
SENATE BILL 5415

State of Washington**56th Legislature****1999 Regular Session****By** Senators Patterson, Horn and McAuliffe; by request of Governor Locke

Read first time 01/21/1999. Referred to Committee on State & Local Government.

1 AN ACT Relating to the elimination and consolidation of boards,
2 commissions, and programs; amending RCW 18.28.010, 18.28.080,
3 18.28.090, 18.28.100, 18.28.110, 18.28.120, 18.28.130, 18.28.140,
4 18.28.150, 18.28.165, 18.28.190, 18.39.010, 18.39.173, 18.39.175,
5 18.39.217, 18.39.250, 18.39.300, 18.39.800, 68.05.020, 68.05.095,
6 68.05.105, 68.05.175, 68.05.195, 68.05.205, 68.05.285, 68.24.090,
7 68.40.040, 68.44.115, 68.46.010, 68.46.040, 68.46.090, 68.46.110,
8 68.46.130, 68.50.230, 68.60.030, 68.60.050, 68.60.060, 18.135.030,
9 18.138.070, 43.43.705, 43.43.785, 43.43.800, 43.63A.245, 43.220.040,
10 43.220.190, 43.220.210, 43.220.240, 75.30.050, 75.30.130, 79.72.020,
11 79.72.030, 79.72.040, and 79.72.050; reenacting and amending RCW
12 18.39.145; creating new sections; repealing RCW 18.28.020, 18.28.030,
13 18.28.040, 18.28.045, 18.28.050, 18.28.060, 18.28.070, 18.28.160,
14 18.28.170, 18.28.230, 18.28.240, 68.05.040, 68.05.050, 68.05.060,
15 68.05.080, 68.05.100, 18.138.120, 18.175.010, 18.175.020, 18.175.025,
16 18.175.027, 18.175.030, 18.175.040, 18.175.050, 18.175.060, 18.175.070,
17 18.175.080, 28C.20.010, 28C.20.020, 28C.20.030, 41.52.010, 41.52.020,
18 41.52.030, 41.52.040, 41.52.050, 41.52.060, 41.52.070, 42.17.261,
19 43.31.855, 43.31.857, 43.38.010, 43.38.020, 43.38.030, 43.38.040,
20 43.43.790, 43.43.795, 43.63A.260, and 70.95H.020; repealing 1996 c 316

1 s 2 (uncodified); providing an effective date; and declaring an
2 emergency.

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

4 **PART 1**
5 **REGULATION OF DEBT ADJUSTERS**

6 **Sec. 101.** RCW 18.28.010 and 1979 c 156 s 1 are each amended to
7 read as follows:

8 Unless a different meaning is plainly required by the context, the
9 following words and phrases as hereinafter used in this chapter shall
10 have the following meanings:

11 (1) "Debt adjusting" means the managing, counseling, settling,
12 adjusting, prorating, or liquidating of the indebtedness of a debtor,
13 or receiving funds for the purpose of distributing said funds among
14 creditors in payment or partial payment of obligations of a debtor.

15 (2) "Debt adjuster", which includes any person known as a debt
16 pooler, debt manager, debt consolidator, debt prorater, or credit
17 counselor, is any person engaging in or holding himself or herself out
18 as engaging in the business of debt adjusting for compensation. The
19 term shall not include:

20 (a) Attorneys at law, escrow agents, accountants, broker-dealers in
21 securities, or investment advisors in securities, while performing
22 services solely incidental to the practice of their professions;

23 (b) Any person, partnership, association, or corporation doing
24 business under and as permitted by any law of this state or of the
25 United States relating to banks, (~~small loan companies, industrial~~)
26 consumer finance businesses, consumer loan companies, trust companies,
27 mutual savings banks, savings and loan associations, building and loan
28 associations, credit unions, crop credit associations, development
29 credit corporations, industrial development corporations, title
30 insurance companies, or insurance companies;

31 (c) Persons who, as employees on a regular salary or wage of an
32 employer not engaged in the business of debt adjusting, perform credit
33 services for their employer;

34 (d) Public officers while acting in their official capacities and
35 persons acting under court order;

1 (e) Any person while performing services incidental to the
2 dissolution, winding up or liquidation of a partnership, corporation,
3 or other business enterprise;

4 (f) Nonprofit organizations dealing exclusively with debts owing
5 from commercial enterprises to business creditors;

6 (g) Nonprofit organizations engaged in debt adjusting and which do
7 not assess against the debtor a service charge in excess of fifteen
8 dollars per month.

9 (3) "Debt adjusting agency" is any partnership, corporation, or
10 association engaging in or holding itself out as engaging in the
11 business of debt adjusting.

12 ~~((4) "License" means a debt adjuster license or debt adjusting
13 agency license issued under the provisions of this chapter.~~

14 ~~(5) "Licensee" means a debt adjuster or debt adjusting agency to
15 whom a license has been issued under the provisions of this chapter.~~

16 ~~(6) "Director" means the director of the department of licensing.))~~

17 **Sec. 102.** RCW 18.28.080 and 1979 c 156 s 4 are each amended to
18 read as follows:

19 (1) By contract a ~~((licensee))~~ debt adjuster may charge a
20 reasonable fee for debt adjusting services. The total fee for debt
21 adjusting services may not exceed fifteen percent of the total debt
22 listed by the debtor on the contract. The fee retained by the
23 ~~((licensee))~~ debt adjuster from any one payment made by or on behalf of
24 the debtor may not exceed fifteen percent of the payment~~((: PROVIDED,~~
25 ~~That the licensee)).~~ The debt adjuster may make an initial charge of
26 up to twenty-five dollars which shall be considered part of the total
27 fee. If an initial charge is made, no additional fee may be retained
28 which will bring the total fee retained to date to more than fifteen
29 percent of the total payments made to date. No fee whatsoever shall be
30 applied against rent and utility payments for housing.

31 In the event of cancellation or default on performance of the
32 contract by the debtor prior to its successful completion, the
33 ~~((licensee))~~ debt adjuster may collect in addition to fees previously
34 received, six percent of that portion of the remaining indebtedness
35 listed on said contract which was due when the contract was entered
36 into, but not to exceed twenty-five dollars.

37 (2) A ~~((licensee))~~ debt adjuster shall not be entitled to retain
38 any fee until notifying all creditors listed by the debtor that the

1 debtor has engaged the ((licensee)) debt adjuster in a program of debt
2 adjusting.

3 **Sec. 103.** RCW 18.28.090 and 1967 c 201 s 9 are each amended to
4 read as follows:

5 If a ((licensee)) debt adjuster contracts for, receives or makes
6 any charge in excess of the maximums permitted by this chapter, except
7 as the result of an accidental and bona fide error, the ((licensee's))
8 debt adjuster's contract with the debtor shall be void and the
9 ((licensee)) debt adjuster shall return to the debtor the amount of all
10 payments received from the debtor or on ((his)) the debtor's behalf and
11 not distributed to creditors.

12 **Sec. 104.** RCW 18.28.100 and 1979 c 156 s 5 are each amended to
13 read as follows:

14 Every contract between a ((licensee)) debt adjuster and a debtor
15 shall:

16 (1) List every debt to be handled with the creditor's name and
17 disclose the approximate total of all known debts;

18 (2) Provide in precise terms payments reasonably within the ability
19 of the debtor to pay;

20 (3) Disclose in precise terms the rate and amount of all of the
21 ((licensee's)) debt adjuster's charges and fees;

22 (4) Disclose the approximate number and amount of installments
23 required to pay the debts in full;

24 (5) Disclose the name and address of the ((licensee)) debt adjuster
25 and of the debtor;

26 (6) Provide that the ((licensee)) debt adjuster shall notify the
27 debtor, in writing, within five days of notification to the
28 ((licensee)) debt adjuster by a creditor that the creditor refuses to
29 accept payment pursuant to the contract between the ((licensee)) debt
30 adjuster and the debtor;

31 (7) Contain the following notice in ten point boldface type or
32 larger directly above the space reserved in the contract for the
33 signature of the buyer: NOTICE TO DEBTOR:

34 (a) Do not sign this contract before you read it or if any spaces
35 intended for the agreed terms are left blank.

36 (b) You are entitled to a copy of this contract at the time you
37 sign it.

1 (c) You may cancel this contract within three days of signing by
2 sending notice of cancellation by certified mail return receipt
3 requested to the debt adjuster at his or her address shown on the
4 contract, which notice shall be posted not later than midnight of the
5 third day (excluding Sundays and holidays) following your signing of
6 the contract; and

7 (8) Contain such other and further provisions or disclosures as
8 (~~the director shall determine~~) are necessary for the protection of
9 the debtor and the proper conduct of business by the (~~licensee~~) debt
10 adjuster.

11 **Sec. 105.** RCW 18.28.110 and 1979 c 156 s 6 are each amended to
12 read as follows:

13 Every (~~licensee~~) debt adjuster shall perform the following
14 functions:

15 (1) Make a permanent record of all payments by debtors, or on the
16 debtors' behalf, and of all disbursements to creditors of such debtors,
17 and shall keep and maintain in this state all such records, and all
18 payments not distributed to creditors. No person shall intentionally
19 make any false entry in any such record, or intentionally mutilate,
20 destroy or otherwise dispose of any such record. Such records shall at
21 all times be open for inspection by the (~~director or his~~) attorney
22 general or the attorney general's authorized agent, and shall be
23 preserved as original records or by microfilm or other methods of
24 duplication (~~acceptable to the director,~~) for at least six years
25 after making the final entry therein.

26 (2) Deliver a completed copy of the contract between the
27 (~~licensee~~) debt adjuster and a debtor to the debtor immediately after
28 the debtor executes the contract, and sign the debtor's copy of such
29 contract.

30 (3) Unless paid by check or money order, deliver a receipt to a
31 debtor for each payment within five days after receipt of such payment.

32 (4) Distribute to the creditors of the debtor at least once each
33 forty days after receipt of payment during the term of the contract at
34 least eighty-five percent of each payment received from the debtor.

35 (5) At least once every month render an accounting to the debtor
36 which shall indicate the total amount received from or on behalf of the
37 debtor, the total amount paid to each creditor, the total amount which
38 any creditor has agreed to accept as payment in full on any debt owed

1 ((him)) the creditor by the debtor, the amount of charges deducted, and
2 any amount held in trust. The ((licensee)) debt adjuster shall in
3 addition render such an account to a debtor within ten days after
4 written demand.

5 (6) Notify the debtor, in writing, within five days of notification
6 to the ((licensee)) debt adjuster by a creditor that the creditor
7 refuses to accept payment pursuant to the contract between the
8 ((licensee)) debt adjuster and the debtor.

9 ~~((7) Furnish the director with all contracts, assignments, and
10 forms as described in RCW 18.28.030 which are currently in use.))~~

11 **Sec. 106.** RCW 18.28.120 and 1967 c 201 s 12 are each amended to
12 read as follows:

13 A ((licensee)) debt adjuster shall not:

14 (1) Take any contract, or other instrument which has any blank
15 spaces when signed by the debtor;

16 (2) Receive or charge any fee in the form of a promissory note or
17 other promise to pay or receive or accept any mortgage or other
18 security for any fee, whether as to real or personal property;

19 (3) Lend money or credit;

20 (4) Take any confession of judgment or power of attorney to confess
21 judgment against the debtor or appear as the debtor in any judicial
22 proceedings;

23 (5) Take, concurrent with the signing of the contract or as a part
24 of the contract or as part of the application for the contract, a
25 release of any obligation to be performed on the part of the
26 ((licensee)) debt adjuster;

27 (6) Advertise ((his)) services, display, distribute, broadcast or
28 televise, or permit ((his)) services to be displayed, advertised,
29 distributed, broadcasted or televised in any manner whatsoever wherein
30 any false, misleading or deceptive statement or representation with
31 regard to the services to be performed by the ((licensee)) debt
32 adjuster, or the charges to be made therefor, is made;

33 (7) Offer, pay, or give any cash, fee, gift, bonus, premiums,
34 reward, or other compensation to any person for referring any
35 prospective customer to the ((licensee)) debt adjuster;

36 (8) Receive any cash, fee, gift, bonus, premium, reward, or other
37 compensation from any person other than the debtor or a person in the

1 debtor's behalf in connection with his or her activities as a
2 ((licensee)) debt adjuster; or

3 (9) Disclose to anyone(~~(, other than the director or his agent,)~~)
4 the debtors who have contracted with the ((licensee)) debt adjuster;
5 nor shall the ((licensee)) debt adjuster disclose the creditors of a
6 debtor to anyone other than: (a) The debtor(~~(,)~~); or (b) (~~the~~
7 ~~director or his agent, or (c)~~) another creditor of the debtor and then
8 only to the extent necessary to secure the cooperation of such a
9 creditor in a debt adjusting plan.

10 **Sec. 107.** RCW 18.28.130 and 1967 c 201 s 13 are each amended to
11 read as follows:

12 Without limiting the generality of the foregoing and other
13 applicable laws, the ((licensee)) debt adjuster, manager or an employee
14 of (~~a licensee~~) the debt adjuster shall not:

15 (1) Prepare, advise, or sign a release of attachment or
16 garnishment, stipulation, affidavit for exemption, compromise agreement
17 or other legal or court document, nor furnish legal advice or perform
18 legal services of any kind;

19 (2) Represent that he or she is authorized or competent to furnish
20 legal advice or perform legal services;

21 (3) Assume authority on behalf of creditors or a debtor or accept
22 a power of attorney authorizing it to employ or terminate the services
23 of any attorney or to arrange the terms of or compensate for such
24 services; or

25 (4) Communicate with the debtor or creditor or any other person in
26 the name of any attorney or upon the stationery of any attorney or
27 prepare any form or instrument which only attorneys are authorized to
28 prepare.

29 **Sec. 108.** RCW 18.28.140 and 1967 c 201 s 14 are each amended to
30 read as follows:

31 Nothing in this chapter shall be construed as prohibiting the
32 assignment of wages by a debtor to a ((licensee)) debt adjuster, if
33 such assignment is otherwise in accordance with the law of this state.

34 **Sec. 109.** RCW 18.28.150 and 1979 c 156 s 8 are each amended to
35 read as follows:

1 (1) Any payment received by a ((licensee)) debt adjuster from or on
2 behalf of a debtor shall be held in trust by the ((licensee)) debt
3 adjuster from the moment it is received. The ((licensee)) debt
4 adjuster shall not commingle such payment with ((his)) the debt
5 adjuster's own property or funds, but shall maintain a separate trust
6 account and deposit in such account all such payments received. All
7 disbursements whether to the debtor or to the creditors of the debtor,
8 or to the ((licensee)) debt adjuster, shall be made from such account.

9 (2) In the event that the debtor cancels or defaults on the
10 contract between the debtor and the ((licensee)) debt adjuster, the
11 ((licensee)) debt adjuster shall close out the debtor's trust account
12 in the following manner:

13 (a) The ((licensee)) debt adjuster may take from the account that
14 amount necessary to satisfy any fees, other than any cancellation or
15 default fee, authorized by this chapter.

16 (b) After deducting the fees provided in subsection (2)(a) of this
17 section, the ((licensee)) debt adjuster shall distribute the remaining
18 amount in the account to the creditors of the debtor. The distribution
19 shall be made within five days of the demand therefor by the debtor,
20 but if the debtor fails to make the demand, then the ((licensee)) debt
21 adjuster shall make the distribution within thirty days of the date of
22 cancellation or default.

23 **Sec. 110.** RCW 18.28.165 and 1979 c 156 s 7 are each amended to
24 read as follows:

25 For the purpose of discovering violations of this chapter or
26 securing information lawfully required ((by him hereunder, the
27 director)) under this chapter, the office of the attorney general may
28 at any time((, either personally or by a person or persons duly
29 designated by him,)): Investigate the debt adjusting business and
30 examine the books, accounts, records, and files used ((therein, of
31 every licensee. For that purpose the director and his duly designated
32 representatives shall)); have free access to the offices and places of
33 business, books, accounts, papers, records, files, safes, and vaults of
34 ((all licensees. The director and all persons duly designated by him
35 may)) debt adjusters; and require the attendance of and examine under
36 oath all persons whomsoever whose testimony ((he may require)) might be
37 required relative to such debt adjusting business or to the subject
38 matter of any examination, investigation, or hearing.

1 (3) "Two-year college course" means the completion of sixty
2 semester hours or ninety quarter hours of college credit, including the
3 satisfactory completion of certain college courses, as set forth in
4 this chapter.

5 (4) "Funeral establishment" means a place of business licensed in
6 accordance with RCW 18.39.145, conducted at a specific street address
7 or location, and devoted to the care and preparation for burial or
8 disposal of dead human bodies and includes all areas of such business
9 premises and all tools, instruments, and supplies used in preparation
10 and embalming of dead human bodies for burial or disposal.

11 (5) "Director" means the director of licensing.

12 (6) "Board" means the ((state)) funeral and cemetery board ((of
13 ~~funeral directors and embalmers~~)) created pursuant to RCW 18.39.173.

14 (7) "Prearrangement funeral service contract" means any contract
15 under which, for a specified consideration, a funeral establishment
16 promises, upon the death of the person named or implied in the
17 contract, to furnish funeral merchandise or services.

18 (8) "Funeral merchandise or services" means those services normally
19 performed and merchandise normally provided by funeral establishments,
20 including the sale of burial supplies and equipment, but excluding the
21 sale by a cemetery of lands or interests therein, services incidental
22 thereto, markers, memorials, monuments, equipment, crypts, niches, or
23 vaults.

24 ~~((9) "Qualified public depository" means a depository defined by
25 RCW 39.58.010, a credit union as governed by chapter 31.12 RCW, a
26 mutual savings bank as governed by Title 32 RCW, a savings and loan
27 association as governed by Title 33 RCW, or a federal credit union or
28 a federal savings and loan association organized, operated, and
29 governed by any act of congress, in which prearrangement funeral
30 service contract funds are deposited by any funeral establishment.))~~

31 Words used in this chapter importing the singular may be applied to
32 the plural of the person or thing, words importing the plural may be
33 applied to the singular, and words importing the masculine gender may
34 be applied to the female.

35 **Sec. 202.** RCW 18.39.145 and 1986 c 259 s 61 and 1985 c 7 s 40 are
36 each reenacted and amended to read as follows:

37 The board shall issue a funeral establishment license to any
38 person, partnership, association, corporation, or other organization to

1 operate a funeral establishment, at specific locations only, which has
2 met the following requirements:

3 (1) The applicant has designated the name under which the funeral
4 establishment will operate and has designated locations for which the
5 general establishment license is to be issued;

6 (2) The applicant is licensed in this state as a funeral director
7 and as an embalmer, or employs at least one person with both such
8 qualifications or one licensed funeral director and one embalmer who
9 will be in service at each designated location;

10 (3) The applicant has filed an application with the director as
11 required by this chapter and paid the required filing fee therefor as
12 fixed by the director pursuant to RCW 43.24.086;

13 (4) As a condition of applying for a new funeral establishment
14 license, the person or entity desiring to acquire such ownership or
15 control shall be bound by all then existing prearrangement funeral
16 service contracts.

17 The board may deny an application for a funeral establishment
18 license, or issue a conditional license, if disciplinary action has
19 previously been taken against the applicant or the applicant's
20 designated funeral director or embalmer. No funeral establishment
21 license shall be transferable, but an applicant may make application
22 for more than one funeral establishment license so long as all of the
23 requirements are met for each license. All funeral establishment
24 licenses shall expire (~~on June 30, or~~) as (~~otherwise~~) determined by
25 the director.

26 **Sec. 203.** RCW 18.39.173 and 1977 ex.s. c 93 s 8 are each amended
27 to read as follows:

28 (~~There is hereby established a state board of funeral directors~~
29 ~~and embalmers to be composed of five members appointed by the governor~~
30 ~~in accordance with this section, one of whom shall be a public member.~~
31 ~~The three members of the state examining committee for funeral~~
32 ~~directors and embalmers, which was created pursuant to RCW 43.24.060,~~
33 ~~as of September 21, 1977 are hereby appointed as members of the board~~
34 ~~to serve for initial terms. The governor shall appoint two additional~~
35 ~~members of the board. Each professional member of the board shall be~~
36 ~~licensed in this state as a funeral director and embalmer and a~~
37 ~~resident of the state of Washington for a period of at least five years~~
38 ~~next preceding appointment, during which time such member shall have~~

1 ~~been continuously engaged in the practice as a funeral director or~~
2 ~~embalmer as defined in this chapter. No person shall be eligible for~~
3 ~~appointment to the board of funeral directors and embalmers who is~~
4 ~~financially interested, directly or indirectly, in any embalming~~
5 ~~college, wholesale funeral supply business, or casket manufacturing~~
6 ~~business.~~

7 All members of the board of funeral directors and embalmers shall
8 be appointed to serve for a term of five years, to expire on July 1 of
9 the year of termination of their term, and until their successors have
10 been appointed and qualified: PROVIDED, That the governor is granted
11 the power to fix the terms of office of the members of the board first
12 appointed so that the term of office of not more than one member of the
13 board shall terminate in any one year. In case of a vacancy occurring
14 on the board, the governor shall appoint a qualified member for the
15 remainder of the unexpired term of the vacant office. Any member of
16 the board of funeral directors and embalmers who fails to properly
17 discharge the duties of a member may be removed by the governor.)) A
18 funeral and cemetery board is created to consist of nine members to be
19 appointed by the governor in accordance with this section. The three
20 funeral director and embalmer members of the board of funeral directors
21 and embalmers whose terms expire after 1999 are hereby appointed to
22 serve for initial terms with their year of expiration of term remaining
23 the same. The two members of the cemetery board who have had
24 experience in this state in the active administrative management of a
25 cemetery authority or as a member of the board of directors of a
26 cemetery authority whose terms expire after 1999 are hereby appointed
27 to serve for initial terms with their year of expiration of term
28 remaining the same. A third member who has had experience in this
29 state in the active administrative management of a cemetery authority
30 or as a member of the board of directors of a cemetery authority shall
31 be appointed with a term to expire in 2003. Three public members shall
32 be appointed with terms to expire in 2001, 2002, and 2003. These
33 appointments may cause no more than three terms to expire in any given
34 year.

35 A member of the board must be appointed to serve for a term of four
36 years, to expire on July 1st of the year of termination of the member's
37 term. A member shall hold office until the expiration of the term for
38 which the member is appointed or until a successor has been appointed
39 and qualified. In case of a vacancy occurring on the board, the

1 governor shall appoint a qualified member for the remainder of the
2 unexpired term of the vacant office. A member of the board who fails
3 to properly discharge the duties of a member may be removed by the
4 governor.

5 Three members of the board must be persons who have had experience
6 in this state in the active administrative management of a cemetery
7 authority or as a member of the board of directors of a cemetery
8 authority for a period of five years preceding appointment. Three
9 members of the board must each be licensed in this state as funeral
10 directors and embalmers and must have been continuously engaged in the
11 practice as funeral directors and embalmers for a period of five years
12 preceding appointment. Three members must represent the general public
13 and may not have a connection with the funeral or cemetery industry.
14 Two of these public members shall be persons who have professional,
15 legal, accounting, or trust investment experience that is relevant to
16 the duties of the board. A member of the board must have been a
17 resident of the state of Washington for a period of at least five years
18 preceding appointment.

19 The board shall meet once annually to conduct its business and to
20 elect a ((chairman)) chair, vice ((chairman)) chair, and ((secretary
21 and take official board action on pending matters by majority vote of
22 all the members of the board of funeral directors and embalmers)) such
23 other officers as the board determines, and at other times when called
24 by the director, the ((chairman)) chair, or a majority of the members.
25 A majority of the members of ((said)) the board ((shall)) at all times
26 constitutes a quorum. A quorum of the board to consider any charges
27 brought under this chapter shall include two of the funeral director
28 and embalmer members of the board. A quorum of the board to consider
29 any charges brought under Title 68 RCW shall include two of the members
30 who have had experience in the active administrative management of a
31 cemetery authority. If funeral director and embalmer or cemetery board
32 members cannot serve due to a conflict of interest, a quorum
33 constituting a majority of the members shall preside over the hearing.

34 A member of the board shall be compensated in accordance with RCW
35 43.03.240 and shall receive travel expenses in accordance with RCW
36 43.03.050 and 43.03.060.

37 **Sec. 204.** RCW 18.39.175 and 1996 c 217 s 6 are each amended to
38 read as follows:

1 ((Each member of the board of funeral directors and embalmers shall
2 be compensated in accordance with RCW 43.03.240 and shall be reimbursed
3 for travel expenses in connection with board duties in accordance with
4 RCW 43.03.050 and 43.03.060.))

5 The ((state)) board ((of funeral directors and embalmers shall
6 have)) has the following duties and responsibilities under this
7 chapter:

8 (1) To be responsible for the preparation, conducting, and grading
9 of examinations of applicants for funeral director and embalmer
10 licenses;

11 (2) To certify to the director the results of examinations of
12 applicants and certify the applicant as having "passed" or "failed";

13 (3) To make findings and recommendations to the director on any and
14 all matters relating to the enforcement of this chapter;

15 (4) To adopt(~~(, promulgate,)~~) and enforce reasonable rules(~~(-
16 Rules regulating the cremation of human remains and permit requirements
17 shall be adopted in consultation with the cemetery board))~~);

18 (5) To examine or audit or to direct the examination and audit of
19 prearrangement funeral service trust fund records for compliance with
20 this chapter and rules adopted by the board; and

21 (6) To adopt rules establishing mandatory continuing education
22 requirements to be met by persons applying for license renewal.

23 **Sec. 205.** RCW 18.39.217 and 1985 c 402 s 7 are each amended to
24 read as follows:

25 A permit or endorsement issued by the board or under chapter 68.05
26 RCW is required in order to operate a crematory or conduct a cremation.
27 Conducting a cremation without a permit or endorsement is a
28 misdemeanor. Each such cremation is a separate violation.
29 (~~(Crematories owned or operated by or located on property licensed as
30 a funeral establishment shall be regulated by the board of funeral
31 directors and embalmers. Crematories not affiliated with a funeral
32 establishment shall be regulated by the cemetery board.))~~)

33 **Sec. 206.** RCW 18.39.250 and 1996 c 217 s 8 are each amended to
34 read as follows:

35 (1) Any funeral establishment selling funeral merchandise or
36 services by prearrangement funeral service contract and accepting
37 moneys therefore shall establish and maintain one or more

1 prearrangement funeral service trusts under Washington state law with
2 two or more designated trustees, for the benefit of the beneficiary of
3 the prearrangement funeral service contract or may join with one or
4 more other Washington state licensed funeral establishments in a
5 "master trust" provided that each member of the "master trust" shall
6 comply individually with the requirements of this chapter.

7 (2) Up to ten percent of the cash purchase price of each
8 prearrangement funeral service contract, excluding sales tax, may be
9 retained by the funeral establishment unless otherwise provided in this
10 chapter. If the prearrangement funeral service contract is canceled
11 within thirty calendar days of its signing, then the purchaser shall
12 receive a full refund of all moneys paid under the contract.

13 (3) At least ninety percent of the cash purchase price of each
14 prearrangement funeral service contract, paid in advance, excluding
15 sales tax, shall be placed in the trust established or utilized by the
16 funeral establishment. Deposits to the prearrangement funeral service
17 trust shall be made not later than the twentieth day of the month
18 following receipt of each payment made on the last ninety percent of
19 each prearrangement funeral service contract, excluding sales tax.

20 (4) All prearrangement funeral service trust moneys shall be
21 deposited in an insured account in a (~~qualified~~) public depository,
22 as defined in RCW 39.58.010, or shall be invested in instruments issued
23 or insured by any agency of the federal government if these securities
24 are held in a public depository. The account shall be designated as
25 the prearrangement funeral service trust of the funeral establishment
26 for the benefit of the beneficiaries named in the prearrangement
27 funeral service contracts. The prearrangement funeral service trust
28 shall not be considered as, nor shall it be used as, an asset of the
29 funeral establishment.

30 (5) After deduction of reasonable fees for the administration of
31 the trust, taxes paid or withheld, or other expenses of the trust, all
32 interest, dividends, increases, or accretions of whatever nature earned
33 by a trust shall be kept unimpaired and shall become a part of the
34 trust. Adequate records shall be maintained to allocate the share of
35 principal and interest to each contract. Fees deducted for the
36 administration of the trust shall not exceed one percent per year of
37 the amount in trust. In no instance shall the administrative charges
38 deducted from the prearrangement funeral service trust reduce,
39 diminish, or in any other way lessen the value of the trust so that the

1 services or merchandise provided for under the contract are reduced,
2 diminished, or in any other way lessened.

3 (6) Except as otherwise provided in this chapter, the trustees of
4 a prearrangement funeral service trust shall permit withdrawal of all
5 funds deposited under a prearrangement funeral service contract, plus
6 accruals thereon, under the following circumstances and conditions:

7 (a) If the funeral establishment files a verified statement with
8 the trustees that the prearrangement funeral merchandise and services
9 covered by the contract have been furnished and delivered in accordance
10 therewith; or

11 (b) If the funeral establishment files a verified statement with
12 the trustees that the prearrangement funeral merchandise and services
13 covered by the contract have been canceled in accordance with its
14 terms.

15 (7) Subsequent to the thirty calendar day cancellation period
16 provided for in this chapter, any purchaser or beneficiary who has a
17 revocable prearrangement funeral service contract has the right to
18 demand a refund of the amount in trust.

19 (8) Prearrangement funeral service contracts which have or should
20 have an account in a prearrangement funeral service trust may be
21 terminated by the board if the funeral establishment goes out of
22 business, becomes insolvent or bankrupt, makes an assignment for the
23 benefit of creditors, has its prearrangement funeral service
24 certificate of registration revoked, or for any other reason is unable
25 to fulfill the obligations under the contract. In such event, or upon
26 demand by the purchaser or beneficiary of the prearrangement funeral
27 service contract, the funeral establishment shall refund to the
28 purchaser or beneficiary all moneys deposited in the trust and
29 allocated to the contract unless otherwise ordered by a court of
30 competent jurisdiction. The purchaser or beneficiary may, in lieu of
31 a refund, elect to transfer the prearrangement funeral service contract
32 and all amounts in trust to another funeral establishment licensed
33 under this chapter which will agree, by endorsement to the contract, to
34 be bound by the contract and to provide the funeral merchandise or
35 services. Election of this option shall not relieve the defaulting
36 funeral establishment of its obligation to the purchaser or beneficiary
37 for any amounts required to be, but not placed, in trust.

38 (9) Prior to the sale or transfer of ownership or control of any
39 funeral establishment which has contracted for prearrangement funeral

1 service contracts, any person, corporation, or other legal entity
2 desiring to acquire such ownership or control shall apply to the
3 director in accordance with RCW 18.39.145. Persons and business
4 entities selling or relinquishing, and persons and business entities
5 purchasing or acquiring ownership or control of such funeral
6 establishments shall each verify and attest to a report showing the
7 status of the prearrangement funeral service trust or trusts on the
8 date of the sale. This report shall be on a form prescribed by the
9 board and shall be considered part of the application for a funeral
10 establishment license. In the event of failure to comply with this
11 subsection, the funeral establishment shall be deemed to have gone out
12 of business and the provisions of subsection (8) of this section shall
13 apply.

14 (10) Prearrangement funeral service trust moneys shall not be used,
15 directly or indirectly, for the benefit of the funeral establishment or
16 any director, officer, agent, or employee of the funeral establishment
17 including, but not limited to, any encumbrance, pledge, or other use of
18 prearrangement funeral service trust moneys as collateral or other
19 security.

20 (11)(a) If, at the time of the signing of the prearrangement
21 funeral service contract, the beneficiary of the trust is a recipient
22 of public assistance as defined in RCW 74.04.005, or reasonably
23 anticipates being so defined, the contract may provide that the trust
24 will be irrevocable. If after the contract is entered into, the
25 beneficiary becomes eligible or seeks to become eligible for public
26 assistance under Title 74 RCW, the contract may provide for an election
27 by the beneficiary, or by the purchaser on behalf of the beneficiary,
28 to make the trust irrevocable thereafter in order to become or remain
29 eligible for such assistance.

30 (b) The department of social and health services shall notify the
31 trustee of any prearrangement service trust that the department has a
32 claim on the estate of a beneficiary for long-term care services. Such
33 notice shall be renewed at least every three years. The trustees upon
34 becoming aware of the death of a beneficiary shall give notice to the
35 department of social and health services, office of financial recovery,
36 who shall file any claim there may be within thirty days of the notice.

37 (12) Every prearrangement funeral service contract financed through
38 a prearrangement funeral service trust shall contain language which:

1 (a) Informs the purchaser of the prearrangement funeral service
2 trust and the amount to be deposited in the trust;

3 (b) Indicates if the contract is revocable or not in accordance
4 with subsection (11) of this section;

5 (c) Specifies that a full refund of all moneys paid on the contract
6 will be made if the contract is canceled within thirty calendar days of
7 its signing;

8 (d) Specifies that, in the case of cancellation by a purchaser or
9 beneficiary eligible to cancel under the contract or under this
10 chapter, up to ten percent of the contract amount may be retained by
11 the seller to cover the necessary expenses of selling and setting up
12 the contract;

13 (e) Identifies the trust to be used and contains information as to
14 how the trustees may be contacted.

15 **Sec. 207.** RCW 18.39.300 and 1989 c 390 s 7 are each amended to
16 read as follows:

17 In addition to the grounds for action set forth in RCW ((~~18.130.170~~
18 ~~and 18.130.180~~)) 18.39.410, the board may take the disciplinary action
19 set forth in RCW ((~~18.130.160~~)) 18.39.500 against the funeral
20 establishment's license, the license of any funeral director and/or the
21 funeral establishment's certificate of registration, if the licensee or
22 registrant:

23 (1) Fails to comply with any provisions of this chapter(~~(, chapter~~
24 ~~18.130-RCW,)) or any proper order or regulation of the board;~~

25 (2) Is found by the board to be in such condition that further
26 execution of prearrangement contracts could be hazardous to purchasers
27 or beneficiaries and the people of this state;

28 (3) Refuses to be examined, or refuses to submit to examination by
29 the board when required;

30 (4) Fails to pay the expense of an examination; or

31 (5) Is found by the board after investigation or receipt of
32 reliable information to be managed by persons who are incompetent or
33 untrustworthy or so lacking in managerial experience as to make the
34 proposed or continued execution or servicing of prearrangement funeral
35 service contracts hazardous to purchasers, beneficiaries, or to the
36 public.

1 **Sec. 208.** RCW 18.39.800 and 1996 c 217 s 9 are each amended to
2 read as follows:

3 The funeral ~~((directors))~~ and ~~((embalmers))~~ cemetery account is
4 created in the state treasury. All fees and regulatory charges
5 received by the department for licenses, registrations, renewals,
6 certificates, permits, endorsements, license examinations, and
7 ~~((audits))~~ trust fund examinations shall be forwarded to the state
8 treasurer who shall credit the money to the account. All fines and
9 civil penalties ordered by the superior court or fines ordered pursuant
10 to RCW ~~((18.130.160(8)))~~ 18.39.500 and 68.05.105 against holders of
11 licenses or registrations issued under the provisions of this chapter
12 shall be paid to the account. All expenses incurred in carrying out
13 the licensing and registration activities of the department of
14 licensing and the ~~((state funeral directors and embalmers))~~ board under
15 this chapter shall be paid from the account as authorized by
16 legislative appropriation. Any residue in the account shall be
17 accumulated and shall not revert to the general fund at the end of the
18 biennium. All earnings of investments of balances in the account shall
19 be credited to the general fund. Any fund balance remaining in the
20 ~~((health professions))~~ funeral directors and embalmers account
21 attributable to the funeral director and embalmer professions as of
22 July 1, ~~((1993))~~ 1999, and any fund balance remaining in the cemetery
23 account as of July 1, 1999, shall be transferred to the funeral
24 ~~((directors))~~ and ~~((embalmers))~~ cemetery account.

25 **Sec. 209.** RCW 68.05.020 and 1953 c 290 s 27 are each amended to
26 read as follows:

27 The term "board" used in this chapter means the funeral and
28 cemetery board.

29 **Sec. 210.** RCW 68.05.095 and 1987 c 331 s 8 are each amended to
30 read as follows:

31 ~~((The board shall elect annually a chairman and vice chairman and~~
32 ~~such other officers as it shall determine from among its members.))~~
33 The director, in consultation with the board, may employ and prescribe
34 the duties of the ~~((executive secretary))~~ program administrator or
35 manager. The ~~((executive secretary shall))~~ program administrator or
36 manager must have a minimum of five years' experience in either

1 cemetery or funeral management, or both, unless this requirement is
2 waived by the board.

3 **Sec. 211.** RCW 68.05.105 and 1987 c 331 s 10 are each amended to
4 read as follows:

5 The board has the following authority under this chapter:

6 (1) To adopt, amend, and rescind such rules as are deemed necessary
7 to carry out this title;

8 (2) To investigate all complaints or reports of unprofessional
9 conduct as defined in this chapter and to hold hearings;

10 (3) To issue subpoenas and administer oaths in connection with any
11 investigation, hearing, or proceeding held under this title;

12 (4) To take or cause depositions to be taken and use other
13 discovery procedures as needed in any investigation, hearing, or
14 proceeding held under this title;

15 (5) To compel attendance of witnesses at hearings;

16 (6) In the course of investigating a complaint, to conduct practice
17 reviews;

18 (7) To take emergency action pending proceedings by the board;

19 (8) To use the office of administrative hearings as authorized in
20 chapter 34.12 RCW to conduct hearings. However, the board shall make
21 the final decision;

22 (9) To use consultants or individual members of the board to assist
23 in the direction of investigations and issuance of statements of
24 charges. However, those board members shall not subsequently
25 participate in the hearing of the case;

26 (10) To enter into contracts for professional services determined
27 to be necessary for adequate enforcement of this title;

28 (11) To contract with persons or organizations to provide services
29 necessary for the monitoring and supervision of licensees, or
30 authorities who are for any authorized purpose subject to monitoring by
31 the board;

32 (12) To adopt standards of professional conduct or practice;

33 (13) To grant or deny authorities or license applications, and in
34 the event of a finding of unprofessional conduct by an applicant,
35 authority, or license holder, to impose any sanction against a license
36 applicant, authority, or license holder provided by this title;

37 (14) To enter into an assurance of discontinuance in lieu of
38 issuing a statement of charges or conducting a hearing. The assurance

1 shall consist of a statement of the law in question and an agreement to
2 not violate the stated provision. The applicant, holder of an
3 authority to operate, or license holder shall not be required to admit
4 to any violation of the law, nor shall the assurance be construed as
5 such an admission. Violation of an assurance under this subsection is
6 grounds for disciplinary action;

7 (15) To revoke the license or authority;

8 (16) To suspend the license or authority for a fixed or indefinite
9 term;

10 (17) To restrict or limit the license or authority;

11 (18) To censure or reprimand;

12 (19) To cause compliance with conditions of probation for a
13 designated period of time;

14 (20) To fine for each violation of this title, not to exceed one
15 thousand dollars per violation. Funds received shall be placed in the
16 funeral and cemetery account;

17 (21) To order corrective action.

18 Any of the actions under this section may be totally or partly
19 stayed by the board. In determining what action is appropriate, the
20 board must first consider what sanctions are necessary to protect or
21 compensate the public. All costs associated with compliance with
22 orders issued under this section are the obligation of the license or
23 authority holder or applicant.

24 **Sec. 212.** RCW 68.05.175 and 1987 c 331 s 13 are each amended to
25 read as follows:

26 A permit or endorsement issued by the ((cemetery)) board or under
27 chapter 18.39 RCW is required in order to operate a crematory or
28 conduct a cremation. ((Crematories owned or operated by or located on
29 property licensed as a funeral establishment shall be regulated by the
30 board of funeral directors and embalmers. Crematories not affiliated
31 with a funeral establishment shall be regulated by the cemetery
32 board.))

33 **Sec. 213.** RCW 68.05.195 and 1987 c 331 s 15 are each amended to
34 read as follows:

35 Any person other than persons defined in RCW 68.50.160 who buries
36 or otherwise disposes of cremated remains by land, by air, or by sea

1 shall have a permit or endorsement issued in accordance with RCW
2 ((68.05.100)) 18.39.175 and shall be subject to that section.

3 **Sec. 214.** RCW 68.05.205 and 1993 c 43 s 4 are each amended to read
4 as follows:

5 The director with the consent of the ((cemetary)) board shall set
6 all fees for chapters 68.05, 68.20, 68.24, 68.28, 68.32, 68.36, 68.40,
7 68.44, and 68.46 RCW in accordance with RCW 43.24.086, including fees
8 for licenses, certificates, regulatory charges, permits, or
9 endorsements, and the department shall collect the fees.

10 **Sec. 215.** RCW 68.05.285 and 1953 c 290 s 29 are each amended to
11 read as follows:

12 ~~((There shall be, in the office of the state treasurer, a fund to
13 be known and designated as the "cemetary fund." All regulatory fees or
14 other moneys to be paid under this chapter, unless provision be made
15 otherwise, shall be paid at least once a month to the state treasurer
16 to be credited to the cemetary fund. All moneys credited to the
17 cemetary fund shall be used, when appropriated by the legislature, by
18 the cemetary board to carry out the provisions of this chapter.))~~ The
19 funeral and cemetery account is created in the state treasury under RCW
20 18.39.800.

21 **Sec. 216.** RCW 68.24.090 and 1987 c 331 s 34 are each amended to
22 read as follows:

23 Property dedicated to cemetery purposes shall be held and used
24 exclusively for cemetery purposes, unless and until the dedication is
25 removed from all or any part of it by an order and decree of the
26 superior court of the county in which the property is situated, in a
27 proceeding brought by the cemetery authority for that purpose and upon
28 notice of hearing and proof satisfactory to the court:

29 (1) That no interments were made in or that all interments have
30 been removed from that portion of the property from which dedication is
31 sought to be removed.

32 (2) That the portion of the property from which dedication is
33 sought to be removed is not being used for interment of human remains.

34 (3) That notice of the proposed removal of dedication has been
35 given the funeral and cemetery board in writing for cemeteries
36 regulated by the board and to the office of archaeology and historic

1 preservation for abandoned and historic cemeteries and historic graves
2 at least sixty days before filing the proceedings in superior court.

3 **Sec. 217.** RCW 68.40.040 and 1987 c 331 s 37 are each amended to
4 read as follows:

5 A cemetery authority not exempt under this chapter shall file in
6 its principal office for review by plot owners the previous seven
7 fiscal years' endowment care reports as filed with the funeral and
8 cemetery board in accordance with RCW 68.44.150.

9 **Sec. 218.** RCW 68.44.115 and 1987 c 331 s 44 are each amended to
10 read as follows:

11 To be considered qualified as a trustee, each trustee of an
12 endowment care fund appointed in accordance with this chapter shall
13 file with the board a statement of acceptance of fiduciary
14 responsibility, on a form approved by the board, before assuming the
15 duties of trustee. The trustee shall remain in the trustee's fiduciary
16 capacity until such time as the trustee advises the funeral and
17 cemetery board in writing of the trustee's resignation of trusteeship.

18 **Sec. 219.** RCW 68.46.010 and 1979 c 21 s 22 are each amended to
19 read as follows:

20 Unless the context clearly indicates otherwise, the following terms
21 as used only in this chapter have the meaning given in this section:

22 (1) "Prearrangement contract" means a contract for purchase of
23 cemetery merchandise or services, unconstructed crypts or niches, or
24 undeveloped graves to be furnished at a future date for a specific
25 consideration which is paid in advance by one or more payments in one
26 sum or by installment payments.

27 (2) "Cemetery authority" shall have the same meaning as in RCW
28 68.04.190, and shall also include any individual, partnership, firm,
29 joint venture, corporation, company, association, or (~~join~~~~joint~~)
30 joint stock company, any of which sells cemetery services or
31 merchandise, unconstructed crypts or niches, or undeveloped graves
32 through a prearrangement contract, but shall not include insurance
33 companies licensed under chapter 48.05 RCW.

34 (3) "Cemetery merchandise or services" and "merchandise or
35 services" mean those services normally performed by cemetery
36 authorities, including the sale of monuments, markers, memorials,

1 nameplates, liners, vaults, boxes, urns, vases, interment services, or
2 any one or more of them.

3 (4) "Prearrangement trust fund" means all funds required to be
4 maintained in one or more funds for the benefit of beneficiaries by
5 either this chapter or by the terms of a prearrangement contract, as
6 herein defined.

7 (5) (~~"Depository" means a qualified public depository as defined~~
8 ~~by RCW 39.58.010, a credit union as governed by chapter 31.12 RCW, a~~
9 ~~mutual savings bank as governed by Title 32 RCW, a savings and loan~~
10 ~~association as governed by Title 33 RCW, and a federal credit union or~~
11 ~~a federal savings and loan association organized, operated, and~~
12 ~~governed by any act of congress, in which prearrangement funds are~~
13 ~~deposited by any cemetery authority.~~

14 ~~(6))~~ "Board" means the funeral and cemetery board established
15 under (~~chapter 68.05~~) RCW 18.39.173 or its authorized representative.

16 (~~(7))~~ (6) "Undeveloped grave" means any grave in an area which a
17 cemetery authority has not landscaped and groomed to the extent
18 customary in the cemetery industry in that community.

19 **Sec. 220.** RCW 68.46.040 and 1987 c 331 s 50 are each amended to
20 read as follows:

21 All prearrangement trust funds shall be deposited in a
22 (~~qualified~~) public (~~depository~~) depository as defined by RCW
23 (~~68.46.010~~) 39.58.010 or invested in instruments issued or insured by
24 any agency of the federal government, if these securities are held in
25 public depository. Such savings accounts shall be designated as the
26 "prearrangement trust fund" by name and the particular cemetery
27 authority for the benefit of the beneficiaries named in any
28 prearrangement contract.

29 **Sec. 221.** RCW 68.46.090 and 1983 c 190 s 1 are each amended to
30 read as follows:

31 Any cemetery authority selling prearrangement merchandise or other
32 prearrangement services shall file in its office or offices and with
33 the (~~cemetery~~) board a written report upon forms prepared by the
34 (~~cemetery~~) board which shall state the amount of the principle of the
35 prearrangement trust fund or funds, the depository of such fund or
36 funds, and cash on hand which is or may be due to such fund as well as
37 such other information the board may deem appropriate. All information

1 appearing on such written reports shall be revised at least annually.
2 These reports shall be verified by the president, or the vice
3 president, and one other officer of the cemetery authority, the
4 accountant or auditor who prepared the report(~~(, and, if required by~~
5 ~~the board for good cause, a certified public accountant in accordance~~
6 ~~with generally accepted auditing standards)~~). The board may, in its
7 discretion, require verification of these reports by a certified public
8 accountant in accordance with generally accepted auditing standards
9 (~~(shall be required on reports from cemetery authorities which manage~~
10 ~~prearrangement trust funds totaling in excess of five hundred thousand~~
11 ~~dollars)~~).

12 **Sec. 222.** RCW 68.46.110 and 1973 1st ex.s. c 68 s 11 are each
13 amended to read as follows:

14 No cemetery authority shall sell, offer to sell or authorize the
15 sale of cemetery merchandise or services or accept funds in payment of
16 any prearrangement contract, either directly or indirectly, unless such
17 acts are performed in compliance with chapter 68, Laws of 1973 1st ex.
18 sess., and under the authority of a valid, subsisting and unsuspended
19 certificate of authority to operate a cemetery in this state by the
20 (~~Washington state cemetery~~) board.

21 **Sec. 223.** RCW 68.46.130 and 1979 c 21 s 43 are each amended to
22 read as follows:

23 The (~~cemetery~~) board may grant an exemption from any or all of
24 the requirements of this chapter relating to prearrangement contracts
25 to any cemetery authority which:

- 26 (1) Sells less than twenty prearrangement contracts per year; and
27 (2) Deposits one hundred percent of all funds received into a trust
28 fund under RCW 68.46.030(~~(, as now or hereafter amended)~~).

29 **Sec. 224.** RCW 68.50.230 and 1985 c 402 s 9 are each amended to
30 read as follows:

31 Whenever any dead human body shall have been in the lawful
32 possession of any person, firm, corporation or association for a period
33 of one year or more, or whenever the incinerated remains of any dead
34 human body have been in the lawful possession of any person, firm,
35 corporation or association for a period of two years or more, and the
36 relatives of, or persons interested in, the deceased person shall fail,

1 neglect or refuse for such periods of time, respectively, to direct the
2 disposition to be made of such body or remains, such body or remains
3 may be disposed of by the person, firm, corporation or association
4 having such lawful possession thereof, under and in accordance with
5 rules adopted by the funeral and cemetery board (~~(and the board of~~
6 ~~funeral directors and embalmers)~~), not inconsistent with any statute of
7 the state of Washington or rule (~~(or regulation prescribed)~~) adopted by
8 the state board of health.

9 **Sec. 225.** RCW 68.60.030 and 1995 c 399 s 168 are each amended to
10 read as follows:

11 (1)(a) The (~~(archaeological and historical division of the~~
12 ~~department of community, trade, and economic development)~~) office of
13 archaeology and historic preservation may grant by nontransferable
14 certificate authority to maintain and protect an abandoned cemetery
15 upon application made by a preservation organization which has been
16 incorporated for the purpose of restoring, maintaining, and protecting
17 an abandoned cemetery. Such authority shall be limited to the care,
18 maintenance, restoration, protection, and historical preservation of
19 the abandoned cemetery, and shall not include authority to make
20 burials(~~(, unless specifically granted by the cemetery board)~~).

21 (b) Those preservation and maintenance corporations that are
22 granted authority to maintain and protect an abandoned cemetery shall
23 be entitled to hold and possess burial records, maps, and other
24 historical documents as may exist. Maintenance and preservation
25 corporations that are granted authority to maintain and protect an
26 abandoned cemetery shall not be liable to those claiming burial rights,
27 ancestral ownership, or to any other person or organization alleging to
28 have control by any form of conveyance not previously recorded at the
29 county auditor's office within the county in which the abandoned
30 cemetery exists. Such organizations shall not be liable for any
31 reasonable alterations made during restoration work on memorials,
32 roadways, walkways, features, plantings, or any other detail of the
33 abandoned cemetery.

34 (c) Should the maintenance and preservation corporation be
35 dissolved, the (~~(archaeological and historical division of the~~
36 ~~department of community, trade, and economic development)~~) office of
37 archaeology and historic preservation shall revoke the certificate of
38 authority.

1 (d) Maintenance and preservation corporations that are granted
2 authority to maintain and protect an abandoned cemetery may establish
3 care funds (~~((pursuant to chapter 68.44 RCW, and shall report in~~
4 ~~accordance with chapter 68.44 RCW to the state cemetery board))~~).

5 (2) Except as provided in subsection (1) of this section, the
6 department of community, trade, and economic development may, in its
7 sole discretion, authorize any Washington nonprofit corporation that is
8 not expressly incorporated for the purpose of restoring, maintaining,
9 and protecting an abandoned cemetery, to restore, maintain, and protect
10 one or more abandoned cemeteries. The authorization may include the
11 right of access to any burial records, maps, and other historical
12 documents, but shall not include the right to be the permanent
13 custodian of original records, maps, or documents. This authorization
14 shall be granted by a nontransferable certificate of authority. Any
15 nonprofit corporation authorized and acting under this subsection is
16 immune from liability to the same extent as if it were a preservation
17 organization holding a certificate of authority under subsection (1) of
18 this section.

19 (3) The department of community, trade, and economic development
20 shall establish standards and guidelines for granting certificates of
21 authority under subsections (1) and (2) of this section to assure that
22 any restoration, maintenance, and protection activities authorized
23 under this subsection are conducted and supervised in an appropriate
24 manner.

25 **Sec. 226.** RCW 68.60.050 and 1989 c 44 s 5 are each amended to read
26 as follows:

27 (1) Any person who knowingly removes, mutilates, defaces, injures,
28 or destroys any historic grave shall be guilty of a class C felony
29 punishable under chapter 9A.20 RCW. Persons disturbing historic graves
30 through inadvertence, including disturbance through construction, shall
31 reinter the human remains under the supervision of the (~~cemetery~~
32 ~~board~~) office of archaeology and historic preservation. Expenses to
33 reinter such human remains are to be provided by the office of
34 archaeology and historic preservation.

35 (2) This section does not apply to actions taken in the performance
36 of official law enforcement duties.

37 (3) It shall be a complete defense in a prosecution under
38 subsection (1) of this section if the defendant can prove by a

1 preponderance of evidence that the alleged acts were accidental or
2 inadvertent and that reasonable efforts were made to preserve the
3 remains accidentally disturbed or discovered, and that the accidental
4 discovery or disturbance was properly reported.

5 **Sec. 227.** RCW 68.60.060 and 1990 c 92 s 5 are each amended to read
6 as follows:

7 Any person who violates any provision of this chapter is liable in
8 a civil action by and in the name of the (~~state cemetery board~~)
9 office of archaeology and historic preservation to pay all damages
10 occasioned by their unlawful acts. The sum recovered shall be applied
11 in payment for the repair and restoration of the property injured or
12 destroyed and to the care fund if one is established.

13 NEW SECTION. **Sec. 228.** The following acts or parts of acts are
14 each repealed:

15 (1) RCW 68.05.040 and 1987 c 331 s 5, 1977 ex.s. c 351 s 1, & 1953
16 c 290 s 31;

17 (2) RCW 68.05.050 and 1979 c 21 s 5, 1977 ex.s. c 351 s 2, & 1953
18 c 290 s 32;

19 (3) RCW 68.05.060 and 1984 c 287 s 102, 1975-'76 2nd ex.s. c 34 s
20 156, & 1953 c 290 s 33;

21 (4) RCW 68.05.080 and 1987 c 331 s 6 & 1953 c 290 s 35; and

22 (5) RCW 68.05.100 and 1993 c 43 s 3, 1987 c 331 s 9, 1985 c 402 s
23 8, & 1953 c 290 s 36.

24 **PART 3**

25 **HEALTH CARE ASSISTANTS ADVISORY COMMITTEE**

26 **Sec. 301.** RCW 18.135.030 and 1994 sp.s. c 9 s 515 are each amended
27 to read as follows:

28 (1) The secretary or the secretary's designee(~~, with the advice of~~
29 ~~designees of the medical care quality assurance commission, the board~~
30 ~~of osteopathic medicine and surgery, the podiatric medical board, and~~
31 ~~the nursing care quality assurance commission,~~) may appoint members of
32 the health care assistant profession and other health care
33 practitioners, as defined in RCW 18.135.020(3), to serve in an ad hoc
34 capacity to assist in carrying out the provisions of this chapter. The
35 members shall provide advice on matters specifically identified and

1 requested by the secretary. The members shall be reimbursed for travel
2 expenses under RCW 43.03.050 and 43.03.060.

3 (2) In addition to any other authority provided by law, the
4 secretary shall adopt rules necessary to:

5 (a) Administer, implement, and enforce this chapter ((and));

6 (b) Establish the minimum requirements necessary for a health care
7 facility or health care practitioner to certify a health care assistant
8 capable of performing the functions authorized in this chapter((.—The
9 rules shall)); and

10 (c) Establish minimum requirements for each and every category of
11 health care assistant.

12 ~~((Said))~~ (3) The rules shall be adopted after fair consideration of
13 input from representatives of each category. These requirements shall
14 ensure that the public health and welfare are protected and shall
15 include, but not be limited to, the following factors:

16 ~~((+1))~~ (a) The education and occupational qualifications for the
17 health care assistant category;

18 ~~((+2))~~ (b) The work experience for the health care assistant
19 category;

20 ~~((+3))~~ (c) The instruction and training provided for the health
21 care assistant category; and

22 ~~((+4))~~ (d) The types of drugs or diagnostic agents which may be
23 administered by injection by health care assistants working in a
24 hospital or nursing home. The rules established ((pursuant to)) under
25 this subsection shall not prohibit health care assistants working in a
26 health care facility other than a nursing home or hospital from
27 performing the functions authorized under this chapter.

28 **PART 4**

29 **DIETICIANS AND NUTRITIONISTS ADVISORY COMMITTEE**

30 **Sec. 401.** RCW 18.138.070 and 1994 sp.s. c 9 s 516 are each amended
31 to read as follows:

32 In addition to any other authority provided by law, the secretary
33 may:

34 (1) Adopt rules in accordance with chapter 34.05 RCW necessary to
35 implement this chapter;

36 (2) Establish forms necessary to administer this chapter;

1 (3) Issue a certificate to an applicant who has met the
2 requirements for certification and deny a certificate to an applicant
3 who does not meet the minimum qualifications;

4 (4) Hire clerical, administrative, and investigative staff as
5 needed to implement and administer this chapter and hire individuals,
6 including those certified under this chapter, to serve as consultants
7 as necessary to implement and administer this chapter;

8 (5) Maintain the official departmental record of all applicants and
9 certificate holders;

10 (6) Conduct a hearing, pursuant to chapter 34.05 RCW, on an appeal
11 of a denial of certification based on the applicant's failure to meet
12 the minimum qualifications for certification;

13 (7) Investigate alleged violations of this chapter and consumer
14 complaints involving the practice of persons representing themselves as
15 certified dietitians or certified nutritionists;

16 (8) Issue subpoenas, statements of charges, statements of intent to
17 deny certifications, and orders and delegate in writing to a designee
18 the authority to issue subpoenas, statements of charges, and statements
19 on intent to deny certifications;

20 (9) Conduct disciplinary proceedings, impose sanctions, and assess
21 fines for violations of this chapter or any rules adopted under it in
22 accordance with chapter 34.05 RCW;

23 (10) Set all certification, renewal, and late renewal fees in
24 accordance with RCW 43.70.250; and

25 (11) Set certification expiration dates and renewal periods for all
26 certifications under this chapter(~~(; and~~

27 ~~(12) Appoint members of the profession to serve in an ad hoc~~
28 ~~advisory capacity to the secretary in carrying out this chapter. The~~
29 ~~members will serve for designated time[s] and provide advice on matters~~
30 ~~specifically identified and requested by the secretary. The members~~
31 ~~shall be compensated in accordance with RCW 43.03.220 and reimbursed~~
32 ~~for travel expenses under RCW 43.03.040 and 43.03.060. The secretary,~~
33 ~~ad hoc committee members, or individuals acting in their behalf are~~
34 ~~immune from suit in a civil action based on any certification or~~
35 ~~disciplinary proceedings or other official acts performed in the course~~
36 ~~of their duties)).~~

37 **PART 5**

38 **HEALTH PROFESSIONS ADVISORY COMMITTEE**

- 1 (5) RCW 41.52.050 and 1967 c 128 s 3;
2 (6) RCW 41.52.060 and 1967 c 128 s 4; and
3 (7) RCW 41.52.070 and 1998 c 245 s 44 & 1967 c 160 s 1.

4 **PART 9**
5 **PUBLIC INFORMATION ACCESS POLICY TASK FORCE**

6 NEW SECTION. **Sec. 901.** RCW 42.17.261 and 1994 c 40 s 4 are each
7 repealed.

8 **PART 10**
9 **RURAL DEVELOPMENT COUNCIL**

10 NEW SECTION. **Sec. 1001.** The following acts or parts of acts, as
11 now existing or hereafter amended, are each repealed, effective July 1,
12 2000:

- 13 (1) RCW 43.31.855 and 1997 c 377 s 1; and
14 (2) RCW 43.31.857 and 1997 c 377 s 2.

15 NEW SECTION. **Sec. 1002.** The rural development council is
16 encouraged to explore the establishment of a private nonprofit
17 corporation to perform its duties.

18 **PART 11**
19 **TAX ADVISORY COUNCIL**

20 NEW SECTION. **Sec. 1101.** The following acts or parts of acts are
21 each repealed:

- 22 (1) RCW 43.38.010 and 1983 c 2 s 11;
23 (2) RCW 43.38.020 and 1982 1st ex.s. c 41 s 2 & 1965 c 8 s
24 43.38.020;
25 (3) RCW 43.38.030 and 1965 c 8 s 43.38.030; and
26 (4) RCW 43.38.040 and 1975 1st ex.s. c 278 s 24 & 1965 c 8 s
27 43.38.040.

28 **PART 12**
29 **ADVISORY COUNCIL ON CRIMINAL JUSTICE SERVICES**

1 **Sec. 1201.** RCW 43.43.705 and 1989 c 334 s 7 are each amended to
2 read as follows:

3 Upon the receipt of identification data from criminal justice
4 agencies within this state, the section shall immediately cause the
5 files to be examined and upon request shall promptly return to the
6 contributor of such data a transcript of the record of previous arrests
7 and dispositions of the persons described in the data submitted.

8 Upon application, the section shall furnish to criminal justice
9 agencies, or to the department of social and health services,
10 hereinafter referred to as the "department", a transcript of the
11 criminal offender record information, dependency record information, or
12 protection proceeding record information available pertaining to any
13 person of whom the section has a record.

14 For the purposes of RCW 43.43.700 through (~~43.43.800~~) 43.43.785
15 the following words and phrases shall have the following meanings:

16 "Criminal offender record information" includes, and shall be
17 restricted to identifying data and public record information recorded
18 as the result of an arrest or other initiation of criminal proceedings
19 and the consequent proceedings related thereto. "Criminal offender
20 record information" shall not include intelligence, analytical, or
21 investigative reports and files.

22 "Criminal justice agencies" are those public agencies within or
23 outside the state which perform, as a principal function, activities
24 directly relating to the apprehension, prosecution, adjudication or
25 rehabilitation of criminal offenders.

26 "Dependency record information" includes and shall be restricted to
27 identifying data regarding a person, over the age of eighteen, who was
28 a party to a dependency proceeding brought under chapter 13.34 RCW and
29 who has been found, pursuant to such dependency proceeding, to have
30 sexually abused or exploited or physically abused a child.

31 "Protection proceeding record information" includes and shall be
32 restricted to identifying data regarding a person, over eighteen, who
33 was a respondent to a protection proceeding brought under chapter 74.34
34 RCW and who has been found pursuant to such a proceeding to have abused
35 or financially exploited a vulnerable adult.

36 The section may refuse to furnish any information pertaining to the
37 identification or history of any person or persons of whom it has a
38 record, or other information in its files and records, to any applicant
39 if the chief determines that the applicant has previously misused

1 information furnished to such applicant by the section or the chief
2 believes that the applicant will not use the information requested
3 solely for the purpose of due administration of the criminal laws or
4 for the purposes enumerated in RCW 43.43.760(3). The applicant may
5 appeal such determination (~~and denial of information to the advisory~~
6 ~~council created in RCW 43.43.785 and the council may direct that the~~
7 ~~section furnish such information to the applicant~~) by notifying the
8 chief in writing within thirty days. The hearing shall be before an
9 administrative law judge appointed under chapter 34.12 RCW and in
10 accordance with procedures for adjudicative proceedings under chapter
11 34.05 RCW.

12 **Sec. 1202.** RCW 43.43.785 and 1972 ex.s. c 152 s 18 are each
13 amended to read as follows:

14 The legislature finds that there is a need for the Washington state
15 patrol to establish a program which will consolidate existing programs
16 of criminal justice services within its jurisdiction so that such
17 services may be more effectively utilized by the criminal justice
18 agencies of this state. The chief(~~(, with the advice of the state~~
19 ~~advisory council on criminal justice services created in RCW~~
20 ~~43.43.790,)~~) shall establish such a program which shall include but not
21 be limited to the identification section, all auxiliary systems
22 including the Washington crime information center and the
23 teletypewriter communications network, the drug control assistance
24 unit, and any other services the chief deems necessary which are not
25 directly related to traffic control.

26 **Sec. 1203.** RCW 43.43.800 and 1972 ex.s. c 152 s 21 are each
27 amended to read as follows:

28 The (~~advisory council~~) executive committee created in RCW
29 10.98.160 shall review the provisions of RCW 43.43.700 through
30 43.43.785 and the administration thereof and shall consult with and
31 advise the chief of the state patrol on matters pertaining to the
32 policies of criminal justice services program.

33 (~~The council shall appoint technical advisory committees comprised~~
34 ~~of members of criminal justice agencies having demonstrated technical~~
35 ~~expertise in the various fields of specialty within the program.))~~

1 **Sec. 1401.** RCW 43.220.040 and 1987 c 367 s 2 are each amended to
2 read as follows:

3 Unless the context clearly requires otherwise, the definitions in
4 this section apply throughout this chapter.

5 (1) "Public lands" means any lands or waters, or interests therein,
6 owned or administered by any agency or instrumentality of the state,
7 federal, or local government.

8 (2) "Corps" means the Washington conservation corps.

9 (3) "Corps member" means an individual enrolled in the Washington
10 conservation corps.

11 (4) "Corps member leaders" or "specialists" means members of the
12 corps who serve in leadership or training capacities or who provide
13 specialized services other than or in addition to the types of work and
14 services that are performed by the corps members in general.

15 (~~(5) "Council" means the Washington conservation corps~~
16 ~~coordinating council.~~)

17 **Sec. 1402.** RCW 43.220.190 and 1987 c 367 s 3 are each amended to
18 read as follows:

19 The agencies listed in RCW 43.220.020 shall ~~((convene a~~
20 ~~conservation corps coordinating council to meet as needed to))~~
21 establish consistent work standards and placement and evaluation
22 procedures of corps programs. ~~((The coordinating council shall be~~
23 ~~composed of administrative personnel of the agencies. The coordinating~~
24 ~~council shall serve to))~~ They shall also reconcile problems that arise
25 in the implementation of the corps programs and develop coordination
26 procedures for emergency responses of corps members.

27 **Sec. 1403.** RCW 43.220.210 and 1987 c 367 s 4 are each amended to
28 read as follows:

29 The ~~((Washington conservation corps coordinating council))~~ agencies
30 listed in RCW 43.220.020 shall select, review, approve, and evaluate
31 the success of projects under this chapter.

32 Up to fifteen percent of funds spent for recruitment, job training
33 and placement services shall, wherever possible, be contracted through
34 local educational institutions and/or nonprofit corporations.

35 Such contracts may include, but not be limited to, general
36 education development testing, preparation of resumes and job search
37 skills.

1 All contracts or agreements entered into by agencies listed in RCW
2 43.220.020 shall be ~~((reviewed by the council for compliance))~~
3 consistent with legislative intent as set forth in this section.

4 **Sec. 1404.** RCW 43.220.240 and 1985 c 230 s 4 are each amended to
5 read as follows:

6 Staff support to the department of employment security shall be
7 provided by the ~~((Washington conservation corps coordinating council as
8 established in RCW 43.220.190))~~ agencies listed in RCW 43.220.020. The
9 employment security department shall be the central administrative
10 authority for data on projects, project requests, applicants and
11 reports to the legislature. The department shall be reimbursed by the
12 Washington conservation corps agencies specified in RCW 43.220.020.
13 Reimbursement shall be for reasonable administrative costs associated
14 with the department's role as the central administrative authority and
15 for extraordinary placement costs incurred for the corps agencies. The
16 ~~((Washington conservation corps coordinating council is to))~~ agencies
17 listed in RCW 43.220.020 shall develop the most cost-effective
18 administrative system to provide training, payroll, and purchasing
19 services to the conservation corps agencies and present the system to
20 the department for approval. The department shall select the
21 administrative system which best meets the purposes of this chapter,
22 and is cost-efficient.

23 **PART 15**

24 **CLEAN WASHINGTON CENTER POLICY BOARD**

25 NEW SECTION. **Sec. 1501.** RCW 70.95H.020 and 1995 c 399 s 193 &
26 1991 c 319 s 204 are each repealed.

27 **PART 16**

28 **PUGET SOUND TRAWL EMERGING FISHERIES ADVISORY BOARD**

29 NEW SECTION. **Sec. 1601.** By July 1, 1999, the director of the
30 department of fish and wildlife shall abolish the Puget Sound trawl
31 emerging fisheries advisory board.

PART 17

PUGET SOUND CRAB FISHERY LICENSE ADVISORY REVIEW BOARD
COMMERCIAL HERRING FISHERY ADVISORY REVIEW BOARD
COMMERCIAL OCEAN PINK SHRIMP ADVISORY REVIEW BOARD

Sec. 1701. RCW 75.30.050 and 1995 c 269 s 3101 are each amended to read as follows:

(1) The director shall appoint three-member advisory review boards to hear cases as provided in RCW 75.30.060. Members shall be from:

~~(a) ((The commercial crab fishing industry in cases involving Dungeness crab Puget Sound fishery licenses;~~

~~(b) The commercial herring fishery in cases involving herring fishery licenses;~~

~~(c))~~ The commercial sea urchin and sea cucumber fishery in cases involving sea urchin and sea cucumber dive fishery licenses;

~~((d) The commercial ocean pink shrimp industry (Pandalus jordani) in cases involving ocean pink shrimp delivery licenses; and~~

~~(e))~~ (b) The commercial coastal crab fishery in cases involving Dungeness crab-coastal fishery licenses and Dungeness crab-coastal class B fishery licenses. The members shall include one person from the commercial crab processors, one Dungeness crab-coastal fishery license holder, and one citizen representative of a coastal community.

(2) Members shall serve at the discretion of the director and shall be reimbursed for travel expenses as provided in RCW 43.03.050, 43.03.060, and 43.03.065.

Sec. 1702. RCW 75.30.130 and 1998 c 190 s 101 are each amended to read as follows:

(1) A person shall not commercially take Dungeness crab (*Cancer magister*) in Puget Sound without first obtaining a Dungeness crab--Puget Sound fishery license. As used in this section, "Puget Sound" has the meaning given in RCW 75.28.110(5)(a). A Dungeness crab--Puget Sound fishery license is not required to take other species of crab, including red rock crab (*Cancer productus*).

(2) Except as provided in subsections (3) and (6) of this section, after January 1, 1982, the director shall issue no new Dungeness crab--Puget Sound fishery licenses. Only a person who meets the following qualification may renew an existing license: The person shall have held the Dungeness crab--Puget Sound fishery license sought to be

1 renewed during the previous year or acquired the license by transfer
2 from someone who held it during the previous year, and shall not have
3 subsequently transferred the license to another person.

4 (3) Where the person failed to obtain the license during the
5 previous year because of a license suspension, the person may qualify
6 for a license by establishing that the person held such a license
7 during the last year in which the license was not suspended.

8 (4) This section does not restrict the issuance of commercial crab
9 licenses for areas other than Puget Sound or for species other than
10 Dungeness crab.

11 (5) Dungeness crab--Puget Sound fishery licenses are transferable
12 from one license holder to another.

13 (6) If fewer than one hundred twenty-five persons are eligible for
14 Dungeness crab--Puget Sound fishery licenses, the director may accept
15 applications for new licenses. The director shall determine by random
16 selection the successful applicants for the additional licenses. The
17 number of additional licenses issued shall be sufficient to maintain
18 one hundred twenty-five licenses in the Puget Sound Dungeness crab
19 fishery. The director shall adopt rules governing the application,
20 selection, and issuance procedures for new Dungeness crab--Puget Sound
21 fishery licenses(~~(, based upon recommendations of a board of review~~
22 ~~established under RCW 75.30.050)).~~

23 PART 18

24 SCENIC RIVERS COMMITTEE OF PARTICIPATING AGENCIES

25 **Sec. 1801.** RCW 79.72.020 and 1994 c 264 s 64 are each amended to
26 read as follows:

27 The definitions set forth in this section apply throughout this
28 chapter unless the context clearly requires otherwise.

29 (1) "Department" means the state parks and recreation commission.

30 (2) (~~("Committee of participating agencies" or "committee" means a~~
31 ~~committee composed of the executive head, or the executive's designee,~~
32 ~~of each of the state departments of ecology, fish and wildlife, natural~~
33 ~~resources, and transportation, the state parks and recreation~~
34 ~~commission, the interagency committee for outdoor recreation, the~~
35 ~~Washington state association of counties, and the association of~~
36 ~~Washington cities. In addition, the governor shall appoint two public~~
37 ~~members of the committee. Public members of the committee shall be~~

1 ~~compensated in accordance with RCW 43.03.220 and shall receive~~
2 ~~reimbursement for their travel expenses as provided in RCW 43.03.050~~
3 ~~and 43.03.060.~~

4 ~~When a specific river or river segment of the state's scenic river~~
5 ~~system is being considered by the committee, a representative of each~~
6 ~~participating local government associated with that river or river~~
7 ~~segment shall serve as a member of the committee.~~

8 ~~((3))~~ (3) "Participating local government" means the legislative
9 authority of any city or county, a portion of whose territorial
10 jurisdiction is bounded by or includes a river or river segment of the
11 state's scenic river system.

12 ~~((4))~~ (3) "River" means a flowing body of water or a section,
13 segment, or portion thereof.

14 ~~((5))~~ (4) "River area" means a river and the land area in its
15 immediate environs as established by the participating agencies not
16 exceeding a width of one-quarter mile landward from the streamway on
17 either side of the river.

18 ~~((6))~~ (5) "Scenic easement" means the negotiated right to control
19 the use of land, including the air space above the land, for the
20 purpose of protecting the scenic view throughout the visual corridor.

21 ~~((7))~~ (6) "Streamway" means that stream-dependent corridor of
22 single or multiple, wet or dry, channel or channels within which the
23 usual seasonal or stormwater run-off peaks are contained, and within
24 which environment the flora, fauna, soil, and topography is dependent
25 on or influenced by the height and velocity of the fluctuating river
26 currents.

27 ~~((8))~~ (7) "System" means all the rivers and river areas in the
28 state designated by the legislature for inclusion as scenic rivers but
29 does not include tributaries of a designated river unless specifically
30 included by the legislature. The inclusion of a river in the system
31 does not mean that other rivers or tributaries in a drainage basin
32 shall be required to be part of the management program developed for
33 the system unless the rivers and tributaries within the drainage basin
34 are specifically designated for inclusion by the legislature.

35 ~~((9))~~ (8) "Visual corridor" means that area which can be seen in
36 a normal summer month by a person of normal vision walking either bank
37 of a river included in the system. The visual corridor shall not
38 exceed the river area.

1 **Sec. 1802.** RCW 79.72.030 and 1977 ex.s. c 161 s 3 are each amended
2 to read as follows:

3 (1) The department shall develop and adopt management policies for
4 publicly owned or leased land on the rivers designated by the
5 legislature as being a part of the state's scenic river system and
6 within the associated river areas. The department may adopt
7 regulations identifying river classifications which reflect the
8 characteristics common to various segments of scenic rivers and may
9 adopt management policies consistent with local government's shoreline
10 management master plans appropriate for each such river classification.
11 All such policies shall be (~~subject to review by the committee of~~
12 ~~participating agencies. Once such a policy has been approved by a~~
13 ~~majority vote of the committee members, it shall be~~) adopted by the
14 department in accordance with the provisions of chapter 34.05 RCW, as
15 now or hereafter amended. Any variance with such a policy by any
16 public agency shall be authorized only by the approval of the
17 (~~committee of participating agencies by majority vote,~~) department
18 and shall be made only to alleviate unusual hardships unique to a given
19 segment of the system.

20 (2) Any policies developed pursuant to subsection (1) of this
21 section shall include management plans for protecting ecological,
22 economic, recreational, aesthetic, botanical, scenic, geological,
23 hydrological, fish and wildlife, historical, cultural, archaeological,
24 and scientific features of the rivers designated as being in the
25 system. Such policies shall also include management plans to encourage
26 any nonprofit group, organization, association, person, or corporation
27 to develop and adopt programs for the purpose of increasing fish
28 propagation.

29 (3) The (~~committee of participating agencies shall, by two-thirds~~
30 ~~majority vote,~~) department shall identify on a river by river basis
31 any publicly owned or leased lands which could be included in a river
32 area of the system but which are developed in a manner unsuitable for
33 land to be managed as part of the system. The department shall exclude
34 lands so identified from the provisions of any management policies
35 implementing the provisions of this chapter.

36 (4) The (~~committee of participating agencies, by majority vote,~~)
37 department shall determine the boundaries which shall define the river
38 area associated with any included river. With respect to the rivers
39 named in RCW 79.72.080, the (~~committee~~) department shall make such

1 determination, and those determinations authorized by subsection (3) of
2 this section, within one year of September 21, 1977.

3 (5) Before making a decision regarding the river area to be
4 included in the system, a variance in policy, or the excluding of land
5 from the provisions of the management policies, the ((committee))
6 department shall hold hearings in accord with chapter 34.05 RCW, with
7 at least one public hearing to be held in the general locale of the
8 river under consideration. The department shall cause to be published
9 in a newspaper of general circulation in the area which includes the
10 river or rivers to be considered, a description, including a map
11 showing such river or rivers, of the material to be considered at the
12 public hearing. Such notice shall appear at least twice in the time
13 period between two and four weeks prior to the public hearing.

14 ~~((6) Meetings of the committee shall be called by the department
15 or by written petition signed by five or more of the committee members.
16 The chairman of the parks and recreation commission or the chairman's
17 designee shall serve as the chairman of any meetings of the committee
18 held to implement the provisions of this chapter.))~~

19 The ((committee)) department shall seek and receive comments from
20 the public regarding potential additions to the system, shall initiate
21 studies, and may((, through the department,)) submit to any session of
22 the legislature proposals for additions to the state scenic river
23 system. These proposals shall be accompanied by a detailed report on
24 the factors which, in the ((committee's)) department's judgment, make
25 an area a worthy addition to the system.

26 **Sec. 1803.** RCW 79.72.040 and 1989 c 175 s 169 are each amended to
27 read as follows:

28 (1) The management program for the system shall be administered by
29 the department. The department shall have the responsibility for
30 coordinating the development of the program between affected state
31 agencies and participating local governments, and shall develop and
32 adopt rules, in accord with chapter 34.05 RCW, the Administrative
33 Procedure Act, for each portion of the system, which shall implement
34 the management policies. In developing rules for a specific river in
35 the system, the department shall hold at least one public hearing in
36 the general locale of the river under consideration. The hearing may
37 constitute the hearing required by chapter 34.05 RCW. The department
38 shall cause a brief summary of the proposed rules to be published twice

1 in a newspaper of general circulation in the area that includes the
2 river to be considered in the period of time between two and four weeks
3 prior to the public hearing. In addition to the foregoing required
4 publication, the department shall also provide notice of the hearings,
5 rules, and decisions of the department to radio and television stations
6 and major local newspapers in the areas that include the river to be
7 considered.

8 (2) In addition to any other powers granted to carry out the intent
9 of this chapter, the department is authorized(~~(, subject to approval by~~
10 ~~majority vote of the members of the committee,)) to: (a) Purchase,~~
11 within the river area, real property in fee or any lesser right or
12 interest in real property including, but not limited to scenic
13 easements and future development rights, visual corridors, wildlife
14 habitats, unique ecological areas, historical sites, camping and picnic
15 areas, boat launching sites, and/or easements abutting the river for
16 the purpose of preserving or enhancing the river or facilitating the
17 use of the river by the public for fishing, boating and other water
18 related activities; and (b) purchase, outside of a river area, public
19 access to the river area.

20 The right of eminent domain shall not be utilized in any purchase
21 made pursuant to this section.

22 (3) The department is further authorized to: (a) Acquire by gift,
23 devise, grant, or dedication the fee, an option to purchase, a right of
24 first refusal or any other lesser right or interest in real property
25 and upon acquisition such real property shall be held and managed
26 within the scenic river system; and (b) accept grants, contributions,
27 or funds from any agency, public or private, or individual for the
28 purposes of this chapter.

29 (4) The department is hereby vested with the power to obtain
30 injunctions and other appropriate relief against violations of any
31 provisions of this chapter and any rules adopted under this section or
32 agreements made under the provisions of this chapter.

33 **Sec. 1804.** RCW 79.72.050 and 1977 ex.s. c 161 s 5 are each amended
34 to read as follows:

35 (1) All state government agencies and local governments are hereby
36 directed to pursue policies with regard to their respective activities,
37 functions, powers, and duties which are designed to conserve and
38 enhance the conditions of rivers which have been included in the

1 system, in accordance with the management policies and the rules and
2 regulations adopted by the department for such rivers. Local agencies
3 are directed to pursue such policies with respect to all lands in the
4 river area owned or leased by such local agencies. Nothing in this
5 chapter shall authorize the modification of a shoreline management plan
6 adopted by a local government and approved by the state pursuant to
7 chapter 90.58 RCW without the approval of the department of ecology and
8 local government. The policies adopted pursuant to this chapter shall
9 be integrated, as fully as possible, with those of the shoreline
10 management act of 1971.

11 (2) Nothing in this chapter shall grant to the (~~committee of~~
12 ~~participating agencies or the~~) department the power to restrict the
13 use of private land without either the specific written consent of the
14 owner thereof or the acquisition of rights in real property authorized
15 by RCW 79.72.040.

16 (3) Nothing in this chapter shall prohibit the department of
17 natural resources from exercising its full responsibilities and
18 obligations for the management of state trust lands.

19 **PART 19**

20 **DEPARTMENT OF CORRECTIONS COMMITTEES**

21 NEW SECTION. **Sec. 1901.** By July 1, 1999, the secretary of
22 corrections shall abolish the work release advisory committee, the
23 Pierce county advisory committee, the Moses Lake search committee, the
24 Spokane search committee, the Bremerton advisory committee, the Kitsap
25 county work release facility analysis and site evaluation committee,
26 the Wenatchee search committee, the Snohomish siting committee, and the
27 Airway Heights corrections center correctional industries advisory
28 board.

29 **PART 20**

30 **LAKES HEALTH PLAN COMMITTEE**

31 NEW SECTION. **Sec. 2001.** 1996 c 316 s 2 (uncodified) is repealed.

32 **PART 21**

33 **LOWER COLUMBIA RIVER BISTATE STEERING COMMITTEE**

