall proceed to collect the amount due each year by  
7 the publication of notice as hereinabove provided.

8 **Sec. 541.** RCW 88.32.140 and 1983 c 167 s 245 are each amended to  
9 read as follows:

10 (1) In all cases, the county, as the agent of the local improvement  
11 district, shall, by resolution of its county legislative authority,  
12 cause to be issued in the name of the county, the bonds for such local  
13 improvement district for the whole estimated cost of such improvement,  
14 less such amounts as shall have been paid within the thirty days  
15 provided for redemption, as hereinabove specified. Such bonds shall be  
16 called "Local Improvement Bonds, District No. . . . ., County of  
17 . . . . ., State of Washington", and shall be payable not more than  
18 ten years after date, and shall be subject to annual call by the county  
19 treasurer, in such manner and amounts as he or she may have cash on  
20 hand to pay the same in the respective local improvement fund from  
21 which such bonds are payable, interest to be paid at the office of the  
22 county treasurer. Such bonds shall be issued and delivered to the  
23 contractor for the work from month to month in such amounts as the  
24 engineer of the government, in charge of the improvement, shall certify  
25 to be due on account of work performed, or, if said county legislative  
26 authority resolves so to do, such bonds may be offered for sale after  
27 thirty days public notice thereof given, to be delivered to the highest  
28 bidder therefor, but in no case shall such bonds be sold for less than  
29 par, the proceeds to be applied in payment for such improvement:  
30 PROVIDED, That unless the contractor for the work shall agree to take  
31 such bonds in payment for his or her work at par, such work shall not  
32 be begun until the bonds shall have been sold and the proceeds shall  
33 have been paid into a fund to be called "Local Improvement Fund No.  
34 . . . . ., County of . . . . .", and the owner or owners of such bonds  
35 shall look only to such fund for the payment of either the principal or  
36 interest of such bonds.

1 Such bonds shall be issued in denominations of one hundred dollars  
2 each, and shall be substantially in the following form:

3 "Local Improvement Bond, District Number . . . . of the County of  
4 . . . . ., State of Washington.

5  
6 No. .... N.B. .... \$.....  
7 This bond is not a general debt of the county of . . . . . and  
8 has not been authorized by the voters of said county as a part of its  
9 general indebtedness. It is issued in pursuance of an act of the  
10 legislature of the state of Washington, passed the . . . . day of  
11 . . . . . A.D. 1907, and is a charge against the fund herein  
12 specified and its issuance and sale is authorized by the resolution of  
13 the county legislative authority, passed on the . . . . day of  
14 . . . . . A.D. 1907. The county of . . . . ., a municipal  
15 corporation of the state of Washington, hereby promises to pay to  
16 . . . . ., or bearer, one hundred dollars, lawful money of the United  
17 States of America, out of the fund established by resolution of the  
18 county legislative authority on the . . . . day of . . . . ., A.D.  
19 19. . ., and known as local improvement fund district number . . . . of  
20 . . . . . county, and not otherwise.

21 "This bond is payable ten years after date, and is subject to  
22 annual call by the county treasurer at the expiration of any year  
23 before maturity in such manner and amounts as he or she may have cash  
24 on hand to pay the same in the said fund from which the same is  
25 payable, and shall bear interest at the rate of . . . . percent per  
26 annum, payable semiannually; both principal and interest payable at the  
27 office of the county treasurer. The county legislative authority of  
28 said county, as the agent of said local improvement district No.  
29 . . . ., established by resolution No. . . . ., has caused this bond to  
30 be issued in the name of said county, as the bond of said local  
31 improvement district, the proceeds thereof to be applied in part  
32 payment of so much of the cost of the improvement of the rivers, lakes,  
33 canals, or harbors of . . . . . county, under resolution No. . . . .,  
34 as is to be borne by the owners of property in said local improvement  
35 district, and the said local improvement fund, district No. . . . . of  
36 . . . . . county, has been established by resolution for said

1 purpose; and the owner or owners of this bond shall look only to said  
2 fund for the payment of either the principal or interest of this bond.

3 "The call for the payment of this bond or any bond, issued on  
4 account of said improvement, may be made by the county treasurer by  
5 publishing the same in an official newspaper of the county for ten  
6 consecutive issues, beginning not more than twenty days before the  
7 expiration of any year from date hereof, and if such call be made,  
8 interest on this bond shall cease at the date named in such call.

9 "This bond is one of a series of . . . . . bonds, aggregating in  
10 all the principal sum of . . . . . dollars, issued for said local  
11 improvement district, all of which bonds are subject to the same terms  
12 and conditions as herein expressed.

13 "In witness whereof the said county of . . . . . has caused these  
14 presents to be signed by its ((~~chairman~~)) chair of its county  
15 legislative authority, and countersigned by its county auditor and  
16 sealed with its corporate seal, attested by its county clerk, this  
17 . . . . day of . . . . ., in the year of our Lord one thousand nine  
18 hundred and . . . . .

19 The County of .....  
20 By .....  
21 ((~~Chairman~~)) Chair County Legislative  
22 Authority.  
23 Countersigned, . . . . . County Auditor.  
24 Attest, . . . . . Clerk."

25 The bonds may be in any form, including bearer bonds or registered  
26 bonds as provided in RCW 39.46.030.

27 (2) Notwithstanding subsection (1) of this section, such bonds may  
28 be issued and sold in accordance with chapter 39.46 RCW.

29 **Sec. 542.** RCW 88.32.160 and 1983 c 167 s 246 are each amended to  
30 read as follows:

31 Each and every bond issued for any such improvement shall be signed  
32 by the ((~~chairman~~)) chair of the county legislative authority and the  
33 county auditor, sealed with the corporate seal of the county, and  
34 attested by the county clerk. The bonds issued for each local  
35 improvement district shall be in the aggregate for such an amount as  
36 authorized by the resolution of the county legislative authority with

1 reference to such river, lake, canal or harbor improvement, and each  
2 issue of such bonds shall be numbered consecutively, beginning with  
3 number 1.

4 **Sec. 543.** RCW 88.32.170 and 1983 c 167 s 247 are each amended to  
5 read as follows:

6 The owner of any lot or parcel of land charged with any assessment  
7 as provided for hereinabove, may redeem the same from all liability by  
8 paying the entire assessment charged against such lot or parcel of  
9 land, or part thereof, without interest, within thirty days after  
10 notice to him or her of such assessment, as herein provided, or may  
11 redeem the same at any time after the bonds above specified shall have  
12 been issued, by paying the full amount of all the principal and  
13 interest to the end of the interest year then expiring, or next to  
14 expire. The county treasurer shall pay the interest on the bonds  
15 authorized to be issued under RCW 88.32.010 through 88.32.220 out of  
16 the respective local improvement funds from which they are payable, and  
17 whenever there shall be sufficient money in any local improvement fund,  
18 against which bonds have been issued under the provisions of RCW  
19 88.32.010 through 88.32.220, over and above the amount necessary for  
20 the payment of interest on all unpaid bonds, and sufficient to pay the  
21 principal of one or more bonds, the county treasurer shall call in and  
22 pay such bonds, provided that such bonds shall be called in and paid in  
23 their numerical order: PROVIDED, FURTHER, That such call shall be made  
24 by publication in the county official newspaper, on the day following  
25 the delinquency of the installment of the assessment, or as soon  
26 thereafter as practicable, and shall state that bonds numbers  
27 . . . . . (giving the serial number or numbers of the bonds called),  
28 will be paid on the day the interest payment on said bonds shall become  
29 due, and interest upon such bonds shall cease upon such date. If the  
30 county shall fail, neglect, or refuse to pay said bonds or promptly to  
31 collect any of said assessments when due, the owner of any such bonds  
32 may proceed in his or her own name to collect such assessment and  
33 foreclose the lien thereof in any court of competent jurisdiction, and  
34 shall recover in addition to the amount of such bonds and interest  
35 thereon, five percent, together with the costs of such suit. Any  
36 number of owners of such bonds for any single improvement, may join as

1 plaintiffs and any number of owners of the property on which the same  
2 are a lien may be joined as defendants in such suit.

3 **Sec. 544.** RCW 88.32.190 and 1907 c 236 s 14 are each amended to  
4 read as follows:

5 In every case of such joint action, the preliminary procedure of  
6 RCW 88.32.010 having been first had in each county severally, the board  
7 of county commissioners of the several counties proposing to join shall  
8 unite in such an application as is prescribed in RCW 88.32.020, and the  
9 application shall be made to any person, who, for the time being, shall  
10 be a judge of the United States district court in any district in which  
11 such counties, or any of them, may lie, and the list mentioned in RCW  
12 88.32.020 shall be made in as many counterparts as there are counties  
13 so joining, and one counterpart shall be filed with the board of county  
14 commissioners of each county, and if the person who is such United  
15 States judge shall decline or be unable to act, then, the board of such  
16 counties shall meet in joint session, at the county seat of such one of  
17 the counties as shall be agreed upon and shall organize as a joint  
18 board by appointing a (~~chairman~~) chair and clerk, and by resolution  
19 in which a majority of all the commissioners present, and at least one  
20 commissioner from each county, shall concur, name the eleven persons  
21 for the commission, which eleven in such case shall be citizens of the  
22 counties concerned, and as nearly as may be the same number from each  
23 county. A counterpart of such resolution shall be recorded in the  
24 minutes of the proceedings of the board of each county. The commission  
25 shall make as many assessment rolls as there are counties joining and  
26 one counterpart roll shall be certified by such (~~chairman~~) chair and  
27 clerk of the joint board, and by such clerk filed with the board of  
28 each of such counties.

29 **Sec. 545.** RCW 88.32.200 and 1907 c 236 s 15 are each amended to  
30 read as follows:

31 For purposes of a board of equalization, said boards shall from  
32 time to time meet as a joint board as aforesaid, and have a  
33 (~~chairman~~) chair and clerk as aforesaid, and for all purposes under  
34 RCW 88.32.070 and 88.32.080, in case of counties joining, the word  
35 board wherever occurring in said sections shall be interpreted to mean  
36 such joint board, and the word clerk shall be deemed to mean the clerk



1 of such joint board, and the posting of notices shall be in at least  
2 ten public places in each county, and the publication of the same shall  
3 be in a newspaper of each county, and the objections mentioned in RCW  
4 88.32.080 shall be filed with the clerk of the joint board, who shall  
5 cause a copy thereof, certified by him or her to be filed with the  
6 clerk of the board of county commissioners of the county where the real  
7 estate of the party objecting is situated.

8 **Sec. 546.** RCW 88.32.210 and 1907 c 236 s 16 are each amended to  
9 read as follows:

10 The minutes of the proceedings of the joint board and the  
11 assessment roll as finally settled by such board shall be made up in as  
12 many counterparts as there are counties joining as aforesaid, and shall  
13 be signed by the ((~~chairman~~)) chair and clerk of said board, and one of  
14 said counterparts so signed shall be filed by said clerk with the clerk  
15 of the board of county commissioners of each of said counties, and any  
16 appeals and subsequent proceedings under RCW 88.32.090 to 88.32.170,  
17 inclusive, as far as relates to real estate in any individual county,  
18 shall be as nearly as may be the same as if the local improvement  
19 district and bond issue concerned that county only.

20 **Sec. 547.** RCW 89.08.010 and 1973 1st ex.s. c 184 s 2 are each  
21 amended to read as follows:

22 It is hereby declared, as a matter of legislative determination:

23 (1) That the lands of the state of Washington are among the basic  
24 assets of the state and that the preservation of these lands is  
25 necessary to protect and promote the health, safety, and general  
26 welfare of its people; that improper land-use practices have caused and  
27 have contributed to, and are now causing and contributing to, a  
28 progressively more serious erosion of the lands of this state by wind  
29 and water; that the breaking of natural grass, plant, and forest cover  
30 have interfered with the natural factors of soil stabilization, causing  
31 loosening of soil and exhaustion of humus, and developing a soil  
32 condition that favors erosion; that the topsoil is being blown and  
33 washed off of lands; that there has been an accelerated washing of  
34 sloping lands; that these processes of erosion by wind and water speed  
35 up with removal of absorptive topsoil, causing exposure of less  
36 absorptive and less protective but more erosive subsoil; that failure

1 by any land occupier to conserve the soil and control erosion upon his  
2 or her lands may cause a washing and blowing of soil from his or her  
3 lands onto other lands and makes the conservation of soil and control  
4 of erosion on such other lands difficult or impossible, and that  
5 extensive denuding of land for development creates critical erosion  
6 areas that are difficult to effectively regenerate and the resulting  
7 sediment causes extensive pollution of streams, ponds, lakes, and other  
8 waters.

9 (2) That the consequences of such soil erosion in the form of soil  
10 blowing and soil washing are the silting and sedimentation of stream  
11 channels, reservoirs, dams, ditches, and harbors, and loading the air  
12 with soil particles; the loss of fertile soil material in dust storms;  
13 the piling up of soil on lower slopes and its deposit over alluvial  
14 plains; the reduction in productivity or outright ruin of rich bottom  
15 lands by overwash of poor subsoil material, sand, and gravel swept out  
16 of the hills; deterioration of soil and its fertility, deterioration of  
17 crops grown thereon, and declining acre yields despite development of  
18 scientific processes for increasing such yields; loss of soil and water  
19 which causes destruction of food and cover for wildlife; a blowing and  
20 washing of soil into streams which silts over spawning beds, and  
21 destroys water plants, diminishing the food supply of fish; a  
22 diminishing of the underground water reserve, which causes water  
23 shortages, intensifies periods of drought, and causes crop failures; an  
24 increase in the speed and volume of rainfall run-off, causing severe  
25 and increasing floods, which bring suffering, disease, and death;  
26 impoverishment of families attempting to farm eroding and eroded lands;  
27 damage to roads, highways, railways, buildings, and other property from  
28 floods and from dust storms; and losses in navigation, hydroelectric  
29 power, municipal water supply, irrigation developments, farming, and  
30 grazing.

31 (3) That to conserve soil resources and control and prevent soil  
32 erosion and prevent flood water and sediment damages, and further  
33 agricultural and nonagricultural phases of the conservation,  
34 development, utilization, and disposal of water, it is necessary that  
35 land-use practices contributing to soil wastage and soil erosion be  
36 discouraged and discontinued, and appropriate soil-conserving land-use  
37 practices, and works of improvement for flood prevention of  
38 agricultural and nonagricultural phases of the conservation,

1 development, utilization, and disposal of water be adopted and carried  
2 out; that among the procedures necessary for widespread adoption, are  
3 the carrying on of engineering operations such as the construction of  
4 terraces, terrace outlets, check-dams, desilting basins, flood water  
5 retarding structures, channel floodways, dikes, ponds, ditches, and the  
6 like; the utilization of strip cropping, contour cultivating, and  
7 contour furrowing; land irrigation; seeding and planting of waste,  
8 sloping, abandoned, or eroded lands to water-conserving and erosion-  
9 preventing plants, trees, and grasses; forestation and reforestation;  
10 rotation of crops; soil stabilizations with trees, grasses, legumes,  
11 and other thick-growing, soil-holding crops, retardation of run-off by  
12 increasing absorption of rainfall; and retirement from cultivation of  
13 steep, highly erosive areas and areas now badly gullied or otherwise  
14 eroded.

15 (4) Whereas, there is a pressing need for the conservation of  
16 renewable resources in all areas of the state, whether urban, suburban,  
17 or rural, and that the benefits of resource practices, programs, and  
18 projects, as carried out by the state conservation commission and by  
19 the conservation districts, should be available to all such areas;  
20 therefore, it is hereby declared to be the policy of the legislature to  
21 provide for the conservation of the renewable resources of this state,  
22 and for the control and prevention of soil erosion, and for the  
23 prevention of flood water and sediment damages, and for furthering  
24 agricultural and nonagricultural phases of conservation, development,  
25 utilization, and disposal of water, and thereby to preserve natural  
26 resources, control floods, prevent impairment of dams and reservoirs,  
27 assist in maintaining the navigability of rivers and harbors, preserve  
28 wildlife, protect the tax base, protect public lands, and protect and  
29 promote the health, safety, and general welfare of the people of this  
30 state. To this end all incorporated cities and towns heretofore  
31 excluded from the boundaries of a conservation district established  
32 pursuant to the provisions of the state conservation district law, as  
33 amended, may be approved by the conservation commission as being  
34 included in and deemed a part of the district upon receiving a petition  
35 for annexation signed by the governing authority of the city or town  
36 and the conservation district within the exterior boundaries of which  
37 it lies in whole or in part or to which it lies closest.

1       **Sec. 548.** RCW 89.08.170 and 1973 1st ex.s. c 184 s 18 are each  
2 amended to read as follows:

3       If the secretary of state finds that the name of the proposed  
4 district is such as will not be confused with that of any other  
5 district, he or she shall enter the application and statement in his or  
6 her records. If he or she finds the name may be confusing, he or she  
7 shall certify that fact to the commission, which shall submit a new  
8 name free from such objections, and he or she shall enter the  
9 application and statement as modified, in his or her records.  
10 Thereupon the district shall be considered organized into a body  
11 corporate.

12       The secretary of state shall then issue to the supervisors a  
13 certificate of organization of the district under the seal of the  
14 state, and shall record the certificate in his or her office. Proof of  
15 the issuance of the certificate shall be evidence of the establishment  
16 of the district, and a certified copy of the certificate shall be  
17 admissible as evidence and shall be proof of the filing and contents  
18 thereof. The name of a conservation district may be changed upon  
19 recommendation by the supervisors of a district and approval by the  
20 state conservation commission and the secretary of state. The new name  
21 shall be recorded by the secretary of state following the same general  
22 procedure as for the previous name.

23       **Sec. 549.** RCW 89.08.180 and 1999 c 305 s 6 are each amended to  
24 read as follows:

25       Territory may be added to an existing district upon filing a  
26 petition as in the case of formation with the commission by twenty  
27 percent of the voters of the affected area to be included. The same  
28 procedure shall be followed as for the creation of the district.

29       As an alternate procedure, the commission may upon the petition of  
30 a majority of the voters in any one or more districts or in unorganized  
31 territory adjoining a conservation district change the boundaries of a  
32 district, or districts, if such action will promote the practical and  
33 feasible administration of such district or districts.

34       Upon petition of the boards of supervisors of two or more  
35 districts, the commission may approve the combining of all or parts of  
36 such districts and name the district, or districts, with the approval

1 of the name by the secretary of state. A public hearing and/or a  
2 referendum may be held if deemed necessary or desirable by the  
3 commission in order to determine the wishes of the voters.

4 When districts are combined, the joint boards of supervisors will  
5 first select a (~~chairman~~) chair, secretary, and other necessary  
6 officers and select a regular date for meetings. All elected  
7 supervisors will continue to serve as members of the board until the  
8 expiration of their current term of office, and/or until the election  
9 date nearest their expiration date. All appointed supervisors will  
10 continue to serve until the expiration of their current term of office,  
11 at which time the commission will make the necessary appointments. In  
12 the event that more than two districts are combined, a similar  
13 procedure will be set up and administered by the commission.

14 When districts are combined or territory is moved from one district  
15 to another, the property, records, and accounts of the districts  
16 involved shall be distributed to the remaining district or districts as  
17 approved by the commission. A new certificate of organization, naming  
18 and describing the new district or districts, shall be issued by the  
19 secretary of state.

20 **Sec. 550.** RCW 89.08.200 and 1973 1st ex.s. c 184 s 21 are each  
21 amended to read as follows:

22 The term of office of each supervisor shall be three years and  
23 until his or her successor is appointed or elected and qualified,  
24 except that the supervisors first appointed shall serve for one and two  
25 years respectively from the date of their appointments, as designated  
26 in their appointments.

27 In the case of elected supervisors, the term of office of each  
28 supervisor shall be three years and until his or her successor is  
29 elected and qualified, except that for the first election, the one  
30 receiving the largest number of votes shall be elected for three years;  
31 the next largest two years; and the third largest one year. Successors  
32 shall be elected for three-year terms.

33 Vacancies in the office of appointed supervisors shall be filled by  
34 the state conservation commission. Vacancies in the office of elected  
35 supervisors shall be filled by appointment made by the remaining  
36 supervisors for the unexpired term.

1 A majority of the supervisors shall constitute a quorum and the  
2 concurrence of a majority is required for any official action or  
3 determination.

4 Supervisors shall serve without compensation, but they shall be  
5 entitled to expenses, including traveling expenses, necessarily  
6 incurred in discharge of their duties. A supervisor may be removed by  
7 the state conservation commission upon notice and hearing, for neglect  
8 of duty or malfeasance in office, but for no other reason.

9 The governing board shall designate a ((~~chairman~~)) chair from time  
10 to time.

11 **Sec. 551.** RCW 89.08.210 and 2000 c 45 s 1 are each amended to read  
12 as follows:

13 The supervisors may employ a secretary, treasurer, technical  
14 experts, and such other officers, agents, and employees, permanent and  
15 temporary, as they may require, and determine their qualifications,  
16 duties, and compensation. It may call upon the attorney general for  
17 legal services, or may employ its own counsel and legal staff. The  
18 supervisors may delegate to their ((~~chairman~~)) chair, to one or more  
19 supervisors, or to one or more agents or employees such powers and  
20 duties as it deems proper. The supervisors shall furnish to the  
21 commission, upon request, copies of such internal rules, regulations,  
22 orders, contracts, forms, and other documents as they shall adopt or  
23 employ, and such other information concerning their activities as the  
24 commission may require in the performance of its duties under chapter  
25 184, Laws of 1973 1st ex. sess. The supervisors shall provide for the  
26 execution of surety bonds for officers and all employees who shall be  
27 entrusted with funds or property.

28 The supervisors shall provide for the keeping of a full and  
29 accurate record of all proceedings, resolutions, regulations, and  
30 orders issued or adopted. The supervisors shall provide for an annual  
31 audit of the accounts of receipts and disbursements in accordance with  
32 procedures prescribed by regulations of the commission.

33 The board may invite the legislative body of any municipality or  
34 county near or within the district, to designate a representative to  
35 advise and consult with it on all questions of program and policy which  
36 may affect the property, water supply, or other interests of such  
37 municipality or county. The governing body of a district shall appoint

1 such advisory committees as may be needed to assure the availability of  
2 appropriate channels of communication to the board of supervisors, to  
3 persons affected by district operations, and to local, regional, state  
4 and interstate special-purpose districts and agencies responsible for  
5 community planning, zoning, or other resource development activities.  
6 The district shall keep such committees informed of its work, and such  
7 advisory committees shall submit recommendations from time to time to  
8 the board of supervisors.

9 **Sec. 552.** RCW 89.12.020 and 1943 c 275 s 3 are each amended to  
10 read as follows:

11 As used in this chapter,

12 The term "secretary" shall mean the secretary of the interior of  
13 the United States, or his or her duly authorized representative.

14 The term "appraised value" shall mean the value of lands within the  
15 scope of this chapter appraised or reappraised by the secretary without  
16 reference to or increment on account of the irrigation works built or  
17 to be built by the United States.

18 The term "district" shall mean an irrigation or reclamation  
19 district governed by this chapter as provided in RCW 89.12.030.

20 The term "federal reclamation laws" shall mean the act of congress  
21 of June 17, 1902 (32 Stat. 388) and acts amendatory thereof or  
22 supplemental thereto including the act of congress entitled "An Act to  
23 amend the Act approved May 27, 1937 (Ch. 269, 50 Stat. 208), by  
24 providing substitute and additional authority for the prevention of  
25 speculation in lands of the Columbia Basin project, and substitute an  
26 additional authority related to the settlement and development of the  
27 project, and for other purposes, enacted and approved in the Seventy-  
28 Eighth Session."

29 The term "lands" shall mean, unless otherwise indicated, lands  
30 within the boundaries of a district contracting or intending to  
31 contract with the United States under the terms of this chapter.

32 The term "owner," "landowner," and "any one landowner" shall mean  
33 any person, corporation, joint stock association or family owning lands  
34 that are within the scope of this chapter.

35 The term "family" shall mean a group consisting of either or both  
36 husband and wife, together with their children under eighteen years of  
37 age, or all of such children if both parents are dead, the term "their

1 children" including the issue and lawfully adopted children of either  
2 or both husband and wife. Within the meaning of this chapter, lands  
3 shall be deemed to be held by a family if held as separate property of  
4 husband or wife, or if held as a part or all of their community  
5 property, or if they are the property of any or all of their children  
6 under eighteen years of age.

7 **Sec. 553.** RCW 89.12.050 and 2009 c 145 s 3 are each amended to  
8 read as follows:

9 (1) A district may enter into repayment and other contracts with  
10 the United States under the terms of the federal reclamation laws in  
11 matters relating to federal reclamation projects, and may with respect  
12 to lands within its boundaries include in the contract, among others,  
13 an agreement that:

14 (a) The district will not deliver water by means of the project  
15 works provided by the United States to or for excess lands not eligible  
16 therefor under applicable federal law.

17 (b) As a condition to receiving water by means of the project  
18 works, each excess landowner in the district, unless his or her excess  
19 lands are otherwise eligible to receive water under applicable federal  
20 law, shall be required to execute a recordable contract covering all of  
21 his or her excess lands within the district.

22 (c) All excess lands within the district not eligible to receive  
23 water by means of the project works shall be subject to assessment in  
24 the same manner and to the same extent as lands eligible to receive  
25 water, subject to such provisions as the secretary may prescribe for  
26 postponement in payment of all or part of the assessment but not beyond  
27 a date five years from the time water would have become available for  
28 such lands had they been eligible therefor.

29 (d) The secretary is authorized to amend any existing contract,  
30 deed, or other document to conform to the provisions of applicable  
31 federal law as it now exists. Any such amendment may be filed for  
32 record under RCW 89.12.080.

33 (2) A district may enter into a contract with the United States for  
34 the transfer of operations and maintenance of the works of a federal  
35 reclamation project, but the contract does not impute to the district  
36 negligence for design or construction defects or deficiencies of the  
37 transferred works.



1           **Sec. 554.** RCW 89.12.150 and 1988 c 128 s 75 are each amended to  
2 read as follows:

3           From and after the date that the consent of the United States shall  
4 be given thereto by act of congress, the department of natural  
5 resources is authorized, upon request from the secretary of the  
6 interior, to cause an appraisal to be made by the board of natural  
7 resources of state lands in any division of any federal reclamation  
8 project which the secretary of the interior shall advise the department  
9 that he or she desires to have subdivided into farm units of class  
10 referred to in RCW 89.12.140, and also to cause to be appraised by the  
11 board of natural resources such public lands of the United States on  
12 the same project, or elsewhere in the state of Washington, as the  
13 secretary of the interior may propose to exchange for such state land,  
14 and when the secretary of the interior shall have secured from congress  
15 authority to make such exchange the department is authorized to  
16 exchange such state lands in any federal reclamation project for public  
17 lands of the United States on the same project or elsewhere in the  
18 state of Washington of approximately equal appraised valuation, and in  
19 making such exchange is authorized to execute suitable instruments in  
20 writing conveying or relinquishing to the United States such state  
21 lands and accepting in lieu thereof such public land of approximately  
22 equal appraised valuation.

23           **Sec. 555.** RCW 89.16.040 and 1981 c 216 s 2 are each amended to  
24 read as follows:

25           From the moneys appropriated from the reclamation account there  
26 shall be paid, upon vouchers approved by the director of ecology, the  
27 administrative expenses of the director under this chapter and such  
28 amounts as are found necessary for the investigation and survey of  
29 reclamation projects proposed to be financed in whole or in part by the  
30 director, and such amounts as may be authorized by him or her for the  
31 reclamation of lands in diking, diking improvement, drainage, drainage  
32 improvement, diking and drainage, diking and drainage improvement,  
33 irrigation and irrigation improvement districts, and such other  
34 districts as are authorized by law for the reclamation or development  
35 of waste or undeveloped lands or the rehabilitation of existing  
36 reclamation projects, and all such districts and improvement districts

1 shall, for the purposes of this chapter be known as reclamation  
2 districts.

3 **Sec. 556.** RCW 89.16.045 and 1972 ex.s. c 51 s 4 are each amended  
4 to read as follows:

5 Notwithstanding any other provisions of this chapter, the director  
6 of ecology may, by written contract with a reclamation district, loan  
7 moneys from the reclamation account to said district for use in  
8 financing a project of construction, reconstruction or improvement of  
9 district facilities, or a project of additions to such facilities. No  
10 such contract shall exceed fifty thousand dollars per project or a term  
11 of ten years, or provide for an interest rate of more than eight  
12 percent per annum. The director shall not execute any contract as  
13 provided in this section until he or she determines that the project  
14 for which the moneys are furnished is within the scope of the  
15 district's powers to undertake, that the project is feasible, that its  
16 construction is in the best interest of the state and the district, and  
17 that the district proposing the project is in a sound financial  
18 condition and capable of repaying the loan with interest in not more  
19 than ten annual payments. Any district is empowered to enter into a  
20 contract, as provided for in this section, and to levy assessments  
21 based on the special benefits accruing to lands within the district as  
22 are necessary to satisfy the contract, when a resolution of the  
23 governing body of the reclamation district authorizing its execution is  
24 approved by the body: PROVIDED, That no district shall be empowered to  
25 execute with the director any such contract during the term of any  
26 previously executed contract authorized by this section.

27 **Sec. 557.** RCW 89.16.050 and 1983 c 167 s 248 are each amended to  
28 read as follows:

29 In carrying out the purposes of this chapter, the director of the  
30 department of ecology of the state of Washington shall be authorized  
31 and empowered:

32 To make surveys and investigations of the wholly or partially  
33 unreclaimed and undeveloped lands in this state and to determine the  
34 relative agricultural values, productiveness and uses, and the  
35 feasibility and cost of reclamation and development thereof;

1 To formulate and adopt a sound policy for the reclamation and  
2 development of the agricultural resources of the state, and from time  
3 to time select for reclamation and development such lands as may be  
4 deemed advisable, and the director may in his or her discretion advise  
5 as to the formation and assist in the organization of reclamation  
6 districts under the laws of this state;

7 To purchase the bonds of any reclamation district whose project is  
8 approved by the director and which is found to be upon a sound  
9 financial basis, to contract with any such district for making surveys  
10 and furnishing engineering plans and supervision for the construction  
11 of its project, or for constructing or completing its project and to  
12 advance money to the credit of the district for any or all of such  
13 purposes, and to accept the bonds, notes, or warrants of such district  
14 in payment therefor, and to expend the moneys appropriated from the  
15 reclamation account in the purchase of such bonds, notes, or warrants  
16 or in carrying out such contracts: PROVIDED, That interest not to  
17 exceed the annual rate provided for in the bonds, notes, or warrants  
18 agreed to be purchased, shall be charged and received for all moneys  
19 advanced to the district prior to the delivery of the bonds, notes, or  
20 warrants and the amount of such interest shall be included in the  
21 purchase price of such bonds, notes, or warrants: PROVIDED FURTHER,  
22 That no district, the bonds, notes, or warrants of which have been  
23 purchased by the state under the provisions of the state reclamation  
24 act, shall thereafter during the life of said bonds, notes, or warrants  
25 make expenditures of any kind from the bond or warrant funds of the  
26 district or incur obligations chargeable against such funds or issue  
27 any additional notes without previous written approval of the director  
28 of ecology of the state of Washington, and any obligations incurred  
29 without such approval shall be void;

30 To sell and dispose of any reclamation district bonds acquired by  
31 the director, at public or private sale, and to pay the proceeds of  
32 such sale into the reclamation account: PROVIDED, That such bonds  
33 shall not be sold for less than the purchase price plus accrued  
34 interest, except in case of a sale to an agency supplied with money by  
35 the United States of America, or to the United States of America in  
36 furtherance of refunding operations of any irrigation district, diking  
37 or drainage district, or diking or drainage improvement district, now  
38 pending or hereafter carried on by such district, in which case the

1 director shall have authority to sell any bonds of such district owned  
2 by the state of Washington under the provisions of the state  
3 reclamation act, to the United States of America, or other federal  
4 agency on such terms as said United States of America, or other federal  
5 agency shall prescribe for bonds of the same issue of such district as  
6 that held by the state of Washington in connection with such refunding  
7 operations;

8 To borrow money upon the security of any bonds, including refunding  
9 bonds, of any reclamation district, acquired by the director, on such  
10 terms and rate of interest and over such period of time as the director  
11 may see fit, and to hypothecate and pledge reclamation district bonds  
12 or refunding bonds acquired by the director as security for such loan.  
13 Such loans shall have, as their sole security, the bonds so pledged and  
14 the revenues therefrom, and the director shall not have authority to  
15 pledge the general credit of the state of Washington: PROVIDED, That  
16 in reloaning any money so borrowed, or obtained from a sale of bonds it  
17 shall be the duty of the director to fix such rates of interest as will  
18 prevent impairment of the reclamation revolving account;

19 To purchase delinquent general tax or delinquent special assessment  
20 certificates chargeable against lands included within any reclamation  
21 district obligated to the state under the provisions of the state  
22 reclamation act, and to purchase lands included in such districts and  
23 placed on sale on account of delinquent taxes or delinquent assessments  
24 with the same rights, privileges, and powers with respect thereto as a  
25 private holder and owner of said certificates, or as a private  
26 purchaser of said lands: PROVIDED, That the director shall be entitled  
27 to a delinquent tax certificate upon application to the proper county  
28 treasurer therefor without the necessity of a resolution of the county  
29 legislative authority authorizing the issuance of certificates of  
30 delinquency required by law in the case of the sale of such  
31 certificates to private purchasers;

32 To sell said delinquent certificates or the lands acquired at sale  
33 on account of delinquent taxes or delinquent assessments at public or  
34 private sale, and on such conditions as the director shall determine;

35 To, whenever the director shall deem it advisable, require any  
36 district with which he or she may contract, to provide such safeguards  
37 as he or she may deem necessary to assure bona fide settlement and  
38 development of the lands within such district, by securing from the

1 owners of lands therein agreements to limit the amount of their  
2 holdings to such acreage as they can properly farm and to sell their  
3 excess land holdings at reasonable prices;

4 To employ all necessary experts, assistants, and employees and fix  
5 their compensation and to enter into any and all contracts and  
6 agreements necessary to carry out the purposes of this chapter;

7 To have the assistance, cooperation and services of, and the use of  
8 the records and files in, all the departments and institutions of the  
9 state, particularly the office of the commissioner of public lands, the  
10 state department of agriculture, Washington State University, and the  
11 University of Washington; and all state officers and the governing  
12 authorities of all state institutions are hereby authorized and  
13 directed to cooperate with the director in furthering the purpose of  
14 this chapter;

15 To cooperate with the United States in any plan of land  
16 reclamation, land settlement or agricultural development which the  
17 congress of the United States may provide and which may effect the  
18 development of agricultural resources within the state of Washington,  
19 and the director shall have full power to carry out the provisions of  
20 any cooperative land settlement act that may be enacted by the United  
21 States.

22 **Sec. 558.** RCW 89.30.025 and 1927 c 254 s 9 are each amended to  
23 read as follows:

24 Lands held by private persons under possessory rights from the  
25 federal government may be included within the operation of the  
26 district, and as soon as such lands are held under title of private  
27 ownership, the owner thereof shall be entitled to receive his or her  
28 proportion of water as in case of other landowners upon payment by him  
29 or her of such sums as shall be determined by the district board and at  
30 the time to be fixed by said district board, which sum shall be such  
31 equitable amount as such lands should pay having regard to placing said  
32 lands on the basis of equality with other lands in the district as to  
33 benefits received, and giving credit if equitable for any sums paid as  
34 water rent by the occupant of said lands prior to the vesting of  
35 private ownership, and such lands shall also become subject to all  
36 taxes and assessments of the district thereafter imposed.

1       **Sec. 559.** RCW 89.30.034 and 1927 c 254 s 12 are each amended to  
2 read as follows:

3       The petition for organization of such reclamation district shall  
4 consist of any number of separate instruments of uniform similarity,  
5 numbered consecutively. For convenience, lands represented on said  
6 instruments may be grouped separately according to the county in which  
7 said lands are situated. No petitioner shall have the right to  
8 withdraw his or her name from the petition after the same has been  
9 filed with said county board.

10       **Sec. 560.** RCW 89.30.055 and 1988 c 127 s 70 are each amended to  
11 read as follows:

12       Upon the giving of notice of hearing on the petition by the clerk  
13 of the county board aforesaid, there is hereby authorized and created  
14 a commission composed of the ((~~chairman~~)) chair of the board of county  
15 commissioners of each of the counties in which any of the lands to be  
16 included in the proposed reclamation district are situated, and of the  
17 state director of ecology, which commission shall consider and  
18 determine said petition.

19       **Sec. 561.** RCW 89.30.058 and 1988 c 127 s 71 are each amended to  
20 read as follows:

21       The state director of ecology shall be ex officio ((~~chairman~~))  
22 chair of said commission, and the clerk of the county board of the  
23 county in which the petition is filed, shall be ex officio clerk of  
24 said commission. A majority of the members of said commission shall  
25 constitute a quorum for the transaction or exercise of any of its  
26 powers, functions, duties and business.

27       **Sec. 562.** RCW 89.30.109 and 1927 c 254 s 37 are each amended to  
28 read as follows:

29       It shall be the duty of the clerk of the board of county  
30 commissioners of every county in which any lands included in the  
31 district are situated forthwith to certify and file for record in the  
32 county auditor's office of his or her county, a statement to the effect  
33 that, under the provisions of this chapter, certain lands (describing  
34 them in township and range and in case of smaller bodies of land in  
35 legal subdivisions or fractions thereof) were, by order of the board of

1 county commissioners of . . . . . county (naming the county) entered  
2 on the . . . . day of . . . . . (naming the day, month and year)  
3 included in the . . . . reclamation district (using the name designated  
4 in the order of the county board establishing the district). Said  
5 statement certified by the clerk of the county board shall be entitled  
6 to record in the office of the county auditor without payment of filing  
7 or recording fee.

8 **Sec. 563.** RCW 89.30.229 and 1927 c 254 s 77 are each amended to  
9 read as follows:

10 Except as herein otherwise provided, the term of the office of  
11 director shall be six years from and after the second Monday in January  
12 next succeeding his or her election.

13 **Sec. 564.** RCW 89.30.259 and 1927 c 254 s 87 are each amended to  
14 read as follows:

15 Each director shall take and subscribe an official oath for the  
16 faithful discharge of the duties of his or her office and shall execute  
17 an official bond to the district in the sum of twenty-five hundred  
18 dollars conditioned for the faithful discharge of his or her office,  
19 which bond shall be approved by the judge of the superior court of the  
20 county where the organization of the district was effected, and said  
21 oath and bond shall be recorded in the office of the clerk of the  
22 superior court and filed with the secretary of the district.

23 **Sec. 565.** RCW 89.30.265 and 1927 c 254 s 89 are each amended to  
24 read as follows:

25 In case any district authorized in this chapter is appointed fiscal  
26 agent of the United States or is authorized by the United States in  
27 connection with any irrigation project in which the United States is  
28 interested to make collections of money for or on behalf of the United  
29 States, such secretary and each such director and the county treasurer  
30 of the county where the organization of the district was effected shall  
31 each execute a further additional official bond in such sum  
32 respectively as the secretary of the interior may require conditioned  
33 for the faithful discharge of the duties of his or her respective  
34 office and the faithful discharge by the district of its duties as

1 fiscal or other agent of the United States in such appointment or  
2 authorization; such additional bonds to be approved, recorded, filed,  
3 and paid for as herein provided for other official bonds.

4 **Sec. 566.** RCW 89.30.301 and 1927 c 254 s 101 are each amended to  
5 read as follows:

6 No director or any other officer named in this chapter shall in any  
7 manner be interested, directly or indirectly in any contract awarded or  
8 to be awarded by the board, or in the profits to be derived therefrom;  
9 and for any violation of this provision, such officer shall be deemed  
10 guilty of a misdemeanor, and such conviction shall work a forfeiture of  
11 his or her office, and he or she shall be punished by a fine not  
12 exceeding five hundred dollars or by imprisonment in the county jail  
13 not exceeding six months, or by both fine and imprisonment: PROVIDED,  
14 That nothing in this section contained shall be construed to prevent  
15 any district officer from being employed by the district as a day  
16 laborer.

17 **Sec. 567.** RCW 89.30.304 and 1927 c 254 s 102 are each amended to  
18 read as follows:

19 Every person, upon the expiration or sooner termination of his or  
20 her term of office as an officer of the district, shall immediately  
21 turn over and deliver, under oath, to his or her successor in office,  
22 all records, books, papers, and other property under his or her control  
23 and belonging to such office. In case of the death of any officer, his  
24 or her legal representative shall turn over and deliver such records,  
25 books, papers, and other property to the successor in office of such  
26 deceased person.

27 **Sec. 568.** RCW 89.30.307 and 1927 c 254 s 103 are each amended to  
28 read as follows:

29 Every person hired by the district and having in his or her custody  
30 or under his or her control, in connection with his or her contract of  
31 hire, any records, books, papers, or other property belonging to the  
32 district shall immediately upon the expiration of his or her services,  
33 turn over and deliver, under oath, to the district board or any member  
34 thereof, all such records, books, papers, or other property. Any



1 person violating any of the provisions of this section shall be guilty  
2 of a misdemeanor.

3 **Sec. 569.** RCW 89.30.313 and 1927 c 254 s 105 are each amended to  
4 read as follows:

5 Any county treasurer collecting or handling funds of the district  
6 shall be liable upon his or her official bond and to criminal  
7 prosecution for malfeasance, misfeasance, or nonfeasance in office  
8 relative to any of his or her duties prescribed herein.

9 **Sec. 570.** RCW 89.30.316 and 1927 c 254 s 106 are each amended to  
10 read as follows:

11 It shall be the duty of the county treasurer of each county in  
12 which lands of the district are located to collect and receipt for all  
13 assessments and taxes levied as in this chapter provided, and he or she  
14 shall account to the district for all interest received on such funds  
15 from any public depository with which the same may be deposited.

16 **Sec. 571.** RCW 89.30.322 and 1927 c 254 s 108 are each amended to  
17 read as follows:

18 Any claim against the district shall be presented to the district  
19 board for allowance or rejection. Upon allowance the claim shall be  
20 attached to a voucher verified by the claimant or his or her agent and  
21 approved by the president and countersigned by the secretary and  
22 directed to the county auditor of the county in which the organization  
23 of the reclamation district was effected, for the issuance of a warrant  
24 against the proper fund of the district in payment of said claim.

25 **Sec. 572.** RCW 89.30.325 and 1983 c 167 s 249 are each amended to  
26 read as follows:

27 Said county treasurer shall pay out the moneys received or  
28 deposited with him or her or any portion thereof upon warrants issued  
29 by the county auditor against the proper funds of the district except  
30 the sums to be paid out of the bond fund for principal and interest  
31 payments on bonds.

32 **Sec. 573.** RCW 89.30.328 and 1927 c 254 s 110 are each amended to  
33 read as follows:

1       The said treasurer shall report in writing during the first week in  
2 each month to the board of directors of the district the amount of  
3 money held by him or her, the amount in each fund, the amount of  
4 receipts for the month preceding in each fund, and the amount or  
5 amounts paid out of each fund, and said report shall be filed with the  
6 secretary of the district.

7       **Sec. 574.** RCW 89.30.352 and 1927 c 254 s 118 are each amended to  
8 read as follows:

9       The registration clerk of any county voting precinct, partially  
10 included in a reclamation district voting precinct, is hereby  
11 authorized and it shall be his or her duty to prepare and certify at  
12 the expense of the district a poll list of all registered voters of  
13 said reclamation district voting precinct and to attach the same to the  
14 poll books for his or her county voting precinct.

15       **Sec. 575.** RCW 89.30.367 and 1927 c 254 s 123 are each amended to  
16 read as follows:

17       Immediately upon conclusion of the canvass of the returns of the  
18 reclamation district election held in the precincts located in his or  
19 her county, the county auditor shall mail to the (~~chairman~~) chair of  
20 said district board, an abstract of the result of said district  
21 election in his or her county.

22       **Sec. 576.** RCW 89.30.382 and 1927 c 254 s 128 are each amended to  
23 read as follows:

24       Any qualified resident elector of any director district which is  
25 entitled at that time to elect a candidate for the office of  
26 reclamation district director may become a candidate for such office by  
27 filing, at least thirty days prior to the election, his or her  
28 declaration of candidacy with the county auditor of his or her county  
29 and by paying a fee of one dollar for said filing.

30       **Sec. 577.** RCW 89.30.565 and 1927 c 254 s 189 are each amended to  
31 read as follows:

32       The proceeds of bond sales for cash shall be paid by the purchaser  
33 to the county treasurer of the county in which the organization of the

1 district was effected or to his or her duly authorized agent and  
2 credited to the proper fund.

3 **Sec. 578.** RCW 89.30.604 and 1927 c 254 s 202 are each amended to  
4 read as follows:

5 The secretary shall be present during the sessions of the board of  
6 equalization, and note all changes made in the valuation of property  
7 and in the names of the persons whose property is assessed and on or  
8 before the first day of January next following, he or she shall  
9 complete the assessment roll as finally equalized by the board and  
10 deliver the segregations of the same to the respective county  
11 treasurers concerned.

12 **Sec. 579.** RCW 89.30.625 and 1927 c 254 s 209 are each amended to  
13 read as follows:

14 In case of the neglect or refusal of the secretary of the  
15 reclamation district to perform the duties imposed by law, then the  
16 treasurer of the county in which the organization of the reclamation  
17 district was effected may perform such duties and shall be accountable  
18 therefor on his or her official bond as in other cases.

19 **Sec. 580.** RCW 89.30.649 and 1927 c 254 s 217 are each amended to  
20 read as follows:

21 It shall be the duty of the county treasurer of the county in which  
22 any land in the general improvement or divisional district is located,  
23 to furnish upon request of the owner or any person interested, a  
24 statement showing any and all assessments levied as shown by the  
25 assessment roll in his or her office upon land described in such  
26 request and all statements of general taxes covering any land in such  
27 district shall be accompanied by a statement showing the condition of  
28 district assessments against such lands: PROVIDED, That the failure of  
29 the county treasurer to render any statement herein required of him or  
30 her, shall not render invalid any assessments made for any general  
31 improvement or divisional district or proceeding had for the  
32 enforcement and collection of such assessments pursuant to this  
33 chapter.

1           **Sec. 581.** RCW 89.30.652 and 1927 c 254 s 218 are each amended to  
2 read as follows:

3           It shall be the duty of the county treasurer of any county other  
4 than the county in which the organization of the reclamation district  
5 was effected to make monthly remittances to the county treasurer of the  
6 county in which the organization of the reclamation district was  
7 effected, covering all amounts collected by him or her for any said  
8 general improvement or divisional district during the preceding month.

9           **Sec. 582.** RCW 89.30.655 and 1927 c 254 s 219 are each amended to  
10 read as follows:

11           On or before the thirtieth day of June in each year each respective  
12 county treasurer concerned shall post the delinquency list which must  
13 contain the names of persons and the descriptions of the property  
14 delinquent and the amount of assessments, interest, and costs opposite  
15 each name and the description in all cases where payment of fifty  
16 percent or more of the assessment against any tract of land has not  
17 been made on or before the thirty-first day of May next preceding.  
18 Likewise on or before the fifteenth day of December in each year he or  
19 she must post the delinquency list of all persons delinquent in the  
20 payment of the final installment of the fifty percent of said  
21 assessments as in this chapter provided.

22           **Sec. 583.** RCW 89.30.670 and 1927 c 254 s 224 are each amended to  
23 read as follows:

24           On the day fixed for the sale or on some subsequent day to which  
25 the treasurer may have postponed it, of which postponement he or she  
26 must give notice at the time of making such postponement, and between  
27 the hours of ten o'clock a.m. and three o'clock p.m., the county  
28 treasurer making the sale must commence the same beginning at the head  
29 of the list and continuing alphabetically or in numerical order of the  
30 parcels, lots, and blocks until completed.

31           **Sec. 584.** RCW 89.30.676 and 1927 c 254 s 226 are each amended to  
32 read as follows:

33           The owner or person in possession of any real estate offered for  
34 sale for assessments thereon may designate in writing to the county  
35 treasurer by whom the sale is to be made and prior to the sale, what

1 portion of the property he or she wishes sold, if less than the whole,  
2 but if the owner or possessor does not, then the treasurer may  
3 designate it and the person who will take the least quantity of the  
4 land or in case an undivided interest is assessed then the smallest  
5 portion of the interest, and pay the assessment, interest, and cost due  
6 including one dollar to the treasurer for a duplicate of the  
7 certificate of sale, is the purchaser. The treasurer shall account to  
8 the district for said one dollar.

9 **Sec. 585.** RCW 89.30.685 and 1927 c 254 s 229 are each amended to  
10 read as follows:

11 In case the district is the purchaser, the treasurer shall make an  
12 entry "sold to the district", and he or she shall receive proper credit  
13 for the amount of the sale in his or her settlement with the district.

14 **Sec. 586.** RCW 89.30.700 and 1927 c 254 s 234 are each amended to  
15 read as follows:

16 All moneys received by the reclamation district for transfers of  
17 certificates of sale, or through sale or lease of property acquired on  
18 account of sales for delinquent assessments, shall be paid to the  
19 county treasurer of the county in which the lands involved are situated  
20 and by him or her credited to the funds for which the assessments were  
21 levied in proportion to the right of each fund respectively.

22 **Sec. 587.** RCW 89.30.709 and 1927 c 254 s 237 are each amended to  
23 read as follows:

24 The certificate of sale must be signed by the treasurer making the  
25 sale and filed in his or her office. A duplicate of said certificate  
26 shall be delivered to any purchaser, other than the district.

27 **Sec. 588.** RCW 89.30.721 and 1927 c 254 s 241 are each amended to  
28 read as follows:

29 A redemption of the property sold may be made by the owner or any  
30 person on behalf and in the name of the owner or by any party in  
31 interest within one year from the date of purchase by paying the amount  
32 of the purchase price, cost of certificate and interest and the amount  
33 of any assessments which any such purchaser may have paid thereon after  
34 purchase by him or her together with like interest on such amount, and

1 if the reclamation district is the purchaser, the redemptioner shall  
2 pay in addition to the purchase price and interest, the amount of any  
3 assessments levied against said land during the period of redemption  
4 and which are at that time delinquent.

5 **Sec. 589.** RCW 89.30.724 and 1927 c 254 s 242 are each amended to  
6 read as follows:

7 Redemption must be made in gold or silver coin, as provided for the  
8 collection of state and county taxes, and the county treasurer must  
9 credit the amount paid to the person named in the certificate or his or  
10 her assignee and pay it on demand to such person or his or her  
11 assignee. No redemption shall be made except to the county treasurer  
12 of the county in which the land is situated.

13 **Sec. 590.** RCW 89.30.730 and 1927 c 254 s 244 are each amended to  
14 read as follows:

15 If the property is not redeemed within one year from the date of  
16 sale, the county treasurer of the county in which the land sold is  
17 situated, must make to the purchaser or his or her assignee a deed of  
18 the property reciting in the deed substantially the matters contained  
19 in the certificate and that no person redeemed the property during the  
20 time allowed by law for its redemption.

21 **Sec. 591.** RCW 89.30.790 and 1927 c 254 s 264 are each amended to  
22 read as follows:

23 Any officer of the district collecting tolls as herein provided,  
24 shall be required to give a surety bond in double the probable amount  
25 of monthly collections conditioned that he or she will faithfully  
26 account to the reclamation district for all tolls collected under the  
27 provisions of this chapter.

28 **Sec. 592.** RCW 90.03.040 and 1917 c 117 s 4 are each amended to  
29 read as follows:

30 The beneficial use of water is hereby declared to be a public use,  
31 and any person may exercise the right of eminent domain to acquire any  
32 property or rights now or hereafter existing when found necessary for  
33 the storage of water for, or the application of water to, any  
34 beneficial use, including the right to enlarge existing structures

1 employed for the public purposes mentioned in this chapter and use the  
2 same in common with the former owner, and including the right and power  
3 to condemn an inferior use of water for a superior use. In  
4 condemnation proceedings the court shall determine what use will be for  
5 the greatest public benefit, and that use shall be deemed a superior  
6 one: PROVIDED, That no property right in water or the use of water  
7 shall be acquired hereunder by condemnation for irrigation purposes,  
8 which shall deprive any person of such quantity of water as may be  
9 reasonably necessary for the irrigation of his or her land then under  
10 irrigation to the full extent of the soil, by the most economical  
11 method of artificial irrigation applicable to such land according to  
12 the usual methods of artificial irrigation employed in the vicinity  
13 where such land is situated. In any case, the court shall determine  
14 what is the most economical method of irrigation. Such property or  
15 rights shall be acquired in the manner provided by law for the taking  
16 of private property for public use by private corporations.

17 **Sec. 593.** RCW 90.03.070 and 1987 c 109 s 70 are each amended to  
18 read as follows:

19 It shall be the duty of the water master, acting under the  
20 direction of the department, to divide in whole or in part, the water  
21 supply of his or her district among the several water conduits and  
22 reservoirs using said supply, according to the right and priority of  
23 each, respectively. He or she shall divide, regulate, and control the  
24 use of water within his or her district by such regulation of  
25 headgates, conduits, and reservoirs as shall be necessary to prevent  
26 the use of water in excess of the amount to which the owner of the  
27 right is lawfully entitled. Whenever, in the pursuance of his or her  
28 duties, the water master regulates a headgate of a water conduit or the  
29 controlling works of a reservoir, he or she shall attach to such  
30 headgate or controlling works a written notice, properly dated and  
31 signed, stating that such headgate or controlling works has been  
32 properly regulated and is wholly under his or her control and such  
33 notice shall be a legal notice to all parties. In addition to dividing  
34 the available waters and supervising the stream (~~(patrolmen)~~) patroller  
35 in his or her district, he or she shall enforce such rules and  
36 regulations as the department shall from time to time prescribe.

1 The county or counties in which water master districts are created  
2 shall deputize the water masters appointed hereunder, and may without  
3 charge provide to each water master suitable office space, supplies,  
4 equipment, and clerical assistance as are necessary to the water master  
5 in the performance of his or her duties.

6 **Sec. 594.** RCW 90.03.210 and 2009 c 332 s 14 are each amended to  
7 read as follows:

8 (1) During the pendency of such adjudication proceedings prior to  
9 judgment or upon review by an appellate court, the stream or other  
10 water involved shall be regulated or partially regulated according to  
11 the schedule of rights specified in the department's report upon an  
12 order of the court authorizing such regulation: PROVIDED, Any  
13 interested party may file a bond and obtain an order staying the  
14 regulation of said stream as to him or her, in which case the court  
15 shall make such order regarding the regulation of the stream or other  
16 water as he or she may deem just. The bond shall be filed within five  
17 days following the service of notice of appeal in an amount to be fixed  
18 by the court and with sureties satisfactory to the court, conditioned  
19 to perform the judgment of the court.

20 (2) Any appeal of a decision of the department on an application to  
21 change or transfer a water right subject to an adjudication that is  
22 being litigated actively shall be conducted as follows:

23 (a) The appeal shall be filed with the court conducting the  
24 adjudication and served under RCW 34.05.542(3). The content of the  
25 notice of appeal shall conform to RCW 34.05.546. Standing to appeal  
26 shall be based on the requirements of RCW 34.05.530 and is not limited  
27 to parties to the adjudication.

28 (b) If the appeal includes a challenge to the portion of the  
29 department's decision that pertains to tentative determinations of the  
30 validity and extent of the water right, review of those tentative  
31 determinations shall be conducted by the court consistent with the  
32 provisions of RCW 34.05.510 through 34.05.598, except that the review  
33 shall be de novo.

34 (c) If the appeal includes a challenge to any portion of the  
35 department's decision other than the tentative determinations of the  
36 validity and extent of the right, the court must certify to the  
37 pollution control hearings board for review and decision those portions



1 of the department's decision. Review by the pollution control hearings  
2 board shall be conducted consistent with chapter 43.21B RCW and the  
3 board's implementing regulations, except that the requirements for  
4 filing, service, and content of the notice of appeal shall be governed  
5 by (a) of this subsection. Any party to an appeal may move the court  
6 to certify portions of the appeal to the pollution control hearings  
7 board, but the appellant must file a motion for certification no later  
8 than ninety days after the appeal is filed under this section.

9 (d) Appeals shall be scheduled to afford all parties full  
10 opportunity to participate before the superior court and the pollution  
11 control hearings board.

12 (e) Any person wishing to appeal the decision of the board made  
13 under (c) of this subsection shall seek review of the decision in  
14 accordance with chapter 34.05 RCW, except that the petition for review  
15 must be filed with the superior court conducting the adjudication.

16 (3) Nothing in this section shall be construed to affect or modify  
17 any treaty or other federal rights of an Indian tribe, or the rights of  
18 any federal agency or other person or entity arising under federal law.  
19 Nothing in this section is intended or shall be construed as affecting  
20 or modifying any existing right of a federally recognized Indian tribe  
21 to protect from impairment its federally reserved water rights in  
22 federal court.

23 **Sec. 595.** RCW 90.03.220 and 1917 c 117 s 24 are each amended to  
24 read as follows:

25 Whenever proceedings shall be instituted for the determination of  
26 the rights to the use of water, any defendant who shall fail to appear  
27 in such proceedings, after legal service, and submit proof of his or  
28 her claim, shall be estopped from subsequently asserting any right to  
29 the use of such water embraced in such proceeding, except as determined  
30 by such decree.

31 **Sec. 596.** RCW 90.03.250 and 1987 c 109 s 83 are each amended to  
32 read as follows:

33 Any person, municipal corporation, firm, irrigation district,  
34 association, corporation or water users' association hereafter desiring  
35 to appropriate water for a beneficial use shall make an application to  
36 the department for a permit to make such appropriation, and shall not

1 use or divert such waters until he or she has received a permit from  
2 the department as in this chapter provided. The construction of any  
3 ditch, canal or works, or performing any work in connection with said  
4 construction or appropriation, or the use of any waters, shall not be  
5 an appropriation of such water nor an act for the purpose of  
6 appropriating water unless a permit to make said appropriation has  
7 first been granted by the department: PROVIDED, That a temporary  
8 permit may be granted upon a proper showing made to the department to  
9 be valid only during the pendency of such application for a permit  
10 unless sooner revoked by the department: PROVIDED, FURTHER, That  
11 nothing in this chapter contained shall be deemed to affect RCW  
12 90.40.010 through 90.40.080 except that the notice and certificate  
13 therein provided for in RCW 90.40.030 shall be addressed to the  
14 department, and the department shall exercise the powers and perform  
15 the duties prescribed by RCW 90.40.030.

16 **Sec. 597.** RCW 90.03.270 and 1987 c 109 s 85 are each amended to  
17 read as follows:

18 Upon receipt of an application it shall be the duty of the  
19 department to make an endorsement thereon of the date of its receipt,  
20 and to keep a record of same. If upon examination, the application is  
21 found to be defective, it shall be returned to the applicant for  
22 correction or completion, and the date and the reasons for the return  
23 thereof shall be endorsed thereon and made a record in his or her  
24 office. No application shall lose its priority of filing on account of  
25 such defects, provided acceptable maps, drawings, and such data as is  
26 required by the department shall be filed with the department within  
27 such reasonable time as it shall require.

28 **Sec. 598.** RCW 90.03.410 and 1971 ex.s. c 152 s 8 are each amended  
29 to read as follows:

30 (1) Any person or persons who shall willfully interfere with, or  
31 injure or destroy any dam, dike, headgate, weir, canal or reservoir,  
32 flume, or other structure or appliance for the diversion, carriage,  
33 storage, apportionment, or measurement of water for irrigation,  
34 reclamation, power, or other beneficial uses, or who shall willfully  
35 use or conduct water into or through his or her ditch, which has been  
36 lawfully denied him or her by the water master or other competent

1 authority, or shall willfully injure or destroy any telegraph,  
2 telephone, or electric transmission line, or any other property owned,  
3 occupied, or controlled by any person, association, or corporation, or  
4 by the United States and used in connection with said beneficial use of  
5 water, shall be guilty of a misdemeanor or, if there is actual physical  
6 injury to or destruction of any real or personal property, of property  
7 destruction and shall incur the penalties set forth in RCW 9.61.070.

8 (2) Any person or persons who shall willfully or unlawfully take or  
9 use water, or conduct the same into his or her ditch or to his or her  
10 land, or land occupied by him or her, and for such purpose shall cut,  
11 dig, break down, or open any headgate, bank, embankment, canal or  
12 reservoir, flume, or conduit, or interfere with, injure, or destroy any  
13 weir, measuring box, or other appliance for the apportionment and  
14 measurement of water, or unlawfully take or cause to run or pour out of  
15 such structure or appliance any water, shall be guilty of a misdemeanor  
16 or, if there is actual physical injury to or destruction of any real or  
17 personal property, of property destruction and shall incur the  
18 penalties set forth in RCW 9.61.070.

19 (3) The use of water through such structure or structures,  
20 appliance or appliances hereinbefore named after its or their having  
21 been interfered with, injured or destroyed, shall be prima facie  
22 evidence of the guilt of the person using it.

23 **Sec. 599.** RCW 90.03.440 and 1987 c 109 s 97 are each amended to  
24 read as follows:

25 When two or more persons, joint owners in an irrigation ditch or  
26 reservoir, not incorporated, or their lessees, are unable to agree  
27 relative to the division or distribution of water received through  
28 their ditch or from their reservoir, and where there is no disagreement  
29 as to the ownership of said water, it shall be lawful for any such  
30 owner or owners, his or her or their lessee or lessees, or either of  
31 them, to apply to the department, in writing, setting forth such fact  
32 and giving such information as shall enable the department to estimate  
33 the probable expense of such service, asking the department to appoint  
34 some suitable person to take charge of such ditch or reservoir for the  
35 purpose of making a just division or distribution of the water from the  
36 same to the parties entitled to the use thereof. The department shall  
37 upon the receipt of such application notify the applicant of the

1 probable expense of such division and upon receipt of certified check  
2 for said amount, the department shall appoint a suitable person to make  
3 such division. The person so appointed shall take exclusive charge of  
4 such ditch or reservoir for the purpose of dividing the water therefrom  
5 in accordance with the established rights of the diverters therefrom,  
6 and continue the said work until the necessity therefor shall cease to  
7 exist. The expense of such investigation and division shall be a  
8 charge upon all of the co-owners and the person advancing the payment  
9 to the department shall be entitled to recover in any court of  
10 competent jurisdiction from his or her co-owners their proportionate  
11 share of the expense.

12 **Sec. 600.** RCW 90.03.450 and 1919 c 71 s 5 are each amended to read  
13 as follows:

14 Upon the failure of any co-owner to pay his or her proportionate  
15 share of such expense as mentioned in RCW 90.03.430 within thirty days  
16 after receiving a statement of the same as performed by his or her co-  
17 owner or owners, such person or persons so performing such labor may  
18 secure payment of said claim by filing an itemized and sworn statement  
19 thereof, setting forth the date of the performance and the nature of  
20 the labor so performed, with the county auditor of the county wherein  
21 said ditch is situated, and when so filed it shall constitute a valid  
22 lien against the interest of such person or persons who shall fail to  
23 perform their proportionate share of the work requisite to the proper  
24 maintenance of said ditch, which said lien when so taken may be  
25 enforced in the same manner as provided by law for the enforcement of  
26 mechanics' and builders' liens.

27 **Sec. 601.** RCW 90.08.040 and 1977 c 22 s 1 are each amended to read  
28 as follows:

29 Where water rights of a stream have been adjudicated a stream  
30 (~~(patrolman)~~) patroller shall be appointed by the director of the  
31 department of ecology upon application of water users having  
32 adjudicated water rights in each particular water resource making a  
33 reasonable showing of the necessity therefor, which application shall  
34 have been approved by the district water master if one has been  
35 appointed, at such time, for such stream, and for such periods of

1 service as local conditions may indicate to be necessary to provide the  
2 most practical supervision and to secure to water users and owners the  
3 best protection in their rights.

4 The stream ((~~patrolman~~)) patroller shall have the same powers as a  
5 water master appointed under RCW 90.03.060, but his or her district  
6 shall be confined to the regulation of waters of a designated stream or  
7 streams. Such ((~~patrolman~~)) patroller shall be under the supervision  
8 of the director or his or her designated representative. He or she  
9 shall also enforce such special rules and regulations as the director  
10 may prescribe from time to time.

11 **Sec. 602.** RCW 90.08.050 and 1977 c 22 s 2 are each amended to read  
12 as follows:

13 Each stream ((~~patrolman~~)) patroller shall receive a wage per day  
14 for each day actually employed in the duties of his or her office, or  
15 if employed by the month, he or she shall receive a salary per month,  
16 which wage or salary shall be fixed in the manner provided by law for  
17 the fixing of the salaries or compensation of other state officers or  
18 employees, plus travel expenses in accordance with RCW 43.03.050 and  
19 43.03.060 as now existing or hereafter amended, to be paid by the  
20 county in which the work is performed. In case the service extends  
21 over more than one county, each county shall pay its equitable part of  
22 such wage to be apportioned by the director. He or she shall be  
23 reimbursed for actual necessary expenses when absent from his or her  
24 designated headquarters in the performance of his or her duties, such  
25 expense to be paid by the county in which he or she renders the  
26 service. The accounts of the stream ((~~patrolman~~)) patroller shall be  
27 audited and certified by the director and the county auditor shall  
28 issue a warrant therefor upon the current expense fund.

29 **Sec. 603.** RCW 90.08.060 and 1977 c 22 s 3 are each amended to read  
30 as follows:

31 The salary of the stream ((~~patrolman~~)) patroller shall be borne by  
32 the water users receiving the benefits and shall be paid to the county  
33 or counties in the following manner:

34 The county or counties may assess each water user for his or her  
35 proportionate share of the total stream ((~~patrolman~~)) patroller expense  
36 in the same ratio that the amount of water diverted by him or her bears

1 to the total amount diverted from the stream during each season, on an  
2 annual basis, to recover all such county expenses. The stream  
3 (~~patrolman~~) patroller shall keep an accurate record of the amount of  
4 water diverted by each water user coming under his or her supervision.  
5 On the first of each month the stream (~~patrolman~~) patroller shall  
6 present his or her record of water diversion to the county or counties  
7 for the preceding month. Where the water users are organized into an  
8 irrigation district or water users' association, such organization may  
9 enter into an agreement with the county or counties for direct payment  
10 to the stream (~~patrolman~~) patroller in order to minimize  
11 administrative costs.

12 **Sec. 604.** RCW 90.08.070 and 1977 c 22 s 4 are each amended to read  
13 as follows:

14 Upon failure of any water user to pay his or her proportionate  
15 share of the expense referred to in RCW 90.08.050 and 90.08.060, the  
16 county or counties shall be entitled to sue for and recover any such  
17 unpaid portion in any court of competent jurisdiction.

18 **Sec. 605.** RCW 90.14.061 and 1988 c 127 s 74 are each amended to  
19 read as follows:

20 Filing of a statement of a claim shall take place and be completed  
21 upon receipt by the department of ecology, at its office in Olympia, of  
22 an original statement signed by the claimant or his or her authorized  
23 agent, and two copies thereof. Any person required to file hereunder  
24 may file through a designated representative. A company, district,  
25 public or municipal corporation, or the United States when furnishing  
26 to persons water pertaining to water rights required to be filed under  
27 RCW 90.14.041, shall have the right to file one claim on behalf of said  
28 persons on a form prepared by the department for the total benefits of  
29 each person served; provided that a separate claim shall be filed by  
30 such company, district, public or private corporation, or the United  
31 States for each operating unit of the filing entity providing such  
32 water and for each water source. Within thirty days after receipt of  
33 a statement of claim the department shall acknowledge the same by a  
34 notation on one copy indicating receipt thereof and the date of  
35 receipt, together with the wording of the first sentence of RCW  
36 90.14.081, and shall return said copy by certified or registered mail

1 to the claimant at the address set forth in the statement of claim. No  
2 statement of claim shall be accepted for filing by the department of  
3 ecology unless accompanied by a two dollar filing fee.

4 **Sec. 606.** RCW 90.14.101 and 1988 c 127 s 76 are each amended to  
5 read as follows:

6 To insure that all persons referred to in RCW 90.14.031 and  
7 90.14.041 are notified of the registration provisions of this chapter,  
8 the department of ecology is directed to give notice of the  
9 registration provisions of this chapter as follows:

10 (1) It shall cause a notice in writing to be placed in a prominent  
11 and conspicuous place in all newspapers of the state having a  
12 circulation of more than fifty thousand copies for each week day, and  
13 in at least one newspaper published in each county of the state, at  
14 least once each year for five consecutive years.

15 (2) It shall cause a notice substantially the same as a notice in  
16 writing to be broadcast by each commercial television station operating  
17 in the United States and viewed in the state, and by at least one  
18 commercial radio station operating from each county of the state having  
19 such a station regularly at six month intervals for five consecutive  
20 years.

21 (3) It shall cause a notice in writing to be placed in a prominent  
22 and conspicuous location in each county court house in the state.

23 (4) The county treasurer of each county shall enclose with each  
24 mailing of one or more statements of taxes due issued in 1972 a copy of  
25 a notice in writing and a declaration that it shall be the duty of the  
26 recipient of the statement of taxes due to forward the notice to the  
27 beneficial owner of the property. A sufficient number of copies of the  
28 notice and declaration shall be supplied to each county treasurer by  
29 the director of ecology before the fifteenth day of January, 1972. In  
30 the implementation of this subsection the department of ecology shall  
31 provide reimbursement to the county treasurer for the reasonable  
32 additional costs, if any there may be, incurred by said treasurer  
33 arising from the inclusion of a notice in writing as required herein.

34 (5) It shall provide copies of the notice in writing to the press  
35 services with offices located in Thurston county during January of the  
36 years 1970, 1971, 1972, 1973, and 1974.

1       The director of the department may also in his or her discretion  
2 give notice in any other manner which will carry out the purposes of  
3 this section. Where notice in writing is given pursuant to subsections  
4 (1) and (3) of this section, RCW 90.14.041, 90.14.051, and 90.14.071  
5 shall be set forth and quoted in full.

6       **Sec. 607.** RCW 90.14.130 and 1987 c 109 s 13 are each amended to  
7 read as follows:

8       When it appears to the department of ecology that a person entitled  
9 to the use of water has not beneficially used his or her water right or  
10 some portion thereof, and it appears that said right has or may have  
11 reverted to the state because of such nonuse, as provided by RCW  
12 90.14.160, 90.14.170, or 90.14.180, the department of ecology shall  
13 notify such person by order: PROVIDED, That where a company,  
14 association, district, or the United States has filed a blanket claim  
15 under the provisions of RCW 90.14.060 for the total benefits of those  
16 served by it, the notice shall be served on such company, association,  
17 district or the United States and not upon any of its individual water  
18 users who may not have used the water or some portion thereof which  
19 they were entitled to use. The order shall contain: (1) A description  
20 of the water right, including the approximate location of the point of  
21 diversion, the general description of the lands or places where such  
22 waters were used, the water source, the amount involved, the purpose of  
23 use, and the apparent authority upon which the right is based; (2) a  
24 statement that unless sufficient cause be shown on appeal the water  
25 right will be declared relinquished; and (3) a statement that such  
26 order may be appealed to the pollution control hearings board. Any  
27 person aggrieved by such an order may appeal it to the pollution  
28 control hearings board pursuant to RCW 43.21B.310. The order shall be  
29 served by registered or certified mail to the last known address of the  
30 person and be posted at the point of diversion or withdrawal. The order  
31 by itself shall not alter the recipient's right to use water, if any.

32       **Sec. 608.** RCW 90.14.170 and 1967 c 233 s 17 are each amended to  
33 read as follows:

34       Any person entitled to divert or withdraw waters of the state by  
35 virtue of his or her ownership of land abutting a stream, lake, or  
36 watercourse, who abandons the same, or who voluntarily fails, without



1 sufficient cause, to beneficially use all or any part of said right to  
2 withdraw or divert said water for any period of five successive years  
3 after July 1, 1967, shall relinquish such right or portion thereof, and  
4 such right or portion thereof shall revert to the state, and the waters  
5 affected by said right shall become available for appropriation in  
6 accordance with the provisions of RCW 90.03.250.

7 **Sec. 609.** RCW 90.24.020 and 1939 c 107 s 3 are each amended to  
8 read as follows:

9 Such petition shall contain a complete description of the property  
10 surrounding said lake with the number of front feet contained in each  
11 tract with the name of the owner thereof and his or her address  
12 together with a brief statement of the reasons and necessity for such  
13 application; that the level sought to be established will in no wise  
14 interfere with the navigability of said lake or in any manner affect or  
15 interfere with fish or game fish which may be then contained or may  
16 thereafter be deposited in said lake, but that in order to protect fish  
17 or game fish in said lake the construction of fish ladders or other  
18 devices may be required to conserve and protect such fish or game fish,  
19 then in that event the property owners to be benefited by the  
20 establishment of said water level in such lake shall be required to pay  
21 the cost thereof, in proportion to lineal feet of water front owned by  
22 each.

23 **Sec. 610.** RCW 90.24.050 and 1988 c 127 s 82 are each amended to  
24 read as follows:

25 In the event the court shall find that to protect fish and game  
26 fish in said lake that fish ladders or other devices should be  
27 constructed therein or that other construction shall be necessary in  
28 order to maintain the determined lake level, the court shall find the  
29 proper device to be constructed, the probable cost thereof and by its  
30 order and judgment shall apportion the cost thereof among the persons  
31 whose property abuts on said lake in proportion to the lineal feet of  
32 waterfront owned by each, which sum so found shall constitute a lien  
33 against said real property and shall be paid to the county treasurer  
34 and by him or her placed in a special fund to be known as "Lake  
35 . . . . . Improvement Fund." The director of ecology shall appoint

1 a suitable person to be compensated by the property owners to regulate  
2 the determined level as decreed by the court.

3 **Sec. 611.** RCW 90.44.110 and 1987 c 109 s 114 are each amended to  
4 read as follows:

5 No public groundwaters that have been withdrawn shall be wasted  
6 without economical beneficial use. The department shall require all  
7 wells producing waters which contaminate other waters to be plugged or  
8 capped. The department shall also require all flowing wells to be so  
9 capped or equipped with valves that the flow of water can be completely  
10 stopped when the wells are not in use under the terms of their  
11 respective permits or approved declarations of vested rights.  
12 Likewise, the department shall also require both flowing and nonflowing  
13 wells to be so constructed and maintained as to prevent the waste of  
14 public groundwaters through leaky casings, pipes, fittings, valves, or  
15 pumps--either above or below the land surface: PROVIDED, HOWEVER, That  
16 the withdrawal of reasonable quantities of public groundwater in  
17 connection with the construction, development, testing, or repair of a  
18 well shall not be construed as waste; also, that the inadvertent loss  
19 of such water owing to breakage of a pump, valve, pipe, or fitting  
20 shall not be construed as waste if reasonable diligence is shown by the  
21 permittee in effecting the necessary repair.

22 In the issuance of an original permit, or of an amendment to an  
23 original permit or certificate of vested right to withdraw and  
24 appropriate public groundwaters under the provisions of this chapter,  
25 the department may, as in his or her judgment is necessary, specify for  
26 the proposed well or wells or other works a manner of construction  
27 adequate to accomplish the provisions of this section.

28 **Sec. 612.** RCW 90.44.130 and 1987 c 109 s 116 are each amended to  
29 read as follows:

30 As between appropriators of public groundwater, the prior  
31 appropriator shall as against subsequent appropriators from the same  
32 groundwater body be entitled to the preferred use of such groundwater  
33 to the extent of his or her appropriation and beneficial use, and shall  
34 enjoy the right to have any withdrawals by a subsequent appropriator of  
35 groundwater limited to an amount that will maintain and provide a safe  
36 sustaining yield in the amount of the prior appropriation. The

1 department shall have jurisdiction over the withdrawals of groundwater  
2 and shall administer the groundwater rights under the principle just  
3 set forth, and it shall have the jurisdiction to limit withdrawals by  
4 appropriators of groundwater so as to enforce the maintenance of a safe  
5 sustaining yield from the groundwater body. For this purpose, the  
6 department shall have authority and it shall be its duty from time to  
7 time, as adequate factual data become available, to designate  
8 groundwater areas or subareas, to designate separate depth zones within  
9 any such area or subarea, or to modify the boundaries of such existing  
10 area, or subarea, or zones to the end that the withdrawals therefrom  
11 may be administratively controlled as prescribed in RCW 90.44.180 in  
12 order that overdraft of public groundwaters may be prevented so far as  
13 is feasible. Each such area or zone shall, as nearly as known facts  
14 permit, be so designated as to enclose a single and distinct body of  
15 public groundwater. Each such subarea may be so designated as to  
16 enclose all or any part of a distinct body of public groundwater, as  
17 the department deems will most effectively accomplish the purposes of  
18 this chapter.

19 Designation of, or modification of the boundaries of such a  
20 groundwater area, subarea, or zone may be proposed by the department on  
21 its own motion or by petition to the department signed by at least  
22 fifty or one-fourth, whichever is the lesser number, of the users of  
23 groundwater in a proposed groundwater area, subarea, or zone. Before  
24 any proposed groundwater area, subarea, or zone shall be designated, or  
25 before the boundaries or any existing groundwater area, subarea, or  
26 zone shall be modified the department shall publish a notice setting  
27 forth: (1) In terms of the appropriate legal subdivisions a  
28 description of all lands enclosed within the proposed area, subarea, or  
29 zone, or within the area, subarea, or zone whose boundaries are  
30 proposed to be modified; (2) the object of the proposed designation or  
31 modification of boundaries; and (3) the day and hour, and the place  
32 where written objections may be submitted and heard. Such notice shall  
33 be published in three consecutive weekly issues of a newspaper of  
34 general circulation in the county or counties containing all or the  
35 greater portion of the lands involved, and the newspaper of publication  
36 shall be selected by the department. Publication as just prescribed  
37 shall be construed as sufficient notice to the landowners and water  
38 users concerned.

1           Objections having been heard as herein provided, the department  
2 shall make and file in its office written findings of fact with respect  
3 to the proposed designation or modification and, if the findings are in  
4 the affirmative, shall also enter a written order designating the  
5 groundwater area, or subarea, or zone or modifying the boundaries of  
6 the existing area, subarea, or zone. Such findings and order shall  
7 also be published substantially in the manner herein prescribed for  
8 notice of hearing, and when so published shall be final and conclusive  
9 unless an appeal therefrom is taken within the period and in the manner  
10 prescribed by RCW 43.21B.310. Publication of such findings and order  
11 shall give force and effect to the remaining provisions of this section  
12 and to the provisions of RCW 90.44.180, with respect to the particular  
13 area, subarea, or zone.

14           Priorities of right to withdraw public groundwater shall be  
15 established separately for each groundwater area, subarea, or zone and,  
16 as between such rights, the first in time shall be the superior in  
17 right. The priority of the right acquired under a certificate of  
18 groundwater right shall be the date of filing of the original  
19 application for a withdrawal with the department, or the date or  
20 approximate date of the earliest beneficial use of water as set forth  
21 in a certificate of a vested groundwater right, under the provisions of  
22 RCW 90.44.090.

23           Within ninety days after the designation of a groundwater area,  
24 subarea, or zone as herein provided, any person, firm, or corporation  
25 then claiming to be the owner of artificially stored groundwater within  
26 such area, subarea, or zone shall file a certified declaration to that  
27 effect with the department on a form prescribed by the department.  
28 Such declaration shall cover: (1) The location and description of the  
29 works by whose operation such artificial groundwater storage is  
30 purported to have been created, and the name or names of the owner or  
31 owners thereof; (2) a description of the lands purported to be  
32 underlain by such artificially stored groundwater, and the name or  
33 names of the owner or owners thereof; (3) the amount of such water  
34 claimed; (4) the date or approximate date of the earliest artificial  
35 storage; (5) evidence competent to show that the water claimed is in  
36 fact water that would have been dissipated naturally except for  
37 artificial improvements by the claimant; and (6) such additional  
38 factual information as reasonably may be required by the department.

1 If any of the purported artificially stored groundwater has been or  
2 then is being withdrawn, the claimant also shall file (1) the  
3 declarations which this chapter requires of claimants to a vested right  
4 to withdraw public groundwaters, and (2) evidence competent to show  
5 that none of the water withdrawn under those declarations is in fact  
6 public groundwater from the area, subarea, or zone concerned:  
7 PROVIDED, HOWEVER, That in case of failure to file a declaration within  
8 the ninety-day period herein provided, the claimant may apply to the  
9 department for a reasonable extension of time, which shall not exceed  
10 two additional years and which shall be granted only upon a showing of  
11 good cause for such failure.

12 Following publication of the declaration and findings--as in the  
13 case of an original application, permit, or certificate of right to  
14 appropriate public groundwaters--the department shall accept or reject  
15 such declaration or declarations with respect to ownership or  
16 withdrawal of artificially stored groundwater. Acceptance of such  
17 declaration or declarations by the department shall convey to the  
18 declarant no right to withdraw public groundwaters from the particular  
19 area, subarea, or zone, nor to impair existing or subsequent rights to  
20 such public waters.

21 Any person, firm, or corporation hereafter claiming to be the owner  
22 of groundwater within a designated groundwater area, subarea, or zone  
23 by virtue of its artificial storage subsequent to such designation  
24 shall, within three years following the earliest artificial storage  
25 file a declaration of claim with the department, as herein prescribed  
26 for claims based on artificial storage prior to such designation:  
27 PROVIDED, HOWEVER, That in case of such failure the claimant may apply  
28 to the department for a reasonable extension of time, which shall not  
29 exceed two additional years and which shall be granted upon a showing  
30 of good cause for such failure.

31 Any person, firm, or corporation hereafter withdrawing groundwater  
32 claimed to be owned by virtue of artificial storage subsequent to  
33 designation of the relevant groundwater area, subarea, or zone shall,  
34 within ninety days following the earliest such withdrawal, file with  
35 the department the declarations required by this chapter with respect  
36 to withdrawals of public groundwater.

1       **Sec. 613.** RCW 90.48.095 and 1991 c 200 s 1103 are each amended to  
2 read as follows:

3       In carrying out the purposes of this chapter or chapter 90.56 RCW  
4 the department shall, in conjunction with either the adoption of rules,  
5 consideration of an application for a waste discharge permit or the  
6 termination or modification of such permit, or proceedings in  
7 adjudicative hearings, have the authority to issue process and subpoena  
8 witnesses effective throughout the state on its own behalf or that of  
9 an interested party, compel their attendance, administer oaths, take  
10 the testimony of any person under oath and, in connection therewith  
11 require the production for examination of any books or papers relating  
12 to the matter under consideration by the department. In case of  
13 disobedience on the part of any person to comply with any subpoena  
14 issued by the department, or on the refusal of any witness to testify  
15 to any matters regarding which he or she may be lawfully interrogated,  
16 it shall be the duty of the superior court of any county, or of the  
17 judge thereof, on application of the department, to compel obedience by  
18 proceedings for contempt, as in the case of disobedience of the  
19 requirements of a subpoena issued from such court or a refusal to  
20 testify therein. In connection with the authority granted under this  
21 section no witness or other person shall be required to divulge trade  
22 secrets or secret processes. Persons responding to a subpoena as  
23 provided herein shall be entitled to fees as are witnesses in superior  
24 court.

25       **Sec. 614.** RCW 90.58.170 and 1994 c 253 s 1 are each amended to  
26 read as follows:

27       A shorelines hearings board sitting as a quasi-judicial body is  
28 hereby established within the environmental and land use hearings  
29 office under RCW 43.21B.005. The shorelines hearings board shall be  
30 made up of six members: Three members shall be members of the  
31 pollution control hearings board; two members, one appointed by the  
32 association of Washington cities and one appointed by the association  
33 of county commissioners, both to serve at the pleasure of the  
34 associations; and the commissioner of public lands or his or her  
35 designee. The ((~~chairman~~)) chair of the pollution control hearings  
36 board shall be the ((~~chairman~~)) chair of the shorelines hearings board.  
37 Except as provided in RCW 90.58.185, a decision must be agreed to by at

1 least four members of the board to be final. The members of the  
2 shorelines (~~(hearings)~~) hearings board shall receive the  
3 compensation, travel, and subsistence expenses as provided in RCW  
4 43.03.050 and 43.03.060.

5 **Sec. 615.** RCW 91.08.030 and 1911 c 23 s 3 are each amended to read  
6 as follows:

7 The plan of such proposed waterway shall be presented to the board  
8 by a written petition of owners of lands which it is represented will  
9 be improved by the construction, deepening or widening of such  
10 waterway; and such petition shall be signed by the owners of thirty-  
11 five percent or more of the area of lands in the district, and shall be  
12 verified by one or more of the petitioners to the effect that the  
13 signatures attached are the genuine signature of the persons or  
14 corporations signing the same. Each petitioner shall add a description  
15 of the lands he or she owns. If petitioners are unmarried persons they  
16 shall so state. If lands are owned by married persons, husband and  
17 wife shall join in the petition. If a petitioner is a corporation, the  
18 signature shall be accompanied by a certified copy of a resolution of  
19 the board of directors or trustees of the corporation authorizing the  
20 person signing the petition for the corporation to execute it. If  
21 lands included in the petition are owned by minors, insane persons, or  
22 other persons under guardianship in this state, the petition may be  
23 signed by the guardians of such persons: PROVIDED, That the signature  
24 be accompanied by a certified copy of an order of the superior court  
25 having the guardianship of such person in charge, authorizing the  
26 guardian to sign the petition. A petition may consist of one or more  
27 separate papers or sheets which are identified with the subject matter.

28 The petitioners shall file with the board, with their petition, a  
29 map of the lands in the district and a statement showing each separate  
30 ownership of lands as shown by the public records of the county, and  
31 their location in the county, with the names of the owners as shown by  
32 such records, and the location of the proposed waterway if a new  
33 waterway is to be constructed. If an existing waterway is to be  
34 deepened the map shall show its location, and if it is to be widened  
35 the map shall show its location and the extent to which it is to be  
36 widened. With the petition there shall also be presented satisfactory  
37 evidence from the real property records of the county that the

1 petitioners are severally the owners in fee simple of their respective  
2 tracts of land, and that all taxes and assessments due thereon are  
3 paid. If it is proposed that any lands in the district shall be filled  
4 with the material dug or dredged from such waterway, the petition shall  
5 so state, and the map of the district and plan of the improvement shall  
6 show the location, depth, and yardage of such fill. The petition may  
7 also fix the price per cubic yard at which such fill shall be charged  
8 to the land filled, which charge shall be added to the assessment for  
9 the improvement to be made upon such lands and be paid as a part  
10 thereof. If the price of filling is not fixed by the petition it may  
11 be fixed by the board.

12 At any time after the filing of such petition one or more of the  
13 petitioners may file and record in the office of the auditor of the  
14 county, notice of the pendency of the proceeding, describing the  
15 boundaries of the proposed district, and from the time of such filing  
16 all persons shall be deemed to have notice of the pendency of the  
17 proceeding and be bound thereby. Upon the hearing upon such petition,  
18 hereinafter provided, if the same be denied any person interested may  
19 file in the office of said county auditor a certified copy of the order  
20 denying the same, whereupon the auditor shall enter the discharge of  
21 the notice of the pendency of the proceeding on the margin of the  
22 record thereof. And the like discharge may be filed whenever the  
23 proceeding is terminated for any other reason.

24 **Sec. 616.** RCW 91.08.080 and 1911 c 23 s 6 are each amended to read  
25 as follows:

26 At the time and place prescribed in the said notice any owner of  
27 land within said proposed improvement district may file with the board  
28 his or her written consent to the proposed improvement, and he or she  
29 shall then be considered as a petitioner; and if the owners of more  
30 than one half of the lands within the district, including the lands  
31 represented by the petition, shall assent to the prayer of said  
32 petition, the board shall then proceed to hear and consider any  
33 objections which may have been filed at that or any previous time, and  
34 may adjourn such hearing from day to day. If the board after full  
35 hearing on the merits of the proposed waterway shall be satisfied that  
36 the same will be of benefit to the public interests, and that private  
37 benefit will result to the lands within the district sufficient to



1 equal the cost of the proposed improvement, they may make findings  
2 accordingly and declare their intention to establish the waterway  
3 district under the name of the ". . . . . Waterway District" and make  
4 the improvement as prayed for; but if the owners of less than one half  
5 of the lands in the district shall assent to the creation thereof and  
6 the making of the proposed improvement, the board shall deny the  
7 petition and the proceeding shall be dismissed.

8       **Sec. 617.** RCW 91.08.130 and 1911 c 23 s 11 are each amended to  
9 read as follows:

10       The board shall file a petition, verified by its (~~chairman~~) chair  
11 and signed by the prosecuting attorney, in the superior court of the  
12 county, praying that the property described may be taken or damaged for  
13 the purpose specified and that compensation therefor be ascertained by  
14 a jury or by the court in case a jury be waived. Such petition shall  
15 allege the creation of the waterway district and contain a copy of the  
16 order directing the proceeding, a reasonably accurate description of  
17 the lots or parcels of land or other property which will be taken or  
18 damaged, and the names of the owners and occupants of said lands and of  
19 said persons having any interest therein so far as known to the said  
20 board, or as appears from the records in the office of the county  
21 auditor.

22       **Sec. 618.** RCW 91.08.150 and 1911 c 23 s 13 are each amended to  
23 read as follows:

24       In case the land or other property sought to be taken or damaged is  
25 state land, the summons and copy of petition shall be served upon the  
26 commissioner of public lands; if it is county land it shall be served  
27 upon the county auditor, and if school land, upon the county auditor  
28 and the (~~chairman~~) chair of the board of directors of the school  
29 district. Service upon other parties defendant, public or private,  
30 shall be made in the same manner as is or shall be provided by law for  
31 service of summons in other civil actions. If the state is made a  
32 defendant the attorney general shall represent it. If the county is a  
33 defendant the court shall appoint an attorney to represent it at all  
34 stages of the proceedings, and may allow him or her compensation for  
35 his or her services as costs of the proceeding.

1           **Sec. 619.** RCW 91.08.170 and 1911 c 23 s 15 are each amended to  
2 read as follows:

3           The jury or court shall also ascertain the just compensation to be  
4 paid to any person found to have an interest in any lot or parcel of  
5 land or property which may be taken or damaged for such improvement,  
6 whether or not such person's name or such lot or parcel of land or  
7 other property is mentioned or described in said petition: PROVIDED,  
8 That such person shall first be admitted as a party defendant to such  
9 suit by such court and shall file a statement of his or her interest  
10 in, and a description of, the lot or parcel of land or other property  
11 in respect to which he or she claims compensation.

12           **Sec. 620.** RCW 91.08.220 and 1911 c 23 s 20 are each amended to  
13 read as follows:

14           The court shall have power at any time, upon proof that any  
15 defendant who has not been served with process has ceased to be an  
16 owner since the filing of such petition, to substitute the new owner as  
17 a defendant, and after due service of the summons and petition upon him  
18 or her proceed as though he or she had been a party in the first  
19 instance; and the court may upon any finding of the jury, or at any  
20 time during the course of the proceedings, enter every such order,  
21 rule, judgment, or decree as the nature of the case may require.

22           **Sec. 621.** RCW 91.08.250 and 1988 c 202 s 94 are each amended to  
23 read as follows:

24           Any final judgment rendered by said court upon the findings of the  
25 court or a jury, shall be the lawful and sufficient condemnation of the  
26 land or property to be taken, or of the right to damage the same in the  
27 manner proposed, upon the payment of the amount of such findings and  
28 all costs which shall be taxed as in other civil cases: PROVIDED, That  
29 in case any defendant recovers no award, no costs shall be taxed. Such  
30 judgment shall be final and conclusive as to the damages caused by such  
31 improvement, unless appellate review is sought, and no review shall  
32 delay proceedings under the order of said board if it shall pay into  
33 court for the owners and parties interested, as directed by the court,  
34 the amount of the judgment and costs; but such board after making such  
35 payment into court shall be liable to such owner or owners, or parties  
36 interested, for the payment of any further compensation which may at

1 any time be finally awarded to such parties seeking review in said  
2 proceeding, and his or her costs, and shall pay the same on the  
3 rendition of judgment therefor and abide any rule or order of the court  
4 in relation to the matter in controversy. In case of review by the  
5 supreme court or the court of appeals of the state, the money so paid  
6 into the superior court by the board, as aforesaid, shall remain in the  
7 custody of said superior court until the final determination of the  
8 proceedings. If the owner of the land, real estate, premises, or other  
9 property, accepts the sum awarded by the jury or the court, he or she  
10 shall be deemed thereby to have waived conclusively appellate review  
11 and final judgment may be rendered in the superior court as in other  
12 cases.

13 **Sec. 622.** RCW 91.08.250 and 1988 c 202 s 94 are each amended to  
14 read as follows:

15 Any final judgment rendered by said court upon the findings of the  
16 court or a jury, shall be the lawful and sufficient condemnation of the  
17 land or property to be taken, or of the right to damage the same in the  
18 manner proposed, upon the payment of the amount of such findings and  
19 all costs which shall be taxed as in other civil cases: PROVIDED, That  
20 in case any defendant recovers no award, no costs shall be taxed. Such  
21 judgment shall be final and conclusive as to the damages caused by such  
22 improvement, unless appellate review is sought, and no review shall  
23 delay proceedings under the order of said board if it shall pay into  
24 court for the owners and parties interested, as directed by the court,  
25 the amount of the judgment and costs; but such board after making such  
26 payment into court shall be liable to such owner or owners, or parties  
27 interested, for the payment of any further compensation which may at  
28 any time be finally awarded to such parties seeking review in said  
29 proceeding, and his or her costs, and shall pay the same on the  
30 rendition of judgment therefor and abide any rule or order of the court  
31 in relation to the matter in controversy. In case of review by the  
32 supreme court or the court of appeals of the state, the money so paid  
33 into the superior court by the board, as aforesaid, shall remain in the  
34 custody of said superior court until the final determination of the  
35 proceedings. If the owner of the land, real estate, premises, or other  
36 property, accepts the sum awarded by the jury or the court, he or she

1 shall be deemed thereby to have waived conclusively appellate review  
2 and final judgment may be rendered in the superior court as in other  
3 cases.

4 **Sec. 623.** RCW 91.08.280 and 1911 c 23 s 26 are each amended to  
5 read as follows:

6 Said commissioners, before entering upon their duties, shall take  
7 and subscribe an oath that they will faithfully perform the duties of  
8 the office to which they are appointed, and will to the best of their  
9 abilities make true and impartial assessments according to the law.  
10 Every commissioner shall receive compensation at the rate of five  
11 dollars per day for each day actually spent in making the assessment  
12 herein provided for, upon his or her filing in the proceeding a  
13 verified statement showing the number of days he or she has actually  
14 spent therein; and upon the approval of said statement by the judge of  
15 the court in which the proceeding is pending, the board shall issue a  
16 warrant in the amount so approved, upon the special fund created to pay  
17 the awards and costs of said proceeding; and the fees of such  
18 commissioners so paid, and all expenses returned by them and allowed by  
19 the court shall be included in the cost and expense of such proceeding.

20 **Sec. 624.** RCW 91.08.340 and 1911 c 23 s 32 are each amended to  
21 read as follows:

22 Any person interested in any property assessed and desiring to  
23 object to the assessment thereon, shall file his or her objections to  
24 such report at any time before the day set for hearing said roll, and  
25 serve a copy thereof upon the prosecuting attorney. As to all property  
26 to the assessment upon which no objections are filed and served, as  
27 herein provided, default may be entered and the assessment confirmed by  
28 the court. On the hearing of objections the report of the  
29 commissioners shall be competent evidence to support the assessment,  
30 but either party may introduce such other evidence as may tend to  
31 establish the right of the matter. The hearing shall be conducted as  
32 in other cases at law tried by the court without a jury; and if it  
33 shall appear that the property of the objector is assessed more or less  
34 than it will be benefited, or more or less than its proportionate share  
35 of the cost of the condemnation and improvement, the court shall so  
36 find, and it shall also find the amount in which said property ought to

1 be assessed and correct the assessment accordingly. Judgment shall be  
2 entered confirming the assessment roll as originally filed or as  
3 corrected, as the case may require.

4 **Sec. 625.** RCW 91.08.370 and 1911 c 23 s 35 are each amended to  
5 read as follows:

6 The clerk of the court in which such judgment is rendered shall  
7 certify a copy of the assessment roll as confirmed, and of the judgment  
8 confirming the same, to the treasurer of the county, or if there has  
9 been an appeal taken from any part of such judgment, then he or she  
10 shall certify such part of the roll and judgment as is not included in  
11 such appeal, and the remainder when final judgment is entered:  
12 PROVIDED, That if upon such appeal the judgment of the superior court  
13 shall be affirmed, the assessments on such property as to which appeal  
14 has been taken shall bear interest at the same rate and from the same  
15 date which other assessments not paid within the time hereafter  
16 provided shall bear. Such copy of the assessment roll shall be  
17 sufficient warrant to the county treasurer to collect the assessments  
18 therein specified in the manner hereinafter provided.

19 **Sec. 626.** RCW 91.08.390 and 1911 c 23 s 37 are each amended to  
20 read as follows:

21 The owner of any land charged with an assessment under this  
22 chapter, may discharge the same from all liability for the cost of such  
23 condemnation and improvement by paying the entire assessment charged  
24 against his or her land, without interest, within the time fixed by the  
25 notice of the county treasurer for the payment thereof; or within said  
26 time he or she may pay a part of such assessment and allow the  
27 remainder to continue as an assessment upon his or her land to be  
28 collected and paid as hereinafter provided; or within said time he or  
29 she may pay the entire assessment per square foot upon any part of his  
30 or her land, providing that he or she shall when paying such partial  
31 assessment give to the treasurer a description of the tract paid for.

32 **Sec. 627.** RCW 91.08.400 and 1911 c 23 s 38 are each amended to  
33 read as follows:

34 When any assessment shall be paid either in full or in part only,

1 within the time for payment without interest fixed by his or her  
2 notice, the treasurer shall note the fact of such payment opposite the  
3 assessment.

4 **Sec. 628.** RCW 91.08.410 and 1981 c 156 s 34 are each amended to  
5 read as follows:

6 Immediately after the expiration of the time fixed by his or her  
7 notice for payment of assessments without interest, the treasurer shall  
8 divide the several assessments which remain unpaid in whole or in part  
9 into ten equal amounts or installments, as near as may be, without  
10 fractional cents, and enter said installments upon the roll opposite  
11 the several assessments, numbering the same from one to ten  
12 successively. And thereafter said treasurer shall annually for ten  
13 years, before the time fixed by law for the collection of state and  
14 county taxes, add one of the said assessment installments with interest  
15 for one year from the expiration of the time for payment without  
16 interest, or of the anniversary thereof, at a rate determined by the  
17 board on the entire unpaid assessment, to the tax levied upon the  
18 property assessed, where said tax appears upon the county tax roll, and  
19 collect said installment and interest, without reduction of percentage  
20 for prepayment, at the same time and in the same manner as state and  
21 county taxes are collected. And after delinquency said installments  
22 and interest shall be subject to the same charges for increased  
23 interest and penalties as are other delinquent taxes. But no tax sale  
24 of lands assessed under this chapter shall discharge the same from the  
25 lien of any unpaid installments of the assessment against it until all  
26 installments and interest are fully paid.

27 **Sec. 629.** RCW 91.08.430 and 1981 c 156 s 35 are each amended to  
28 read as follows:

29 The owner of any lands assessed under this chapter may at any time  
30 after the time fixed by the treasurer's notice for payment without  
31 interest, discharge his or her lands from the unpaid assessment by  
32 paying the principal of all installments unpaid with interest thereon  
33 at a rate determined by the board to the next anniversary of the time  
34 fixed as aforesaid; or he or she may pay one or more installments, with  
35 like interest, beginning with installment number ten and continuing in  
36 the inverse numerical order of installments. The successor in title to

1 any part of his or her lands may have the proportionate assessment  
2 segregated on the roll and charged to such part upon his or her  
3 producing to the treasurer his or her recorded deed to such part.

4 **Sec. 630.** RCW 91.08.460 and 1911 c 23 s 44 are each amended to  
5 read as follows:

6 Immediately after expiration of the time fixed by the treasurer for  
7 the payment of assessments levied under this chapter, he or she shall  
8 report to the board in writing the sum collected by him or her and in  
9 his or her hands to the credit of the assessment roll; and thereafter  
10 and on or before the first days of January and July in each year he or  
11 she shall make written reports to said board of the sums collected by  
12 him or her upon said roll, stating in detail the amount of principal,  
13 interest, and penalty so collected, the amount of principal remaining  
14 uncollected, and also, in detail, the principal and interest paid out  
15 by him or her under authority of the board, and the balance in his or  
16 her hands to the credit of the roll.

17 **Sec. 631.** RCW 91.08.500 and 1985 c 469 s 98 are each amended to  
18 read as follows:

19 The treasurer shall pay the interest on the bonds authorized to be  
20 issued by this chapter, on presentation of matured coupons therefor,  
21 out of the funds of the district in his or her hands. Whenever there  
22 shall be sufficient money in any such fund (not less than one thousand  
23 dollars) over and above sufficient for the payment of matured interest  
24 on all outstanding bonds, to pay the principal of one or more bonds,  
25 the treasurer shall call in and pay the bonds in their numerical order:  
26 PROVIDED, That the call for bonds shall be made by publication in the  
27 official newspaper of the county within five days after the semiannual  
28 interest period, and shall state that bonds numbered . . . . .  
29 (giving the serial numbers of the bonds called) will be paid on  
30 presentation; and that after a date named, not more than fifteen days  
31 thereafter, interest on the bonds called shall cease.

32 **Sec. 632.** RCW 91.08.510 and 1983 c 167 s 269 are each amended to  
33 read as follows:

34 The owner of any bond issued under authority of this chapter shall  
35 not have any claim therefor against any person, body, or corporation,

1 except from the special assessment made for the improvement for which  
2 such bond was issued; but his or her remedy in case of nonpayment shall  
3 be confined to the enforcement of such assessment. A copy of this  
4 section shall be plainly written, printed, or engraved on each bond so  
5 issued.

6 **Sec. 633.** RCW 91.08.550 and 1911 c 23 s 54 are each amended to  
7 read as follows:

8 The indebtedness of any such district on contracts, or upon  
9 employment or for supplies, shall be paid by warrants on the district  
10 fund only, to be issued by the board upon allowed written claims. Such  
11 warrants shall be in form the same as county warrants, or as nearly the  
12 same as may be practicable; shall draw the legal rate of interest from  
13 the date of their presentation to the county treasurer for payment, and  
14 shall be signed by the (~~chairman~~) chair and attested by the clerk:  
15 PROVIDED, That no warrants shall be issued in payment of any  
16 indebtedness of such district for less than the face or par value.

17 **Sec. 634.** RCW 91.08.560 and 1911 c 23 s 55 are each amended to  
18 read as follows:

19 All warrants issued under RCW 91.08.550 may be presented by the  
20 holders thereof to the county treasurer, who shall pay them or endorse  
21 thereon the date of presentation for payment and if the same are not  
22 paid, and the reason for their nonpayment; and no warrant shall draw  
23 interest until it is so presented and endorsed by the county treasurer.  
24 It shall be the duty of the treasurer from time to time, when he or she  
25 has sufficient funds in his or her hands for the purpose, to give  
26 notice to warrant holders to present their warrants for payment; such  
27 notice to be given by advertisement in the county newspaper. And  
28 thirty days after the first publication of said notice the warrants  
29 called shall cease to bear interest. Said notice shall be published  
30 once each week for two weeks consecutively, and such warrants shall be  
31 called and paid in the order of their endorsement.

32 **Sec. 635.** RCW 91.08.590 and 1911 c 23 s 59 are each amended to  
33 read as follows:

34 Any defendant in a condemnation proceeding under this chapter,  
35 whose remaining land, or whose other lands in the district, shall be



1 assessed for benefits arising from the improvement, may pay his or her  
2 assessments in full, if they be less than his or her condemnation  
3 judgment, at or before the time fixed by the treasurer for the payment  
4 of assessments without interest, by satisfying his or her judgment upon  
5 the judgment docket and producing to the treasurer the certificate of  
6 the county clerk that the judgment has been satisfied. And if his or  
7 her assessments be greater than his or her condemnation judgments he or  
8 she may, within the same time, pay his or her assessment to the extent  
9 of his or her judgment by the like satisfaction and the like production  
10 of the clerk's certificate to the treasurer. In each case the  
11 treasurer shall note the payment and the manner thereof on the  
12 assessment roll and report the same to the board.

13 **Sec. 636.** RCW 91.08.600 and 1911 c 23 s 60 are each amended to  
14 read as follows:

15 At any time before the completion of excavations required for the  
16 construction, deepening, or widening of a waterway under this chapter,  
17 when there will be surplus material dug or dredged from such waterway,  
18 any owner of land within the district, for the filling of whose land no  
19 provision has theretofore been made, may have such surplus material  
20 delivered upon his or her land for filling purposes upon paying the  
21 cost of such delivery in a sum to be fixed by the board. The sum so  
22 fixed shall be paid to the treasurer at such time and in such manner as  
23 the board may prescribe, and shall be credited to the district fund.

24 **Sec. 637.** RCW 91.08.620 and 1911 c 23 s 62 are each amended to  
25 read as follows:

26 Should any sum of money paid into court as compensation or damages  
27 for land or property taken or damaged in any condemnation proceeding  
28 under this chapter be uncalled for the period of two years, the county  
29 clerk shall satisfy the judgment therefor and pay the money in his or  
30 her hands to the treasurer for the road fund of the county. But upon  
31 application to the board of county commissioners within four years  
32 after such payment, the party entitled thereto shall be paid such money  
33 by the county without interest: PROVIDED, That if any such party,  
34 being a natural person, was under legal disabilities when such money  
35 was paid to the treasurer, the time within which he or she or his or

1 her legal representatives shall make application for the payment  
2 thereof shall not expire until one year after his or her death or the  
3 removal of his or her disabilities.

4 NEW SECTION. **Sec. 638.** Section 42 of this act expires December 1,  
5 2013.

6 NEW SECTION. **Sec. 639.** Section 43 of this act takes effect  
7 December 1, 2013.

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